

**PINCONNING
TOWNSHIP**

**BAY COUNTY,
MICHIGAN**

**ZONING
ORDINANCE**

PINCONNING TOWNSHIP, BAY COUNTY, MICHIGAN

ORDINANCE 310. ZONING ORDINANCE

TITLE

An Ordinance to establish zoning districts and regulations governing the development and use of land within the zoning jurisdiction of Pinconning Township in accordance with the provisions of the Michigan Zoning Enabling Act, Public Act 110 of 2006; to provide for regulations governing nonconforming uses and structures; to provide for a Zoning Board of Appeals and for its powers and duties; to provide for a Planning Commission and for its powers and duties; to provide for permits, fees, penalties and other administrative provisions to enforce this Ordinance; to provide regulations regarding conflicts with other ordinances or regulations; and to provide for the repeal of the prior zoning ordinance.

The Township of Pinconning, Bay County, Michigan, hereby ordains:

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ARTICLE 1: PURPOSE, SCOPE, AND GENERAL EFFECT

SECTION 1.1 TITLE

This Ordinance is known as the “Pinconning Township Zoning Ordinance,” and will be referred to herein as "this Ordinance.”

SECTION 1.2 INTENT AND PURPOSE

The purpose of this Ordinance is to:

- A.** Promote the public health, safety, comfort, and general welfare of the inhabitants of Pinconning Township by encouraging the use of lands and natural resources in accordance with their character, adaptability and suitability for particular purposes;
- B.** Enhance social and economic stability;
- C.** Prevent excessive concentration of population;
- D.** Reduce hazards due to flooding;
- E.** Conserve and stabilize the value of property;
- F.** Provide adequate open space for light and air and to preserve the rural character of the community;
- G.** Allow for a variety of residential housing types and commercial and industrial land uses;
- H.** Lessen congestion on the public and private streets and highways;
- I.** Ensure adequate transportation, sewage and drainage, water supply and distribution, education, recreation and other public services and facilities;
- J.** Ensure adequate food, fiber, energy and other natural resources for the Township’s citizens;
- K.** Ensure appropriate locations and relationships for uses of land;
- L.** Promote the use of funds for public facilities and services by establishing standards aligned with the goals, objectives and policies contained in the Master Plan for the Township; and to provide for the administration and enforcement of such standards.

SECTION 1.3 SCOPE

- A.** It is not the intent of this Ordinance to repeal, abrogate, annul, or in any other way impair or interfere with the existing provisions of other laws or ordinances, except those specifically repealed by this Ordinance.
- B.** Whenever this Ordinance is more restrictive than a provision imposed by deed, easement, covenant, law, or regulation, the provisions of this Ordinance shall govern. This Ordinance does not affect any existing easement, covenant, or other private agreement, nor does it amend, modify, or alter plat restrictions on properties within the Township.

- C. No person or business may engage in any activity, conduct, use or venture in the Township that is contrary to federal, state, or local law. Unless otherwise provided in this Ordinance, no building may be used for a purpose other than those permitted in the appropriate zoning district. Any building, use, or lot that was unlawfully constructed, occupied, or created prior to the date of adoption of this Ordinance shall continue to be unlawful, unless expressly permitted by this Ordinance.
- D. No setback area or lot existing at the time this Ordinance is adopted may be reduced below the minimum requirements set forth herein. Yards, lots, or setback areas created after the effective date of this Ordinance must meet at least the minimum requirements established by this Ordinance.
- E. Unless otherwise provided in this Ordinance, any conditions attached to a lot due to the operation of this Ordinance will remain in effect even if that lot changes ownership.
- F. The regulations of this Ordinance are designed to be minimum regulations for promoting and protecting the public health, safety, and welfare.

SECTION 1.4 AUTHORITY

This Ordinance is authorized by the Michigan Zoning Enabling Act, MCL 125.3101, *et seq.*, as amended, and advances the goals and objectives of the Pinconning Township Master Plan.

SECTION 1.5 INTERPRETATION

The provisions of this Ordinance are to be interpreted as the minimum requirements to promote the public health, safety, and welfare. In the event of a conflict between this Ordinance, and any other source of law, the greater restriction shall control.

SECTION 1.6 VESTED RIGHT

Nothing in this Ordinance should be construed to grant any entity a vested right, privilege, or permit.

SECTION 1.7 SEVERABILITY

If a court of competent jurisdiction determines any part of this Ordinance to be unconstitutional or invalid, the determination shall only affect the specific portion found to be unconstitutional or invalid and shall not affect the validity of the Ordinance as a whole.

SECTION 1.8 REPEALER

- A. All prior ordinances, resolutions, or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.
- B. The Township Board adopted this Ordinance at a meeting of the Pinconning Township Board on July 7, 2020 and it shall take effect on the earliest date permitted by the Michigan Zoning Enabling Act.

ARTICLE 2: DEFINITIONS AND RULES OF CONSTRUCTION

SECTION 2.1 RULES OF CONSTRUCTION

The following rules of construction shall apply to this Ordinance:

- A.** Headings are included only for clarity and are not to be considered when interpreting this Ordinance. Headings do not enlarge or restrict any portion of this Ordinance's terms or provisions.
- B.** The illustrations contained within this Ordinance are hypothetical applications of the provisions of this Ordinance, and do not enlarge or restrict this Ordinance in any way. If a conflict exists between an illustration and the text of this Ordinance, the text will govern.
- C.** Unless inconsistent with the context where they appear, words used in the present tense include the future tense; words in the singular include the plural; and words in the plural include the singular.
- D.** The words "shall", "will", and "must" are always mandatory and not discretionary. The word "may" is permissive.
- E.** A "building" or "structure" includes any part thereof unless specifically excluded.
- F.** The word "person" includes a natural person, firm, association, partnership, joint venture, corporation, trust, municipal or public entity, equivalent entity, or any combination thereof.
- G.** The words "used" and "occupied," includes the phrases "intended to be," "arranged to be" or "designed to be" used or occupied when referring to any land, building, or structure.
- H.** The word "dwelling" encompasses the word "residence," unless context would indicate otherwise.
- I.** The word "lot" includes the words "plot" or "parcel," unless context would indicate otherwise.
- J.** The word "erected" or "erection," includes the words "built," "constructed," "reconstructed" and "moved upon" when referring to a building or structure. These terms will also include any physical operation or work affecting the land on which the building or structure is to be erected, such as excavation, filling, drainage or similar activities.
- K.** The particular shall control the general.
- L.** Terms not defined by this Ordinance have their common meanings. A dictionary may be consulted when interpreting the meaning of such a term.

- M. “Ordinance” means the text of this Ordinance as well as all maps, tables, graphics, and schedules that are included within it.
- N. Unless context demands otherwise, the words “and,” “or,” “either...or, are interpreted as follows:
1. “And” indicates that all the connected items, conditions, provisions, or events shall apply.
 2. “Or” indicates the connected items, conditions, provisions or events may apply singularly or in any combination.
 3. “Either...or” indicates that the connected items, conditions, provisions, or events shall apply singularly, but not in combination.
- O. The “Township” is Pinconning Township, Bay County, Michigan; the “Township Board,” “Board of Appeals” and “Planning Commission” to the Township Board, Zoning Board of Appeals, and Planning Commission of Pinconning Township, respectively.
- P. Whenever a period of time is specified by this Ordinance, the day on which the act, event, or default occurs will not be counted. The last day of that period will be included unless that day falls on a weekend or legal holiday, in which case the last day of the period will be the next business day. Legal holidays include the following:
- New Year’s Day
 - Martin Luther King, Jr. Day
 - Presidents’ Day
 - Memorial Day
 - Independence Day
 - Labor Day
 - Columbus Day
 - Veterans’ Day
 - Thanksgiving Day
 - Christmas Day

SECTION 2.2 DEFINITIONS

The following terms and words are defined as follows:

ABANDONED - The relinquishment of land or cessation of a use of the land by the owner or lessee without the intention of transferring rights to the land to another owner or of resuming that use of the land or building.

ABANDONED SOLAR ENERGY SYSTEM – Any Solar Energy System, Solar Array, or combination of Photovoltaic Devices that remains nonfunctional or inoperative to the extent that it is not used to generate electric energy for a continuous period of 6 months.

ABUTTING - Having a common border with, or being separated from such a common border by a right-of-way, service drive, or easement.

ACCESS DRIVE - An easement or right-of-way that provides motor vehicles access to one or more lots, parcels, or site condominiums.

ACCESSORY BUILDING - Any building on the same lot or adjoining lots with a main building that is subordinate to the main building and whose use is customary and incidental to the main building's principal use.

ACCESSORY USE – See **USE Pg. 27.**

ADJACENT LOT – The parcel or parcels of land sharing a common boundary.

ADULT BUSINESS - An adult business includes the following:

- A. Adult Bookstore:** An establishment having, as a substantial portion of its stock in trade, books, magazines and other periodicals that are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or "specified anatomical areas" as hereinafter defined, or an establishment with a segment or section devoted to the sale or display of such material.
- B. Adult mini motion picture theatre:** An enclosure with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to "specified sexual activities" or "specified anatomical areas" as hereinafter defined for observation by patrons therein.
- C. Adult motion picture theatre:** An enclosure with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to "specified sexual activities" or "specified anatomical areas" as hereinafter defined for observation by patrons herein.
- D. Adult smoking or sexual paraphernalia store:** An establishment having, as a substantial portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal of for smoking, ingesting, or inhaling narcotics or other stimulating or hallucinogenic drugs, or related substances.
- E. Specified sexual activities:** Acts of human masturbation, sexual intercourse, or sodomy; fondling or other erotic touch of human genitals, pubic regions, buttocks or female breasts, and/or human genitals in a state of sexual stimulation or arousal.
- F. Specified anatomical areas:** Less than completely and opaquely covered human genitals, pubic regions, buttocks, or female breasts below a point immediately above the top of the areola; and/or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

AGRICULTURE - Farms and general farming activities that are devoted to the production of plants or animals useful to humans, including, but not limited to, forage and sod crops, grains, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, trees (including Christmas trees), and other similar uses and activities.

ANTENNA - Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communication that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar), wireless telecommunications signals or other communication signals.

AUTOMOBILE - Any motorized vehicle designed for travel upon the roadway, including, but not limited to, cars, light trucks, vans, mopeds, all-terrain vehicles, and motorcycles.

BACKHAUL NETWORK - The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices and/or long distance providers, or the public switched telephone network.

BASEMENT - That portion of a building that is partly or wholly below grade, but located so that the vertical distance from average grade to the floor is greater than the vertical distance from the average grade to the ceiling. If the vertical distance from the grade to the ceiling is over five feet, that portion of the building shall be considered the first story.

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

BERM - A continuous, raised earthen mound comprised of non-toxic materials with a flattened top and sloped sides, capable of supporting live landscaping materials

BUFFER STRIP OR ZONE - A strip of land with landscaping, berms, or walls singularly or in combination designed to limit the impact to less-intensive neighboring uses from the noise, light, traffic, clutter, and litter associated with a particular land use.

BILLBOARD - See **SIGN Pg. 24**

BUILDING - A structure covered by a roof and enclosed by exterior walls built, erected, and framed of component structural parts, designed for the housing, shelter, enclosure, and support of individuals, animals, or property of any kind, including temporary structures erected for a period of 14 days or more.

BUILDING HEIGHT - The vertical distance from the average grade to the highest point of the coping of a flat roof; the deck line of a mansard roof; or the highest point of the highest gable of a pitch or hip roof; but not including vents, mechanical equipment, chimneys, or other such incidental appurtenances.

BUILDING PERMIT - The written authority issued by the Building Inspector authorizing the construction, removal, moving, alteration, or use of a building found to be in conformity with the provisions of this Ordinance.

BUILDING SITE – A single parcel that provides the area and the open space required by this Ordinance for the construction of a building, not including all vehicular and pedestrian rights-of-way or any other easement that prohibits the surface use of the property by the owner thereof.

CAMPING - Five or fewer tents, travel trailers, or recreational vehicles, located on a single property, for use as a temporary dwelling for a period not exceeding thirty (30) continuous days.

CAMPGROUND – the use of a property for the location and use of six or more tents, travel trailers, or recreational vehicles, located on a single property, for use as a temporary dwelling for a period not exceeding fourteen (14) continuous days.

COLLOCATION - Location by two or more telecommunication providers of facilities on a common structure, tower, or building, to reduce the overall number of structures required to support telecommunication antennas within the Township.

CORNER LOT - Any lot having frontage on two intersecting streets or upon two portions of a turning street.

CEMETERY - Land used for the burial of the dead, including crematoriums, mausoleums, and mortuaries.

CHURCH - A building where persons assemble for religious observance or expression and that is maintained and controlled by a religious body or organization, together with permitted accessory buildings and accessory uses.

CLINIC - An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, psychiatrists, dentists, or similar professions.

CLUB. Fraternal and fellowship organizations, charitable service organizations, or the like, operating on a non-profit and members-only basis not open to the general public. Clubs do not include entertainment establishments such as a nightclubs or similar facilities.

COMMERCIAL MEDICAL MARIHUANA FACILITY – Any one of the following facilities as they are defined in the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016 (“MMFLA”);

- a) Provisioning Center
- b) Processor
- c) Secure Transporter
- d) Grower
- e) Safety Compliance Facility

CONDOMINIUM - A condominium project consisting of two or more condominium units, as set forth in the Michigan Condominium Act, MCL 559.101 *et seq.*

DAY CARE.

- A. Family Day Care Home.** A private home in which at least one (1) but fewer than seven (7) minor children are received for care and supervision for periods of less than twenty-four (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. Family day care home includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year.
- B. Group Day Care Home.** A private home in which more than six (6), but not more than twelve (12), minor children are given care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year.
- C. Commercial Day Care.** A facility, other than a private residence, receiving minor children or adults for care for periods of less than twenty-four (24) hours in a day, for more than two (2) weeks in any calendar year. Child care and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a nursery operating during church services or public meetings, or by a fitness center or similar operation, shall not be considered a Commercial Day Care.

DECK - A floored structure, connected to a dwelling and raised above grade, typically consisting of footings, posts, and steps which may or may not include a railing.

DENSITY - The number of dwelling units situated on, or proposed to be situated on an acre of land, excluding any area devoted to public rights-of-way or easements.

DETENTION AREA - A structure or facility, natural or artificial, which stores storm water on a temporary basis and releases it at a controlled rate.

DISTRICT - A portion of the Township within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain yards, open spaces, lot areas, and other requirements are established.

DRIVEWAY - That portion of a lot upon which or through which vehicles travel from a road to a dwelling or other improvement located on a lot or parcel.

DRIVE-IN BUSINESS - A retail or service establishment that is wholly or partially dependent on providing a driveway approach and service windows or facilities for vehicles in order to serve patrons while in their vehicles.

DWELLING - Any structure erected on property designed or used for residential purposes.

DWELLING, FARM LABOR - A dwelling occupied solely by up to 6 agricultural employees or one farm employee and his or her household. A farm dwelling may consist of any living quarters, dwelling, boarding house, mobile home, or similar structure designed for long-term, season occupancy.

DWELLING, MULTIPLE-FAMILY - A structure containing 3 or more single dwelling units under one common roof.

DWELLING, SINGLE-FAMILY - A dwelling used primarily as a residence by one family. The use may be for year-round or seasonal occupancy by the owner or occupant.

DWELLING, TWO-FAMILY (DUPLEX) - A structure containing two separate dwelling units, one unit having a minimum 720 square feet and the other having a minimum of 720 square feet, designed for residential use by no more than two families and connected by either a common wall or an attached private garage area.

DWELLING, SEASONAL RECREATIONAL - A permanent structure, other than a residential dwelling designed or intended for regular occupancy, used primarily as a temporary residence in connection with a particular recreational activity, such as hunting, fishing, boating, or tourism. Such structures typically include rental cabins, but would not include home rentals through services such as AirBNB, or Bed and Breakfasts.

DWELLING UNIT - A structure, or part of a multiple-family or two-family dwelling, providing complete living facilities, including provisions for sleeping, cooking, eating, and sanitation, and which is designed for residential use by no more than one family.

ESSENTIAL SERVICE - Shall mean the erection, construction, alteration or maintenance by public utilities or municipal governments, departments, commissions, boards, or by other governmental agencies of underground, surface or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communications, supply, or disposal systems, including public safety communication towers, structures and facilities, dams, weirs, culverts, bridges, canals, locks, including poles, wires, mains, drains, sewers, towers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, or signs and hydrants, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal governments, departments, commissions, boards, or by other governmental agencies, or for the public health, safety, or general welfare, and buildings which are primarily enclosures or shelters of such essential service equipment. An essential service shall not include other buildings associated with an essential service, or cellular telephone facilities, including cellular telephone transmitting towers, the use of essential service public safety communication towers, structures and facilities for cellular telephone or other wireless communication facilities, or commercial broadcast television and radio facilities.

EXTRACTION – Removal of sand, stone, gravel, fill dirt, or other surface or sub-surface material to below the average grade of the surrounding land and/or the finished grade, whichever is highest, excepting common household gardening.

FAA - Federal Aviation Administration.

FAMILY - An individual or group of two (2) or more persons related by blood, marriage, adoption, or guardianship living together as a single household. A family shall also be defined as not more than two (2) persons living together as a single household who are not related by blood, marriage, adoption, or guardianship.

FARM - The land, plants, animals, structures, machinery, equipment, and other appurtenances used in the commercial production of farm products.

FCC - Federal Communications Commission.

FENCE - A barrier of at least three (3) feet in height consisting of rails, timber, boards, wire, stone, or other masonry material used as a boundary or means of protection or confinement, but not including a barrier made of vegetation.

FIREWOOD - Trunks and branches of trees and bushes 3 inches in diameter or greater, not including, leaves, needles, vines or brush.

FLOOD HAZARD AREA - The relatively flat areas or lowlands adjoining a river, stream, water course, or lake that are inundated by a flood discharge that results from a one hundred (100) year storm frequency of twenty-four (24) hour duration, including the stream channel and overbank area (the floodway) and the fringe areas of the floodway.

FLOODPLAIN - For a given flood event, that area of land subject to inundation by the highest expected flood water level.

FLOOR AREA - The sum of the gross horizontal floor areas of all stories of a building as measured to the exterior face of the exterior walls. Floor area does not include cellars, basements, attached private garages, spaces used for off-street parking, unfinished attics, breezeways, porches, elevators, stair bulkheads, or accessory structures.

FOOTPRINT - The ground area occupied within the exterior foundation walls of a structure, excluding any detached accessory buildings and any unenclosed or un-walled portions of a building or structure, such as decks, balconies, etc.

FREE STANDING – A structure which supports itself, without the need to attach itself to other structures for support.

FRONTAGE - The continuous length along which a parcel of land fronts on a road or street, measured along the line where the property abuts the street or road right-of-way. For the purpose of meeting a lot minimum frontage requirement on a street cul-de-sac, or for other odd-shaped lots, the lot width may be measured at the minimum setback or principal building line. Front Set-Backs are considered from road right-of-way.

FUNERAL HOME - A building, or part thereof, used for funeral services such as (i) embalming and the performance of services used in preparation of the dead for burial; (ii) the performance of autopsies and other surgical procedures; (iii) the storage of caskets, funeral urns and other related funeral supplies; and (iv) the storage of funeral vehicles, but not including facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

GARAGE, PRIVATE - An accessory building, or the accessory portion of a principal building, designed or used for the storage of motor vehicles, boats, recreational vehicles, and similar items, by the occupants of the building to which it is accessory.

GARAGE, PUBLIC – A structure, whether standalone or accessory, operated for gain, which allows the public or a subset of the public to temporarily park vehicles.

GOLF COURSE - A tract of land used for playing golf, including any buildings and structures incidental and subordinate to that use, but not including standalone driving ranges or miniature golf courses.

GROUND COVER - Low-growing plants, including grasses, that form a dense, extensive growth after one (1) complete growing season and which tend to prevent weed growth and soil erosion.

GUARANTEE - A cash deposit, certified check, irrevocable bank letter of credit, or such other instrument acceptable to the Township.

HAZARDOUS MATERIALS - Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive, explosive or otherwise injurious properties, may be detrimental to the health of any person handling or otherwise coming into contact with such materials or substances.

HEIGHT: TOWERS/ANTENNAS - The distance measured from the finished grade of a parcel to the highest point on the tower or other structure, including the base pad and any antenna.

HEIGHT: BUILDING - The vertical distance measured from the finished grade at the center of the front of the building to the highest point of the roof.

HOME OCCUPATION - An occupation or profession, including instruction in a craft or fine art, carried on by an occupant of a dwelling unit, within that structure only, as a secondary use which is clearly ancillary and incidental to the use of the dwelling for residential purposes, provided:

- a) That the space devoted to the occupation does not exceed thirty percent (30%) of the usable floor area of a principal building, or fifty percent (50%) of an accessory building;
- b) That the occupation does not require internal or external alterations to the building or property on which it occurs;
- c) That the occupation will not generate excessive traffic, noise, vibration, glare, fumes, odors, electrical interference, interference with television or radio signals, or other nuisances that would be detectable to the senses at the boundaries of the lot; and
- d) That the occupation has no more than one (1) non-family employee.

HOSPITAL - An institution providing health service and medical or surgical care of the sick or injured, primarily for inpatients. The term shall also include as an integral part of the institution such related facilities as laboratories, adjoining out-patient departments, training facilities, central service facilities and staff offices.

INDOOR RECREATION ESTABLISHMENT - A facility designed and equipped for sports, amusement or leisure time activities conducted within an enclosed building, such as fitness centers, bowling alleys, indoor softball, and racquetball and tennis clubs.

JUNK - Any vehicle, machinery, appliance, product, scrap metal, or other trash, rubbish, refuse, paper, building materials and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, plastic, cordage or any other trash, rubbish, or refuse, whether or not the same could be put to any use. Junk includes any inoperable or abandoned vehicle that is not currently licensed for use upon the highways of the State of Michigan and shall also include, whether so licensed or not, any motor vehicle that is inoperative for any reason.

JUNK YARD - Any parcel of land maintained or operated for the purchase, sale, storage, dismantling, demolition or use of junk or other salvaged materials, including, any premises upon which one (1) or more unlicensed or inoperable vehicle is kept or stored for a period of thirty (30) days or more.

KENNEL - A parcel upon which the building(s) and/or lands are designed or arranged for the sale, boarding, breeding, grooming, training, or care of animals for profit, but shall not include those animals raised for agricultural use or consumption.

LANDFILL – Recycling plants, scrap metal storage, settling ponds, and operations relating to the processing, storage, or burial of waste.

LANDSCAPING - The treatment of the ground surface with live plant materials such as, but not limited to, grass, ground cover, trees, shrubs, and vines, or decorative natural materials such as wood chips, rocks, boulders, or mulch. Structural features such as fountains, pools, statues and benches shall also be considered a part of landscaping if provided in combination with live plant material.

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

LODGE - A building or group of buildings, or five or more tents, travel trailers, or recreational vehicles, used as a temporary dwelling for a period not exceeding fourteen (14) continuous days in connection with hunting or other special season recreational outdoor activities.

LOT - A parcel of land that is or may be occupied by a building or land use, along with any related accessory structures, in conformance with platted lot lines. The word "lot" shall include plat, parcel or condominium site. A lot may or may not be specifically designated as such on public records.

LOT AREA - The total horizontal area included within a property's lot lines, but not including any portion of the property within the public right-of-way.

LOT COVERAGE - The percentage of a lot that is covered by structures including all porches, decks, arbors, breezeways, patio-roofs and accessory buildings, but not including, fences, walls, or hedges.

LOT DEPTH - The average of the shortest and longest distances from the front lot line to the rear lot line.

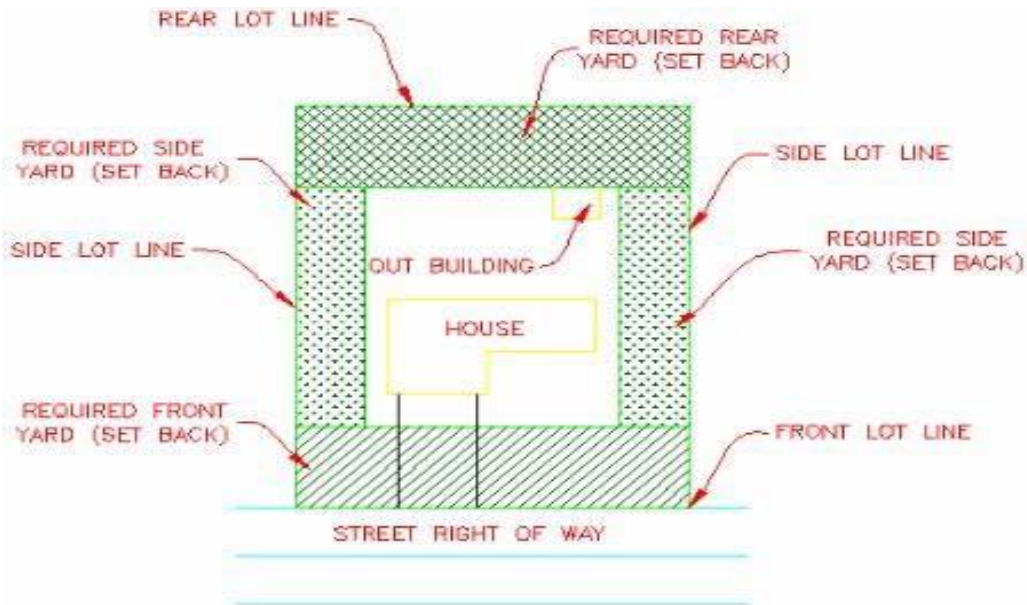
LOT LINE - The line that separates the lot, parcel, or general common element from another lot, parcel, general common element, existing street right-of-way, approved private road easement, or the ordinary high-water mark.

LOT LINE, FRONT - In the case of an interior lot, a line separating a lot or parcel from a street right-of-way (refer to Figure 1). In the case of a corner lot, a line separating the narrowest street frontage of a lot from the street.

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

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

Figure 1: Lot Lines and Minimum Required Yards



LOT LINE, STREET - The lot line that divides a lot from the outside edge of the right-of-way.

MARINA - A dock or basin providing secure moorings for pleasure or commercial boats, which may offer supply, repair, and other related services or facilities.

MARIHUANA – This term shall have the same meaning as is provided in MCL 333.26423.

MARIHUANA ESTABLISHMENT – Any one of the following establishments as they are defined in the Michigan Regulation and Taxation of Marihuana Act, Initiated Act 1 of 2018 (“MMFLA”);

- a) Marihuana Retailer
- b) Marihuana Microbusiness
- c) Marihuana Processor
- d) Marihuana Secure Transporter
- e) Marihuana Grower
- f) Marihuana Safety Compliance Facility

MASTER PLAN - The Pinconning Township Master Plan adopted pursuant to the Michigan Zoning Enabling Act or the Michigan Planning Enabling Act.

MINING AND EXTRACTION OPERATIONS - Any pit excavation or mining operation for the purpose of searching for, removing, or processing peat, gravel, sand, clay, earth, or other soils, or marble, stone, slate, or other non-metallic mineral in excess of (50) cubic yards in any calendar year, including the overburdening, storage or transporting of such items on a mining and extraction site, or the reclamation of the site after removal or excavation of such items, not including an oil or gas well. The following activities are not considered a mining and extraction operation and are exempt from the special use permit requirements of this Ordinance:

- A.** Excavation approved by a governmental body of competent jurisdiction in conjunction with the installation or maintenance of publicly owned or operated utilities, drainage facilities, roads, or other publicly owned or operated improvements, where the excavation is limited to the site of the public utility or improvement.
- B.** Excavation that by its nature is of limited scope and duration and that is undertaken primarily for the immediate use and development of the land excavated, such as for purposes of building construction, septic tanks, swimming pools, graves, etc.
- C.** Excavation in conjunction with farming operations conducted in accordance with generally accepted agricultural management practices.

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

MOBILE HOME PARK - Any site, lot, field, or tract approved by special use permit for continuous and non-recreational use by two or more mobile homes, including any buildings, vehicle, or enclosure used or intended for use as part of the equipment of such mobile home park licensed and regulated by the Michigan Mobile Home Commission.

MOTEL - A building or part of a building, other than a dwelling, used for the commercial accommodation of transients for compensation in rooming units, with either a common entrance or separate entrances for individual units.

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

NATIVE VEGETATION, TREES, OR LANDSCAPE - Plant species that are native to Michigan and characteristic of an area's pre-settlement landscape.

NONCONFORMING STRUCTURE - A structure, or portion thereof, lawfully existing at the time this Ordinance or amendments become effective and that does not conform to the regulations of the district in which it is located or to the requirements of this Ordinance as a whole.

NONCONFORMING USE - See "Use." Pg. 27

NUISANCE - An offensive, annoying, unpleasant, or obnoxious thing or practice, especially a continuing or repeated invasion of any physical characteristics of activity or use across a property line that affects a human being. Nuisances include, but are not limited to, the generation of an excessive or concentrated movement of people, noise, dust, smoke, odor, glare, fumes, flashes, vibration, objectionable effluent, or the invasion of street frontage by traffic generated from an adjacent land use that lacks sufficient parking and circulation facilities.

NURSING HOME - A structure for the care of the aged or infirm, or a place of rest for those suffering bodily disorders who require continuous nursing care and supervision.

OPEN AIR BUSINESS - A business that involves activities for the display and sale of goods, products and objects outside of a building, including the display and sales of motor vehicles, bicycles, trailers, swimming pools, snowmobiles and boats; rental equipment and services; mobile homes; flea markets, lawn furniture, playground equipment, and other home garden supplies and equipment, cemetery monuments, and similar uses. This business may be approved on temporary basis not exceeding a period of 14 days.

OPEN SPACE - That part of a lot that is open and unobstructed by any built features from its lowest level to the sky, and is accessible to all residents living upon the lot or the public. This area is intended to provide light and air, and is designed for environmental, scenic, agricultural, or recreational purposes. Open space may include, but is not limited to lawns, decorative plantings, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, living plant materials, wetlands, and water courses. Open space shall not be deemed to include required setbacks for lots, storm water retention and detention areas, driveways, parking

lots or other surfaces designed or intended for vehicular travel except for buildings and access routes to support allowed uses cited above.

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

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

OUTDOOR FURNACE - Any equipment, device or apparatus, or any part thereof, that is installed, affixed, or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space.

OUTDOOR RECREATION ESTABLISHMENT - A facility designed and equipped for the conduct of sports, amusement or leisure time activities conducted outside of an enclosed building such as tennis courts, archery ranges, golf courses, miniature golf courses, golf driving ranges, and children's amusement parks.

PARK - Outdoor recreation areas where individuals and families gather for outdoor eating, socialization, and recreation. Park does not include any type of commercial development and/or any permanent artificially created thrill or amusement rides.

PARKING SPACE - An area of definite length and width, exclusive of drives, aisles, or entrances giving access thereto, fully accessible for the storage or parking of permitted vehicles.

PATIENT – A “registered qualifying patient” or a “visiting qualifying patient” as those terms are defined by MCL 333.26421 *et seq.*

PATIO – An area, usually paved, adjoining a dwelling, used for outdoor activity that is accessory, customary, and incidental to the use of that dwelling.

PERMIT, BUILDING – A permit issued by the appropriate authority authorizing the construction of a structure consistent with an approved national and/or Michigan building code.

PERMIT, MARIHUANA – a current and valid permit for a Commercial Medical Marihuana Facility issued under Pinconning Township Ordinance No. 17-01, or a current and valid permit for a Marihuana Establishment under Pinconning Township Ordinance No 18-02. In either case, such Permit shall be granted to a Permit Holder only for and limited to a specific Permitted Premises and a specific Permitted Property.

PERMIT, LAND USE – A permit issued by the Zoning Administrator certifying that a use is consistent with the Zoning Ordinance at the time of issuance, which authorizes a property owner the right to seek issuance of a building permit.

PHOTOVOLTAIC DEVICE – A system of components that generates electric energy from incident sunlight by means of the photovoltaic effect, whether or not the device is able to store the electric energy produced for later use.

PLANNED UNIT DEVELOPMENT (PUD) - A form of land development comprehensively planned as an entity via a unitary site plan that permits flexibility in building, siting, usable open spaces, and the preservation of significant natural features. Such a development may contain a mix of housing types and nonresidential uses.

POND – An outdoor body of standing water, accumulated in an artificially constructed basin or depression in the earth, either above or below, or partly above and partly below grade.

- a) **Decorative Pond.** An artificial impoundment of water designed and used for aesthetic purposes retaining a maximum of one thousand (1,000) gallons of water with adequate filtration, pumping and water supply systems.
- b) **Farm Pond.** An impoundment of water designed or utilized primarily for irrigation, watering cattle, and similar agricultural purposes.
- c) **Recreational Pond.** An impoundment of water designed or used primarily for recreational activities such as swimming, fishing, ice skating, and similar activities.

POOL – Any permanent and artificially constructed basin or structure for the holding of water for swimming, diving, and other aquatic sports and recreation, as an accessory use to a dwelling.

PORCH – An area, generally covered by a roof, adjoining a dwelling unit, used for outdoor activity.

PREEXISTING TOWERS and PREEXISTING ANTENNAS - Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this Ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and has not expired.

PRIMARY CAREGIVER OPERATION – A location where a primary caregiver can lawfully operate as permitted by the Michigan Medical Marihuana Act and this ordinance.

PRINCIPAL BUILDING – The building in which the primary or principal use of a lot occurs.

PRINCIPAL USE - The main use to which a lot or parcel is devoted and the principal purpose for which a lot or parcel exists. Only one principal use may exist on a lot or parcel.

PROFESSIONAL OFFICE - Rooms or buildings used for office purposes by members of any recognized profession, including doctors, dentists, lawyers, accountants, engineers, architects, etc., but not including clinics.

PUBLIC SERVICE – Uses, structures, and services provided for the benefit of the public as a whole, such as governmental facilities, emergency facilities, and essential services.

PUBLIC UTILITY - Any person, firm, or corporation, municipal department, board or commission duly authorized to furnish gas, steam, electricity, sewage disposal, communication, cable television, telephone, telegraph, transportation or water to the public under federal, state, or municipal regulations.

RECREATION AREA – A parcel, which may include bodies of water and incidental buildings, used for active or passive recreation such as parks, playgrounds, golf courses, hunting preserves, nature trails, bridle paths, beaches, campsites, ski and snowmobile trails, canoe routes, and similar activities.

RECREATIONAL VEHICLE - A vehicle intended and designed primarily for recreational use, including those used as temporary living quarters for recreational, camping, or travel purposes, such as a motor home, camper trailer, boat, snowmobile, off-road or all-terrain vehicle, or any similar vehicle or trailer. The term "recreational vehicle" shall not include a motorcycle or motorbike or other similar means of transportation intended primarily for daily on-street use.

RESTAURANT - Any establishment where the principal business is the sale of foods, desserts, or beverages to the customer in a ready-to-consume state, and where the design or principal method of operation includes one (1) or both of the following characteristics:

- A. Customers, normally provided with an individual menu, are served their foods, desserts, or beverages by a restaurant employee at the same table or counter where the items are consumed; or
- B. A cafeteria type of operation where foods, desserts, or beverages generally are consumed within the restaurant building.

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

RIGHT-OF-WAY - A street, service drive, or other thoroughfare or easement permanently established for passage of persons vehicles, or the location of utilities and under the legal authority of an agency having jurisdiction over the right-of-way.

RIVER – A natural flow of water in a definite course or channel, including creeks and streams, but excluding drains and ditches.

ROAD - A public or private thoroughfare or right-of-way dedicated to or designed for travel and access to any land, lot or parcel, whether designated as a road, avenue, highway, boulevard, drive lane, place, court, or any similar designation. The various types of roads are defined as follows:

- A. **Private Road.** A road owned and maintained by the owners of the property it serves and non-residential main buildings. Private roads include roads within site condominium projects, roads serving more than three (3) single-family dwelling units and roads within commercial, office, or industrial complexes. The definition of “*private road*” does not

include drives serving multiple family buildings with three (3) or more attached dwelling units, parking lot aisles or drives connecting parking lots to internal roads.

B. Public Road. Any road or portion of a road that has been dedicated to and accepted for maintenance by Bay County Road Commission, Bay County, State of Michigan or the federal government.

SCREEN - A structure providing enclosure and/or visual barrier between the area enclosed and the adjacent property. A screen may also be a non-structure, consisting of shrubs or other growing materials of sufficient height and density as to provide an enclosure and/or a visual barrier.

SEASONAL - A recurring activity or use, temporary in nature and in existence for no more than six (6) months of any particular calendar year, directly related to the time period in which it recurs. Seasonal activities typically include hay rides, Christmas tree farms, pumpkin patches, u-pick fruit harvesting, or similar uses, but do not include activities such as wedding or event barns.

SETBACK - The minimum distance between the relevant lot line and the principal and accessory buildings that is not occupied by buildings and accessory structures, but on which may be located fences, trees, shrubs, and subterranean installments such as sewers, septic tanks, and drain fields.

SHOOTING RANGE - Any facility, whether operated for profit or not, and whether public or private, which is designed for the use of bow and arrow or firearms which are aimed at targets, skeet, or trap, or where a fee is paid in order to hunt animals within a confined area.

SIDEWALK - A facility placed within the right-of-way of existing streets or a facility connecting with buildings, parking lots, or other activities having access to the street right-of-way, for the purpose of providing safe movement of pedestrians.

SIGN - Any announcement, declaration, display, billboard, illustration, and insignia when designed and placed so as to attract general public and includes the use of any words, numerals, figures, devices, designs, or trademarks by which anything is made known and visible to the general public, along with any banner, bulbs, lighting devices, streamers, pennants, balloons, propellers, flags, or any similar device of any type or kind, whether bearing lettering or not.

A. Animated Sign. Any sign that uses movement or change of lighting to depict or create a special effect or scene, or by method or manner of illumination, flashes on or off, winks, or blinks with varying light intensity, shows motion, or creates the illusion of motion or revolves in a manner to create the illusion of being on or off.

B. Flag. A sign consisting of a piece of cloth, fabric or other non-rigid material.

C. Freestanding or Ground Sign. A sign supported from the ground by one or more poles, posts, or similar uprights, with or without braces.

- D. Portable Sign.** A temporary sign that is not permanently affixed to a building face or to a pole, pylon, or other support that is permanently anchored in the ground. A portable sign is capable of being moved from one (1) location to another. Portable signs include but are not limited to: signs designed to be transported by means of wheels; signs converted to A- or T- frames; sandwich board signs consisting of two (2) boards laid back-to-back; and balloons used as signs.
- E. Roof Sign.** Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.
- F. Temporary Sign.** A sign intended for a use not permanent in nature. Unless otherwise provided for, a sign intended to be used for a period of time equal or related to the duration of an event shall be deemed a temporary sign.
- G. Wall Sign.** A sign fastened to or painted on the wall area of a building or structure that is confined within the limits of the wall with the exposed face of the sign in a plane approximately parallel to the plane of such wall.
- H. Window Sign.** Any sign that is placed inside a window or upon the window panes of glass and is visible from the exterior of the window

SINGLE WECS (Wind Energy Construction System) FOR ON-SITE SERVICE ONLY - A single WECS placed upon a lot or parcel with the intent to service the energy needs of or supplement other energy sources for only that lot or parcel upon which the single WECS is placed.

SITE PLAN - The documents, drawings, and related material required by this Ordinance necessary to ensure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

SOLAR ARRAY - Any number of Photovoltaic Devices connected together to provide a single output of electric energy or other energy.

SOLAR ENERGY SYSTEM, LARGE – A utility-scale solar energy system where the primary use of the land is to generate electric energy or other energy by converting sunlight, whether by Photovoltaic Devices or other conversion technology, either for the sale, delivery, or consumption of the generated energy by more than one end user, or for personal use beyond what is authorized for a Medium Solar Energy System, typically with a power output equal to or greater than 1 megawatt.

SOLAR ENERGY SYSTEM, MEDIUM – A solar energy system where the sole use is to generate electric energy or other energy by converting sunlight, whether by Photovoltaic Devices or other conversion technology, primary for personal consumption by a single end user at the same property upon which the solar energy system is located. Medium Solar Energy Systems including all solar energy systems with a power output greater than 150 kilowatts, but not exceeding 1 megawatt.

SOLAR ENERGY SYSTEM, SMALL – A solar energy system where the sole use is to generate electric energy or other energy by converting sunlight, whether by Photovoltaic Devices or other conversion technology, primarily for personal consumption by a single end user at the same property upon which the solar energy system is located. The Power output of a Small Solar Energy System shall not exceed 150 kilowatts.

STATE-LICENSED RESIDENTIAL FACILITY - A structure that is constructed for residential purposes that is licensed pursuant to Public Act 218 of 1979, MCL 400.701 et seq. or Public Act 116 of 1973, MCL 722.111 et seq. which provides resident services for six or fewer persons.

STORAGE UNITS OR MINI STORAGE UNITS - A building or group of buildings in a controlled access or fenced area that contains individual compartmentalized and controlled access stalls or lockers for the storage of customer's personal or household goods that are generally not used on a daily basis, along with any individual portable unit designed for the same.

STREET - See **ROAD Pg. 24.**

STRUCTURE - Anything constructed, assembled or erected, the use of which is intended to be permanent or lasting and requires location on the ground or attachment to something having a location on or in the ground. A structure does not include wires and their supporting poles or frames or electrical or telephone utilities or to service utilities below the ground.

STORY - That portion of a building included between the surface of any floor and surface of the floor next above it, or if there is no floor above it, then the space between such floor and the ceiling next above it, excluding any mezzanine, balcony, basement, or attic.

TAVERN - Any place where alcoholic beverages are sold for consumption on the premises.

TOWER - Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communications purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, alternative tower structures, and the like. The term includes the structure and any support thereof

UNREASONABLE SAFETY HAZARD – Any condition which could reasonably be expected to create, cause, or compound the substantial likelihood that death, illness, or personal injury may occur to any member of the general public, including, but not limited to, trespassers and emergency services personnel. Adherence by the property owner to industry standards for safeguarding against such risks will be taken into consideration in determining whether a condition poses an unreasonable safety hazard.

USE - The following types of uses are recognized in Pinconning Township:

A. Permitted Use. A use specified in a zoning district that is allowed by right.

- B. Special Use.** A use specified in a zoning district only allowed following issuance of a special use permit.
- C. Accessory Use.** A use not specified in a zoning district that is clearly incidental to, customarily found in conjunction with, subordinate to, and located on the same zoning lot as the principal to which it is exclusively related.
- D. Principal Use.** The principal purpose for which land or a building is arranged, designed, or intended, or for which land or a building is or may be occupied.
- E. Nonconforming Use.** A use of a building or structure or of a parcel or tract of land, lawfully existing at the time of adoption of this Ordinance or subsequent amendment thereto, that does not conform to the regulations of the zoning district in which it is situated. A nonconforming use may also be defined as provided by relevant statute and/or other law.
- F. Temporary Use.** A use, not exceeding 14 continuous days in duration, permitted to exist during periods of construction of a structure relating to a lawful use, or uses related to temporary special events not otherwise classified by this ordinance. All temporary uses require a zoning compliance permit prior to commencement.

VARIANCE - Written authority of the Zoning Board of Appeals that permits the departure from the literal requirements relating to use, setbacks, building height, lot width, and/or lot area as regulated by this Ordinance.

VEHICLE - Any device in, upon, or by which any person or property is or may be transported or moved upon any street, highway, trail, or waterway, excepting devices used exclusively upon stationary rails.

WAREHOUSE - A building or area used for the storage of goods and materials and that may include facilities for a wholesale or retail outlet.

WATER RECHARGE AREA - A **recharge area** is the place where **water** is able to seep into the ground and refill an aquifer because no confining layer is present. **Recharge areas** are necessary for a healthy aquifer.

WECS (Wind Energy Construction System) HEIGHT - The distance between the ground (at a normal grade) and the highest point of the WECS, as measured from the ground (at a normal grade), plus the length by which the rotor blade on a horizontal mounted WECS exceeds the structure which supports the rotor and blades (normally, the tower). Or put another way, the distance between the ground (at a normal grade) and highest point of the WECS (being the tip of the blade, when the blade in the full vertical position).

WETLAND - Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life and that is commonly referred to as a bog, swamp, fen, marsh, or wet meadow.

WHOLESALE – The sale of commodities to retailers or jobbers for purposes of resale, rather than to consumers.

WIND ENERGY CONVERSION SYSTEM (WECS) - A wind-powered device for the generation of energy, commonly referred to as a wind generating tower, windmill, or wind-powered generator, consisting of a combination of:

- a. The surface area (typically a blade, rotor, or similar device), either variable or fixed, for utilizing the wind for electrical generating powers; and
- b. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; and
- c. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and
- d. The tower, pylon or other structure upon which any, all, or some combination of the above are mounted.

A WECS can also include other components not listed above but associated with the normal construction, operation, and maintenance of a wind energy conversion system.

WIND PARK: One or more WECS placed upon one or more contiguous lots or parcels with the intent to sell or provide electricity to a utility or transmission company. Although the WECS within a Wind Park may or may not be owned by the owner of the property or properties within the Wind Park, the Wind Park shall consist of all the contiguous lots and parcels located within the Township that are in whole or in part within a radius of 2,640 feet from the bases of any and all WECS within the Wind Park, unless the Township expressly provides in the special use that the applicant may use a smaller radius or that any properties may be excluded from the Wind Park. If the Township Board permits any properties within the approved radius to be excluded from the Wind Park, then such properties shall be treated for all purposes as outside the Wind Park under this Ordinance.

YARD - The unoccupied and unobstructed open spaces on the same lot with a principal building. Yards shall be measured from the exterior faces of a structure to lots lines. Roof overhangs and cornices that project one (1') foot or less from the exterior face shall not be included in the yard measurements. Yards shall be measured from the outer edge of roof overhangs or cornice extending more than one (1') foot from the exterior face of the structure. Front and side yards and corner lots, and rear yards that abut a public or private street, shall be measured from existing public street right-of-way or private street easement lines. All required yards shall be located parallel and adjacent to property lines, or to transition strips where required. For yards fronting both the lake and the street, both sides shall be considered the front yard, with accessory

buildings allowed on the street side. The setback should be measured from the high water mark line.

- A. Front Yard.** The yard extending the full width of the lot and situated between a street line and the front building line (main wall of the building, including the porch, except steps), parallel to the street or water edge. The depth of the front yard shall be measured at right angles to the street or water edge, in the case of a straight street line, and radial to the street or water edge, in the case of a curved street or water edge.
- B. Rear Yard.** The yard, extending the full width of the lot, between the side lot lines, and directly opposite of the front yard, parallel to the rear lot line.
- C. Side Yard.** The yard situated between the side building line and the adjacent side lot lines and from the rear interior line of the required front yard to the rear interior line of the required rear yard, and parallel to the side lot line.

ZONING ADMINISTRATOR - The administrative officer responsible for enforcement and implementation of this ordinance.

ARTICLE 3: NON-CONFORMING USES AND STRUCTURES

SECTION 3.1 INTENT AND PURPOSE

This Ordinance is intended to provide for the use of land, buildings, and structures throughout the Township. Uses that were lawfully established prior to the effective date of this Ordinance remain valid, and may be permitted to continue even though those uses may be prohibited or regulated differently under this Ordinance. Despite this, such land uses, lots, and structures are declared to be incompatible with this Ordinance. The regulations of this Article have been established in order to adequately regulate the conflicts between conforming and nonconforming uses, buildings, and structures.

SECTION 3.2 NONCONFORMING LOTS

Any lot that was a non-conforming lot of record on the date this Ordinance was adopted is still considered a buildable lot for the construction of a single-family dwelling and accessory buildings. The dimensional requirements of this ordinance, other than lot area and width requirements, must be met for such a lot to be considered buildable under this Section.

No portion of the combined lot shall be used or sold in a manner that diminishes compliance with lot area or lot width requirements of the district in which it is located, nor shall any division of the combined lot be made that creates a lot with area or width less than the requirements of the district in which it is located.

SECTION 3.3 NONCONFORMING USES OF LAND

If a lawful use on a parcel of land exists that becomes nonconforming under the terms of this Ordinance, that use may be continued, so long as it remains otherwise lawful, and is neither expanded nor extended on the same or adjoining property. A nonconforming building may change from one nonconforming use to another nonconforming use, as long as no structural alterations are made to that building, and the new use is of the same or more restricted classification than the original nonconforming use.

SECTION 3.4 NONCONFORMING STRUCTURES

Where a lawful structure exists at the time this Ordinance is adopted, and could not be built under the terms of this Ordinance due to the area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, that structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. A nonconforming building that has been damaged by fire, explosion, act of God, or the public enemy to the extent that more than 50 percent of its assessed value has been eliminated shall not be restored unless in conformity with the regulations of this Ordinance applying to the district in which that building is located. A building that has lost 50 percent or less of its assessed value may be repaired pursuant to a special use permit, but any repair or reconstruction must be completed within one (1) year of the date the damage occurs.

- B.** A non-conforming structure that is relocated from its original location must conform to the regulations for the area to which it is moved as established by this Ordinance, and will no longer be considered a lawful nonconforming use.

- C.** Nothing in this Ordinance shall prohibit the repair, improvement, or modernization of a nonconforming building to correct deterioration, obsolescence, depreciation, and wear. This Ordinance does not prevent the strengthening or restoration of any building to ensure that building is in a safe condition upon the order of any official charged with protecting the public safety.

- D.** Change in tenancy, ownership, or management of any nonconforming use or building is permitted, as long as there is no change in the nature or character of the nonconforming use.

SECTION 3.5 ABANDONMENT OF NONCONFORMING USE

- A.** The discontinuance of any use on a premises for a period in excess of 12 consecutive months, or to demonstrate an intent to abandon that use. All abandonment of nonconforming use shall require inspection.

- B.** An abandoned nonconforming use may not be reestablished unless a petition demonstrating extraordinary circumstances is filed with, and approved by, the Zoning Board of Appeals.

SECTION 3.6 ELIMINATION OF NONCONFORMING USE OR STRUCTURE

The elimination of nonconforming uses and structures is declared to be for a public purpose and for a public use. The Township may acquire, purchase, condemn, or otherwise obtain private property or an interest in private property for the removal of nonconforming uses. The cost and expense of acquiring private property may be paid from the Township's general fund.

ARTICLE 4. DISTRICT REGULATIONS

SECTION 4.1 ESTABLISHMENT OF DISTRICTS

The Township is divided into the zoning districts as shown on the Zoning Map, which, together with all explanatory matter shown thereon, is adopted by reference as a part of this Ordinance. To carry out the purposes of this Ordinance, the Township of Pinconning shall be divided into the following zoning districts:

- AG Agricultural District
- SR Suburban Residential District
- C-1 Commercial District
- LI Light Industrial District
- PUD Planned Unit Development District
- MO Marihuana Overlay District

SECTION 4.2 ZONING MAP

The boundaries of these districts are hereby defined and established as showing on a map entitled “Zoning District Map of the Township of Pinconning, Michigan,” which accompanies this Ordinance and is incorporated herein. The Zoning Map shall be identified by the signature of the Township Supervisor and attested to by the Township Clerk, and shall contain the following words: “This is to certify that this is the official Zoning Map of Pinconning Township adopted on the 7th day of July, 2020. Two official copies of the Zoning Map will be maintained; one copy will be maintained in the Zoning Administrator’s office and the other will be maintained in the Township’s Clerk’s office.

SECTION 4.3 INTERPRETATION OF BOUNDARIES

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

- A. Boundaries shown following streets or highways are presumed to follow the center line of these roadways.
- B. Boundaries shown approximately following Township boundary lines or property lines are presumed to follow these lines.
- C. Boundaries following the shoreline of a stream, lake, or other body of water shall be construed to follow such shorelines. Boundaries indicated as approximately following the centerline of streams, rivers, canals, or other bodies of water shall be construed to follow such centerlines.

- D.** Boundaries shown approximately parallel to the center line of streets or alleys are to be interpreted as being parallel thereto and at such a distance therefrom as indicated by given distance or scaled dimension.
- E.** Where, due to the scale, lack of detail, or illegibility of the Zoning Map, there is a reasonable question as to the placement of district boundaries, interpretation of the boundary lines shall be made by the Zoning Board of Appeals upon written application, or on its own motion.
- F.** Where the application of these rules leaves a reasonable doubt as to the boundaries of a district, the regulations of the more restrictive district will govern, unless otherwise determined by the Zoning Board of Appeals.
- G.** It is each citizen's responsibility to know the actual boundaries, zoning district, and lot lines of any property which he or she owns or occupies. The Township is not responsible for such knowledge, and will not be liable for any errors made related to the same.

ARTICLE 5: AGRICULTURAL (AG) DISTRICT

SECTION 5.1 PURPOSE AND INTENT

This district is intended for large tracts used for farming, or farm lands which are idle, and low density single-family dwellings. Agricultural uses and other uses generally associated with agriculture, single-family residential development on larger lots, and related non-residential uses are provided within the district. The purpose and intent of this district is to preserve the agricultural land of the Township while allowing residential development and a wide range of other uses that will not detract from this end.

SECTION 5.2 PERMITTED USES

The following uses are permitted by right in the AG District:

- A. Commercial agriculture.
- B. Camping.
- C. Essential services.
- D. Farm Labor Dwellings.
- E. Farms.
- F. Home occupations.
- G. Licensed Family Day Care Home.
- H. Open Air Businesses.
- I. Single-family dwellings.
- J. Small Solar Energy Systems.
- K. State-licensed residential facilities.

SECTION 5.3 SPECIAL USES

The following uses are permitted upon securing both a special use permit and site plan review approval:

- A. Bed-and-breakfast establishments.
- B. Campgrounds.
- C. Camping for periods beyond thirty (30) days.

- D.** Cemeteries.
- E.** Churches.
- F.** Clubs.
- G.** Extraction operations.
- H.** Farm Pond.
- I.** Forestry.
- J.** Hospitals.
- K.** Kennels.
- L.** Landfills.
- M.** Large Solar Energy Systems.
- N.** Licensed Group Day Care Home.
- O.** Lodges.
- P.** Medium Solar Energy Systems.
- Q.** Mining and extraction operations.
- R.** Mobile home parks.
- S.** Nursing Homes.
- T.** Outdoor furnaces.
- U.** Outdoor recreation establishments.
- V.** Public service facilities.
- W.** Recreational Ponds.
- X.** Schools.
- Y.** Seasonal Recreational Dwellings.
- Z.** Shooting Ranges.
- AA.** Single WECS for on-site use.
- BB.** Small aircraft landing strips.

- CC. Stables.
- DD. Telecommunication towers and antennae.
- EE. Wind Park.

SECTION 5.4 DEVELOPMENT STANDARDS

- A. Minimum parcel size shall be 1 acre.
- B. Minimum lot frontage: 150 feet.
- C. Driveways requirements are responsibility of Bay County Road Commission.
 - 1. .
 - 2.
 - 3. .
 - 4. .

D. Setback and area requirements shall be as follows:

Minimum front setback (feet)	40
Minimum side setback (feet)	30
Minimum rear setback (feet)	50
Maximum height (feet)	35
Minimum floor area per dwelling unit (sq. feet)	720
Minimum lot area per dwelling unit	1 Acre

- E. Notwithstanding the above, setbacks on waterfront lots shall be 25 feet for the front yard.
- F. The required front yard setback shall not be used for off-street parking, loading, or unloading, and shall remain as open space unoccupied and unobstructed except for landscaping, plant materials, or vehicle access drives.
- G. All structures, roads and other infrastructure shall be placed to avoid the destruction of as many trees on a site or parcel as possible.

- H.** Wooded, unbuilt areas of a site or parcel shall be contiguous with forested areas of adjoining sites to promote the maintenance of large forested expanses without buildings, other structures, or infrastructure.
- I.** Trees and other vegetation within buffer or setback areas shall be preserved to the greatest degree practicable.
- J.** All nonresidential uses shall be situated and designed so that potential nuisances or disturbances to surrounding properties are eliminated or mitigated to the greatest degree possible.
- K.** No structure may be placed within 50 feet of a creek or stream, and a stream-side non-disturbance area of 25 feet shall be maintained.
- L.** Residential lots abutting a lake or canal shall have, at minimum, front and rear yards of at least 25 feet in length as measured from the primary residence on the property to the lot line immediately opposite the front or rear side of that residence.
- M.** Seasonal Recreational Dwellings on a parcel of 10 acres or more may depart from the minimum square footage requirements of this Ordinance, if approved by the Planning Commission during its consideration of a special use permit. Building Permits are required for all dwellings regardless of size.
- N.** Accessory buildings are regulated by Article 11 of this Ordinance.

ARTICLE 6: SUBURBAN RESIDENTIAL (SR) DISTRICT

SECTION 6.1 PURPOSE AND INTENT

The purpose and intent of this district is to provide for single-family residential uses, incorporating a reasonable range of lot sizes, as well as compatible uses and appropriate accessory uses while promoting a predominantly semi-urban character.

SECTION 6.2 PERMITTED USES

The following land uses are permitted by right in the SR district:

- A.** Decorative Ponds.
- B.** Essential services.
- C.** Licensed Family Day Care Home.
- D.** Parks.
- E.** Public Service facilities.
- I.** Schools.
- J.** Single-family dwellings.
- K.** Small Solar Energy Systems.
- L.** State-licensed residential facilities.
- M.** Two-family dwellings (duplexes).

SECTION 6.3 SPECIAL USES

The following uses are permitted upon securing both a special use permit and site plan review approval:

- A.** Bed-and-breakfast establishments.
- B.** Campgrounds.
- C.** Cemeteries.
- D.** Churches.
- E.** Clubs.
- F.** Home occupations.
- G.** Hospitals.

- H. Licensed Group Day Care Home.
- I. Marinas.
- J. Medium Solar Energy Systems.
- K. Multiple-family dwellings.
- L. Nursing Homes.
- M. Open Air Businesses.
- N. Outdoor recreation establishments.
- O. Planned unit developments.
- P. Recreational Ponds.
- Q. Single WECS for on-site use.
- R. Condominiums.

SECTION 6.4 DEVELOPMENT STANDARDS

			Residential Uses	All Other Uses
Minimum front setback (feet)			15	40
Minimum side setback (feet)			15	30
Minimum rear setback (feet)			50	50
Maximum height (feet)			35	35
Minimum floor area per dwelling unit (sq. feet)			720	720
Minimum lot area per dwelling unit			1 Acre	1 Acre

- A.** Notwithstanding the above, on waterfront lots, setbacks shall be 25 feet for any front yard.
- B.** Residential lots abutting a lake or canal shall have, at minimum, front and rear yards of at least 25 feet in length as measured from the primary residence on the property to the lot line immediately opposite the front or rear side of that residence.
- C.** The required front yard setback shall not be used for off-street parking, loading, or unloading, and shall remain as open space unoccupied and unobstructed except for landscaping, plant materials, or vehicle access drives.
- D.** In designing home sites and developments, proper measures shall be taken to ensure protection of lakes, streams, and other water bodies, including, where necessary, the installation of appropriate storm water and sewer facilities.
- E.** Trees and other vegetation shall be retained to the greatest extent possible, and all lot areas shall be landscaped to control erosion and runoff into lakes, streams and tributaries. Measures to control bank erosion shall be required.
- F.** Accessory buildings are regulated by Article 11 of this Ordinance.

ARTICLE 7: COMMERCIAL (C-1) DISTRICT

SECTION 7.1 PURPOSE AND INTENT

The intent of this district is to provide primarily for the convenience and day-to-day needs of the Township's citizens while ensuring minimal impact upon nearby residential areas. This district is intended to also provide more expansive special uses which, because of their nature, require individualized review to avoid disruption of residential uses.

SECTION 7.2 PERMITTED USES

The following uses will be permitted by right in the C-1 District:

- A. Banks and other lending institutions.
- B. Churches.
- C. Clinics.
- D. Clubs.
- E. Decorative Ponds.
- F. Essential services.
- G. Funeral homes.
- H. Hotels.
- I. Indoor recreation facilities.
- J. Motels.
- K. Personal services establishments.
- L. Professional Offices.
- M. Restaurants, other than drive-in restaurants.
- N. Retail sales businesses, including retail sale of foodstuffs; pharmaceutical and allied products; clothing and dry goods of all kinds; hardware; retail furniture and household appliances; florist shops; and video rental.
- O. Small Solar Energy Systems.
- P. Taverns.
- Q. Vehicle wash establishments.

SECTION 7.3 SPECIAL USES

The following uses are permitted upon securing both a special use permit and site plan review approval:

- A.** Automobile service stations.
- B.** Building supply yards, warehouses and wholesale businesses.
- C.** Hospitals.
- D.** Licensed Commercial Day Care.
- E.** Licensed Group Day Care Home.
- F.** Marihuana Processor.
- G.** Marihuana Safety Compliance Facility.
- H.** Marihuana Retailer.
- I.** Motor vehicle, boat, or recreational vehicle sale, towing, or repair facilities.
- J.** Multiple-family dwellings.
- K.** Open air business.
- L.** Outdoor furnaces.
- M.** Outdoor recreational facilities.
- N.** Nursing Homes.
- O.** Parks.
- P.** Provisioning Center.
- Q.** Processor Facility.
- R.** Restaurants, drive-in or open front.
- S.** Safety Compliance Facility.
- T.** Schools.
- U.** Single WECS for on-site use.

V. Storage facilities.

W. Theaters.

X. Veterinary Clinics.

SECTION 7.4 DEVELOPMENT STANDARDS

A. Area Requirements

Minimum frontage (feet)	45
Minimum front setback (feet)	10
Minimum side setback	20
Minimum rear setback (feet)	20

B. Performance standards.

1. This district intends to permit the historic pattern of commercial development along public roads to be continued, with new development directed toward the use and rehabilitation of existing commercial sites.
2. Driveways shall be kept to a minimum, and service drives and/or parking areas must be connected to neighboring lots or to the lot lines between adjoining commercial parcels.
3. . Parking shall be located in the sides and rear of structures wherever possible. Parking shall be screened by landscaping and/or architectural walls and fencing, and any lot containing over 16 parking spaces shall contain landscaped islands or aisles.
4. Buffers and proper drainage devices shall be provided to ensure protection of Township water resources.
5. When applicable, any use adjacent to a roadway or other public right-of-way shall provide a sidewalk or bike path for public use.
6. All storage shall be within an approved structure or completely screened from view.
7. Commercial establishments shall maintain a 25-foot setback from any neighboring residential area or residence. No activity, including parking or storage, may occur within this setback, other than the establishment of an opaque fence or similar landscape screen.
8. Dwelling accessory to a business. One (1) dwelling per business permitted, provided it meets the following conditions:
 - A. The dwelling is a part of the business building or attached thereto. It may be on any floor of the building.

- B.** The dwelling shall be for the primary purpose of providing a dwelling place for the owner, operator, or employee of the business.
- 9.** Storage, refuse containers, utility boxes, air handling units, or similar appurtenances must be located in the rear yard and shall be landscaped and screened from public view.
- 10.** Accessory buildings are regulated by Article 11 of this Ordinance.

ARTICLE 8: LIGHT INDUSTRIAL (LI) DISTRICT

SECTION 8.1 PURPOSE AND INTENT

The purpose and intent of this district is to foster the development of wholesale, warehousing, and manufacturing operations while minimizing the effect of vibration, emissions, noise, odor, and other undesirable potential consequences of the same. To this end, large setbacks, open areas, and landscaping will be required, and only limited parcel coverage will be allowed.

SECTION 8.2 SPECIAL USES

The following uses are permitted upon securing both a special use permit and site plan review approval:

- A.** Grower Facility.
- B.** Marihuana Grower.
- C.** Heavy equipment sales and service.
- D.** Large scale storage facilities.
- E.** Large Solar Energy Systems.
- F.** Manufacturing, production, processing, storage and distribution of goods.
- G.** Marihuana Microbusiness.
- H.** Marihuana Processor.
- I.** Medium Solar Energy Systems.
- J.** Outdoor furnaces.
- K.** Primary Caregiver Operation.
- L.** Processor Facility.
- M.** Small Solar Energy Systems.
- N.** Single WECS for on-site use.
- O.** Warehousing.
- P.** Wholesale facilities.

SECTION 8.3 DEVELOPMENT STANDARDS

A. Area Requirements

1. Minimum Frontage: 30 Feet
2. Minimum front setback: 20 feet.
3. Minimum side setbacks 40 feet.
4. Minimum rear setbacks: 20 feet.

B. Performance Standards

1. Projects of greater than 5 acres shall be encouraged.
2. Access drives shall be kept to a minimum. Flares or turning lanes at highway entries may be required.
3. The required front yard setback shall not be used for off-street parking, loading, or unloading, and shall remain as open space unoccupied and unobstructed except for landscaping, plant materials, or vehicle access drives.
4. Landscaping shall be installed and maintained to promote a park-like character, and signage shall be kept to a minimum.
5. Parking shall be accomplished in the least conspicuous manner possible, which shall ordinarily consist of locating parking in the rear of a structure, and complete enclosing all parking areas in an opaque fence or landscape barrier.
6. Lighting shall not be visible beyond property lines, nor shall it adversely affect neighboring uses or property. All lighting shall be directed downward, and shall be properly shielded in order to prevent entry onto any nearby properties.
7. Storage, refuse containers, utility boxes, air handling units, or similar appurtenances shall be landscaped and screened from public view. Trailers and transit containers must be housed within the principal structure or within an approved permanent accessory structure.
8. Buffers and proper storm drainage devices shall be provided to ensure protection of Township waters.
9. Any use adjacent to a roadway or other public right-of-way shall provide a sidewalk or bike path for public use.
10. Facilities shall maintain a minimum 25-foot setback from any neighboring residential area or residence. No activity, including parking or storage, may occur within this setback, other than the establishment of an opaque fence or similar landscape screen. Such a screen shall maintain at least a 3-foot setback from any lot line.

11. Accessory buildings are regulated by Article 11 of this Ordinance.

ARTICLE 9: PLANNED UNIT DEVELOPMENT

SECTION 9.1 PURPOSE AND INTENT

Planned Unit Development regulations furnish a beneficial and productive means to design development plans within areas designated in the Master Plan for housing, commercial, and other uses. These regulations, while adhering to the underlying densities specified in the various districts of this Ordinance, provide for better design and planning of land uses by making the geography and environment of the area the standards and determinants of design, rather than the singular enforcement of lot sizes and standard setbacks.

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

SECTION 9.2 PERMITTED USES

The following shall be uses permitted by right in the PUD District:

- A. Highway-oriented retail sales and services.
- B. Hotels.
- C. Light Industry.
- D. Professional Offices.
- E. Motels.
- F. Movie theaters.

SECTION 9.3 SPECIAL USES

The following uses are permitted upon securing both a special use permit and site plan review approval:

- A. Marihuana Processor.
- B. Marihuana Retailer.
- C. Marihuana Safety Compliance Facility.
- D. Multi-Family Dwellings.
- E. Open Space Developments.
- F. Outdoor furnaces.
- G. Primary Caregiver Operation.

H. Processor Facility.

I. Provisioning Center.

J. Safety Compliance Facility.

SECTION 9.4 PUD DISTRICT BOUNDARIES

The PUD Zoning District may include any parcel within the DDA District as established by Ordinance No. 98-2.

SECTION 9.5 DEVELOPMENT AND PERFORMANCE STANDARDS

The following development and performance requirements shall apply to all Planned Unit Developments (“PUD”):

A. Development Standards

1. Minimum Lot Area: 2 Acres.
2. Minimum Lot Frontage: 200 feet.
3. Minimum Setbacks
 - i. Front: 20 feet.
 - ii. Side: 20 feet.
 - iii. Rear: 20 feet.
 - iv. From perimeter roads: 50 feet.
 - v. From interior roads: 40 feet.
4. Notwithstanding the above, front, side, and rear yard setbacks are increased by 1 foot for every foot of building height above twenty feet, up to a maximum setback of 50 feet.
5. Maximum Height: None.

B. Multiple-family dwellings:

1. Minimum lot area: 2 acres per structure containing 4 dwelling units, with an additional $\frac{1}{4}$ acre per additional dwelling unit in that structure. Additional area may be required to comply with County Health Department septic system requirements.
2. Minimum frontage: 75 feet.
3. Minimum dwelling unit size: 720 square feet.
4. Minimum front setback: 25 feet.

5. Minimum side setback: 15 feet, with an additional 15 feet required for each 10 feet by which the dwelling exceeds 40 feet in overall dimension along the adjoining lot line.
6. Maximum building length: 200 feet.
7. Minimum rear setback: 25 feet.
8. Maximum height: 35 feet.
9. Maximum lot coverage of all structures: 60%.

C. Performance Standards

1. The PUD shall be compatible with and complement existing uses in the vicinity of the project site, as well as the Master Plan. Designs should include features demonstrating efforts to mitigate any potential negative impacts of the PUD on surrounding properties.
2. Open space must be left undeveloped, but may be landscaped. If it is landscaped, provisions for its maintenance must be provided. If land is to remain undeveloped, measures shall be taken to mitigate the negative impacts of construction, to improve natural habitat, and to prevent erosion and control drainage. A PUD should be designed in such a way that open spaces will adjoin the open spaces of neighboring properties. Areas permanently preserved for common open space shall be reserved for the use and enjoyment of the owners and residents or the general public. The total ground area devoted to open space must be at least 20% of each lot, and no less than 50% of those spaces must remain free of drives, parking areas, and similar facilities.
3. All public streets within or abutting the proposed PUD shall be improved to Township and County Road Commission specifications. If a developer intends to include private streets within a PUD, those streets must be maintained in a manner acceptable to the Township and County Road Commission by the developer at their sole expense. Any private roads within a PUD must be designed to allow emergency vehicle access.
4. PUDs shall be in harmony with the topography of the site and shall preserve watercourses, drainage areas, wooded areas, and similar natural features and areas.
5. All utilities within a PUD shall be placed underground, unless such a requirement is determined to be non-feasible by the Planning Commission. If total underground utility installation is not possible, any above-ground utilities shall be placed in the most unobtrusive manner possible, with as much of the utility as possible being placed underground.
6. A PUD must specify the building areas and/or plots within the Development in which structures will be located. The PUD must also provide plans illustrating the geology and ecology of any building sites and surrounding properties.

7. Unless the common land within a PUD will be retained by the developer, a property owners' association shall be formed to hold title to and to manage any land, structures, or improvements to be held in common. Any conditions associated with the approval of a PUD must be included via deed restrictions, restrictive covenants within the condominium master deed, or through similar legal restriction.
8. The PUD must meet all the standards and requirements of the various State, County, and local agencies that have jurisdiction over the development area. No PUD shall be granted final approval until all necessary approvals are obtained, but conditional approval may be granted pending the approval of the relevant State, County, and local agencies.
9. Off-street parking and loading shall be provided as appropriate to the size and character of the proposed development. Parking areas, loading ramps, utility areas, and similar facilities must be effectively screened from view from neighboring properties and right-of-ways. Screening may be accomplished through vegetative barriers, landscaped berms, permanent walls, or similar methods. Parking areas will maintain at least a 50 foot setback from perimeter road right-of-ways, and 25 feet from interior right-of-ways and adjacent property lines. At least 10% of any interior parking area must be landscaped.
10. The PUD must provide measures designed to mitigate or eliminate all nuisances or risk to public health. This includes, without limitation, fire hazards, air pollution, vibration, glare, traffic hazards, traffic volume, overburdening public facilities, or materially altering the character of the surrounding neighborhood. If the measures proposed are insufficient to address these concerns, approval will be withheld until satisfactory amendments have been made.
11. A development schedule, including all contiguous or adjacent land owned or controlled by the applicant, shall be submitted indicating planned phases, including construction of roads, utilities, dwellings, and amenities. An annual updated schedule shall be submitted to the Planning Commission until the entire development is completed. This annual report shall include, at minimum, the percentage complete to date and forecasted construction schedule for the remainder of the project. Approval of subsequent stages of a development shall be based upon adherence to the approved schedule or modifications agreed upon by the Planning Commission. Failure to submit an updated annual plan shall result in the automatic revocation of PUD approval.

SECTION 9.6 PRE-APPLICATION CONFERENCE

To initiate PUD approval, the applicant must confer with the Zoning Administrator, the Planning Commission, and any other relevant Township personnel. At this conference, the applicant and Township will discuss the feasibility of the proposed development, and the Township will provide the applicant with information and guidance relating to the Township's ordinances, standards, and procedures.

SECTION 9.7 CONCEPTUAL DEVELOPMENT PLAN; APPLICATION REQUIREMENTS

The following shall be submitted with any application for a PUD:

- A.** Three (3) paper copies and one (1) electronic copy, of a conceptual development plan encompassing all phases of the proposed PUD, prepared at a scale of not less than one inch equals 100 feet, containing the following information:
 - 1.** Name of development, applicant name, preparer name, date of preparation, written and graphic scale, certified stamp of architect or engineer, North arrow, property lines and dimensions, and size of property in acres.
 - 2.** Zoning and existing uses of all adjoining properties.
 - 3.** Existing natural features of the site, including predominant vegetative cover, major tree stands, and existing drainage ways.
 - 4.** Existing site improvements, including existing buildings or other structures, existing utilities and the size and location of those utilities, and any existing easements of record.
 - 5.** Existing site elevation contours at a minimum of ten-foot intervals.
 - 6.** If applicable, existing shoreline, existing one-hundred-year flood hazard area, and existing wetlands.
 - 7.** Existing right-of-way lines, pavement edges, names of public streets, and the proposed layout of new public streets or private roads.
 - 8.** Layout and dimensions of proposed lots, including building plots or pads. If the proposed PUD includes construction of buildings or other structures, a conceptual development plan shall identify proposed footprints and dimensions, as well as the proposed number of stories for each building, the proposed uses located within the PUD, and the acreage allotted to each use.
 - 9.** Locations of proposed access driveways and parking areas.
 - 10.** If multiphase development is proposed, identify areas included in each proposed phase.
 - 11.** Lot lines.
- B.** A legal description of the land to be included in the PUD.
- C.** A sketch of the vicinity of the subject property, locating the property in relation to properties, structures, streets and uses within 500 feet of the PUD. A list of any parcels within 300 feet of the PUD shall also be included.

- D. Details of proposed project signage and lighting.
- E. A copy of any of the following documents applicable to the project:
 - 1. Proposed deed restrictions.
 - 2. Proposed restrictive covenants.
 - 3. Proposed condominium master plan.
 - 4. Proposed landowner/home owner association documents.
- F. Details of the area and percentage of the project to be covered by building sites, impervious surface coverage, and open, undeveloped space.
- G. The location, number, and size of parking spaces, if applicable.
- H. A narrative statement describing the overall objectives of the PUD.
- I. A complete application on a form supplied by the Township.
- J. Payment of the fee established, , by resolution of the Township Board to cover the cost of the PUD project review. Additional payments may be required if the initial fee is inadequate to cover the costs of the Township’s review of the proposed development, including all reasonable fees of the Township Engineer, Planner, or Attorney. Failure to submit the requested fee, or to submit additional fees when requested, will result in the application being tabled until all fees have been paid.
- K. Any other information requested by the Township.

SECTION 9.8 PLANNING COMMISSION REVIEW

The Planning Commission shall review the conceptual development plan at a public hearing and issue a recommendation to the Township Board following the public hearing and its consideration of the standards for approval of a PUD contained in this section and the intent of this Ordinance. The Planning Commission may hire qualified professionals to help review a proposed development plan at the applicant's expense. The recommendation of the Planning Commission shall be transmitted in written form to the Township Board, and to the County Planning Commission for review and comment, and a copy of the recommendations transmitted to the applicant.

- A. **Review procedure.** The Planning Commission shall review the conceptual site plan to ensure that:
 - 1. The proposed uses, buildings, and structures are compatible with surrounding uses of land, or can be made compatible by imposing conditions that will mitigate the negative or incompatible effects of a PUD on surrounding land uses.

2. The plan meets the applicable development and performance standards of this Article and of the district in which it is proposed to be situated.

B. Decision. Based on the findings of its review, the Planning Commission shall do one of the following:

1. Recommend approval of the conceptual site plan.
2. Recommend approval of the conceptual site plan subject to conditions and the submission of a revised site plan.
3. Recommend rejection of the conceptual site plan, stating the specific reasons for the rejection.

SECTION 9.9 APPLICATIONS FOR REZONING.

Once the Township Board has granted conceptual site plan approval, an applicant may apply to amend the Zoning Map to have the relevant property re-zoned as a PUD. The approved conceptual site plan shall be made part of the application and shall be considered part of the rezoning request.

SECTION 9.10 AMENDING AN APPROVED PLANNED UNIT DEVELOPMENT

- A. No changes to an approved development plan for a PUD shall be made except by mutual agreement between the applicant and the Township. Revisions to an approved final development plan or to any conditions imposed on an approval, with the exception of minor administrative changes which do not alter the layout, number of units, or other details of the plan by more than 5% shall be processed in the same manner as an application for approval of a site plan.
- B. Minor administrative changes, which shall be defined as any change to the development plan of less than or equal to 5%, may be made by the Planning Commission, or the Commission may delegate this responsibility to the Zoning Administrator.

SECTION 9.11 TIME LIMITATION FOR APPROVED PLANNED UNIT DEVELOPMENTS

- A. Construction of an approved PUD shall commence and shall proceed meaningfully toward completion within one year from the date of the approval of the planned development by the Township Board. Notwithstanding this provision, an appeal of a PUD approval will be treated as totaling the time period required by this Section.
- B. An owner may apply to the Township Board for one extension of the original approval for an additional one-year term. This extension may be granted in the Township Board's sole discretion. In considering such authorization, the Township Board will consider the following, along with any other factors it deems to be relevant in a particular case:
 1. The PUD has encountered unforeseen difficulties beyond the reasonable control of the owner or applicant.

- 2.** The PUD is likely to commence and to be completed according to the schedule submitted by applicant.
- C.** If the PUD has not commenced and proceeded meaningfully towards completion at the end of the initial one-year time period, or the single permitted extension thereof, then the PUD approval shall automatically be deemed void.
- D.** Notwithstanding any of the above, no PUD shall remain incomplete for a period longer than three continuous years. A PUD not completed within three years of being approved requires a new PUD approval pursuant to this Article.

ARTICLE 10 MARIHUANA OVERLAY (MO) DISTRICT

SECTION 10.1 INTENT AND PURPOSE

The Marihuana Overlay District (“MO District”) is intended to provide opportunities for the development of certain Commercial Medical Marihuana Facilities and Marihuana Establishments permitted under the MMFLA and MRTMA. This Section proposes to accomplish this through the implementation of regulations that promote the use of land within the MO District for certain Commercial Medical Marihuana Facilities and Marihuana Establishments.

SECTION 10.2 DISTRICT BOUNDARIES

The MO District is established as an overlay zoning district. The MO District exists as an overlay district on top of certain portions of the AG Agricultural District, the PUD District, and the C-1 Commercial District in Sections 19, 20, 21, 28, 29 and 30 of Pinconning Township as designated on the Pinconning Township Zoning Map. Land located within the MO District may be developed according to the provisions of the underlying zoning district or according to the provisions of this Section.

SECTION 10.3 USES PERMITTED BY SPECIAL PERMIT

The following uses are permitted in the MO District with a Special Use Permit granted by the Township Board, after review and recommendation by the Planning Commission, in accordance with the provisions of Article 15 - Special Uses:

- A. Provisioning Center.
- B. Marihuana Microbusiness.
- C. Marihuana Retailer.
- D. Grower.
- E. Marihuana Grower.
- F. Safety Compliance Facility.
- G. Marihuana Safety Compliance Facility.
- H. Processor.
- I. Marihuana Processor.
- J. Secure Transporter.
- K. Marihuana Secure Transporter.

ARTICLE 11: SUPPLEMENTAL USE REGULATIONS

SECTION 11.1 PURPOSE AND INTENT

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

SECTION 11.2 STANDARDS APPLICABLE TO DWELLINGS

All dwellings shall conform to the following standards:

- A.** The primary portion of the structure has a minimum width of 20 feet or such greater width as may be required in the district where it is located.
- B.** It complies in all respects with the Michigan Construction Code, as amended, including minimum height for habitable rooms. Where a dwelling is required by law to comply with any Federal or State standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Michigan Construction Code, then the strictest applicable standards or regulations shall govern.
- C.** It is firmly attached to a permanent foundation constructed on the site in accordance with the Michigan Construction Code, and has a foundation wall of the same perimeter dimensions of the dwelling, and is constructed of such materials and type as required in the applicable building code for single-family dwellings. If the dwelling is a Mobile Home, it shall be installed pursuant to the manufacturer's instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a foundational perimeter wall as required above. In addition, each Mobile Home shall be installed with the wheels, axles, and towing mechanisms removed, and shall have no exposed undercarriage or chassis. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by State or Federal law.
- D.** It is connected to a public sewer and water supply where available, or to similar private facilities approved by the local health department if public water and sewer are not available.
- E.** It has not less than two exterior doors with at least one door in either the rear or side of the dwelling. Where a difference in elevation requires stairs, such stairs shall be permanently attached.
- F.** It contains no additions or rooms or other areas that are not constructed with similar quality workmanship as the original structure in compliance with the Michigan Construction Code. All such additions shall be permanently attached to the principal structure and installed with a permanent perimeter foundation.

- G.** It complies with all pertinent building and fire codes.
- H.** It shall have overhangs not less than 6" on all sides.
- I.** The minimum floor area per dwelling unit shall not include basements, utility rooms, breezeways, porches, or attached private garages.

SECTION 11.3 ACCESSORY BUILDINGS

Reasonable accessory buildings, structures, and uses supplemental to a principal building or the principal use that is permitted in any district shall also be permitted when located on the same building lot, provided that such accessory buildings and uses conform to the provisions prescribed in this Ordinance for the respective district. An accessory building may not be located on a separate lot from the principal building without a special use permit, except as provided herein. Accessory buildings, except as otherwise permitted in this Ordinance, are permitted in all zoning districts unless otherwise specified, and shall be subject to the following regulations:

- A.** Accessory buildings shall not be erected in any required front yard, except when the greater of a minimum of 20 feet, or the minimum setback required by a particular district, can be maintained as setback for such building.
- B.** Private garages structurally attached to a main building, except where otherwise noted, shall be subject to and must conform to all regulations applicable to the main buildings, in addition to the following:
 - 1.** To enhance the beauty of the lot and neighborhood, the garage shall have the same exterior appearance as the primary structure on the lot.
 - 2.** A carport may be added to a garage in any district, so long as all appropriate setbacks are met, and the carport will not add square footage.
- C.** No accessory structure, including detached private garages, may be higher than one and one half (1 ½) the height, or have an area larger than the primary structure on a lot. Two accessory structures in addition to any attached private garage are permitted in each zoning district, as long as those structures, considered together, do not exceed 1.5 times the footprint of the primary structure on a lot. No accessory building's side walls may exceed 15 feet in height.
- D.** In the Agricultural District, on lots 5 acres or larger, the zoning administrator may permit one additional accessory building in addition to the allowed 2 accessory buildings, provided the additional building does not exceed the total footprint of the principal dwelling on the lot and meets all required accessory building setbacks.
- E.** All accessory structures must be located a minimum of 6 feet from any side or rear lot line, except on lots of at least 8,000 square feet in area, which shall maintain a minimum side and rear setback of 4.5 feet for accessory buildings. These setbacks shall be increased by 2 feet for each foot of height in excess of 12 feet.

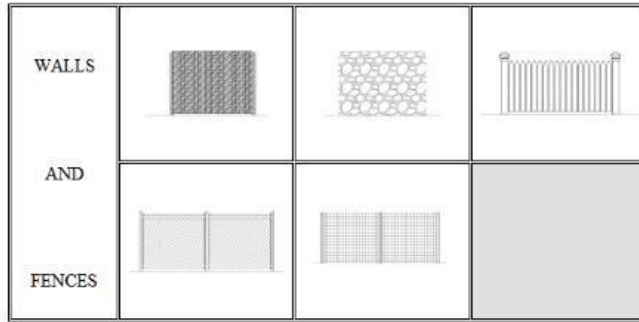
- F.** No temporary storage structures, trailers, or vehicles may be used as an accessory building.
- G.** In the Agricultural, Suburban Residential and Light Industrial Districts, a single accessory structure may be constructed on a parcel without a principal structure under the following circumstances:
 - 1.** The lot area of the parcel and the applicable setbacks of the zoning district in which the parcel is located will not preclude the construction of a principal structure in the future.
 - 2.** The accessory structure is at least 150 square feet in area.
 - 3.** The accessory structure is constructed in a location that will not interfere with the construction of a principal structure on the parcel in the future.
 - 4.** The accessory structure otherwise complies with all applicable requirements of this Section.
- H.** In all zoning districts, a building permit is required for any accessory structure greater than 200 square feet in area. Under no circumstances may more than 3 accessory structures under 200 square feet be permitted on a single parcel without a special use permit.

SECTION 11.4 PORCHES, DECKS, AND TERRACES.

- A.** Open, unenclosed porches, decks, or gazebos may project into a required rear, side or front yard, provided that the porch, deck or terrace complies with all applicable setbacks.
- B.** Gazebos and covered decks are accessory buildings, and must adhere to the requirements of this Ordinance related thereto.

SECTION 11.5 FENCES, WALLS, AND SCREENS

- A. In the Suburban Residential and Agricultural District, fences, walls, or screens are permitted in all yards subject to height restrictions in some districts and sight distance requirements at drives and roadways.
- B. Fences shall only be constructed of wood, masonry, vinyl, chain link, wrought iron, page wire, or another material approved by the Planning Commission.



1. No fences shall be constructed with barbed wire or electrified unless such construction is required by law.
2. Snow fences may be erected temporarily to control snow, snow machines, and other nuisances only from November 1 to March 31 of the following calendar year.
3. Solid fences must adhere to a minimum setback of 25 feet from any road right of way.
4. In the Agricultural and Suburban Residential Districts, the height of a fence shall not exceed 6 feet without written authorization from the Zoning Administrator.
5. In the Commercial and Light Industrial Districts, fencing is permitted only with written authorization from the Zoning Administrator.
6. Vegetative plantings may not exceed a height of 3 feet in any front yard.
7. In a front yard, transparent fences are permitted, up to a height of 4 feet.
8. The written authorization of the Zoning Administrator is required for any fence, wall, or planting to be installed in the front or side yards of a corner lot. The Zoning Administrator shall only provide written authorization after being reasonably assured that the fence, wall, or planting will not interfere with traffic visibility. If traffic visibility is affected, the fence, wall, or planting must be modified to eliminate the interference.
9. All fences will be constructed with posts and rails on the interior side.
10. Fences, walls, and plantings require a land use permit prior to installation.

SECTION 11.6 LOT REGULATION

- A. No portion of any lot or parcel used once to comply with the provisions of this Ordinance for yards, lot area, or any other requirement herein shall be used a second time to satisfy said requirements for any other structure or building.
- B. Corner clearance. No fence, wall, shrubbery, crops, signs, or other visual obstruction shall be permitted above a height of 36 inches within 30 feet of the point where any street or road right-of-way lines intersect.
- C. Where two or more abutting lots are held in single ownership, they shall be considered a single lot.
- D. Unless otherwise permitted by this Ordinance, only one dwelling unit shall be constructed or placed on one lot meeting the minimum lot area requirements set forth in this Ordinance. In the case of condominium developments, the building envelope, unit areas and limited common areas, but not general common areas, shall be used to satisfy lot area requirements.
- E. When two or more families, legal entities, or parties share access on navigable water without residing on said frontage, such common usage and/or ownership of the waterfront shall be governed by this section. The provisions herein shall apply regardless of whether access to the waterfront is gained by easement, common or joint ownership, fee simple ownership, lease, license, site condominium unit, stock or membership in a corporation, or any other means.
 - 1. No more than one dock per 50 feet of frontage shall be permitted.
 - 2. All docks shall comply with all state and federal statutes and regulations pertaining thereto.
 - 3. No more than two watercraft slips, moorings, boat hoists, rafts, or any other means of anchorage will be allowed per 50 feet of water frontage.

SECTION 11.7 ESSENTIAL SERVICES

Essential services, such as electric, gas or other similar utilities, are permitted in all districts, provided that the services are authorized, regulated, and in compliance with all other applicable laws, ordinances and regulations. Buildings accessory to such services, however, are subject to the requirements set forth in this Ordinance.

SECTION 11.8 ROAD ACCESS REQUIREMENTS

- A. Each lot shall have access to a public road or dedicated easement with access thereto.
- B. Road access locations and separation distances, clear vision areas, throat widths and designs, queuing or stacking requirements, deceleration and acceleration lanes, service drives and other shared means of access requirements shall be reviewed as part of the

land use permit, site plan review, or special land use permit process using the Pinconning Township Road Access Guidelines manual.

- C. All land divisions, including subdivisions, condominiums, lot splits, and metes and bounds divisions, shall be reviewed under these regulations to ensure that adequate frontage will be available for proper future driveway and roadway locations and separations. No lot may be created that will cause a condition where prescribed access separations cannot be met.
- D. No driveway areas or easements may be less than 33 feet wide.
- E. All driveways must adhere to the access requirements and standards of the Bay County Road Commission.

SECTION 11.09 TEMPORARY OUTDOOR USES

- A. Temporary outdoor uses may be permitted in any zoning district, provided that the temporary use is similar in nature to those uses permitted in the district as determined by the Zoning Administrator. A land use permit identifying the location, sponsoring group or individual, and beginning and ending dates of the use shall be obtained from the Zoning Administrator. The Zoning Administrator shall determine whether the use is appropriate at the proposed site within the district and shall determine any necessary site conditions, such as off-street parking and other health, safety and welfare issues.
- B. Temporary uses not approved by the Zoning Administrator may be reviewed by the Planning Commission. A site plan may be required at the Planning Commission's discretion. The Planning Commission, may approve, with or without conditions, or reject the proposed temporary use.
- C. Temporary outdoor uses, except camping, shall be authorized on lots of 5 acres or more in the AG and SR District for not more than a 30 day period, and not less than 30 days shall elapse between the end of one authorized temporary outdoor use period and the beginning of another for the same proposed site within the district.
- D. Camping may be authorized as a temporary outdoor use pursuant to the following standards:
 - 1. Camping may be permitted for 7 days in the AG District or SR District on lots smaller than five acres. Once per year, a camping permit described by this subsection may be extended for up to 15 days by the Zoning Administrator for camping in either the AG District or the SR District.
 - 2. Camping may be permitted for 30 days in the AG District and in the SR District on lots five acres or larger. Once per year, a camping permit described by this subsection may be extended for up to 15 days if approved by the Zoning Administrator.
 - 3. At least 30 days must elapse between each period discussed above.

4. This Subsection shall not be construed as applying to seasonal recreational dwellings or campgrounds.

E. Except as provided above, no private garage or other accessory building, tent, cabin, mobile home, tractor trailer, trailer, or partial structure, whether of a fixed or portable construction, shall be erected or moved onto a lot and used for dwelling purposes for any length of time unless authorized by the Zoning Administrator through the issuance of a temporary use permit. Such permit may not exceed 6 months in duration, but may be renewed for one additional 6 month period. No permit under this provision may be issued unless the applicant first demonstrates a building permit for the construction of a permanent dwelling has been secured. No renewal under this provision shall be granted unless material progress has been made toward the completion of that dwelling.

SECTION 11.10 REQUIRED WATER SUPPLY AND SANITARY SEWERAGE FACILITIES

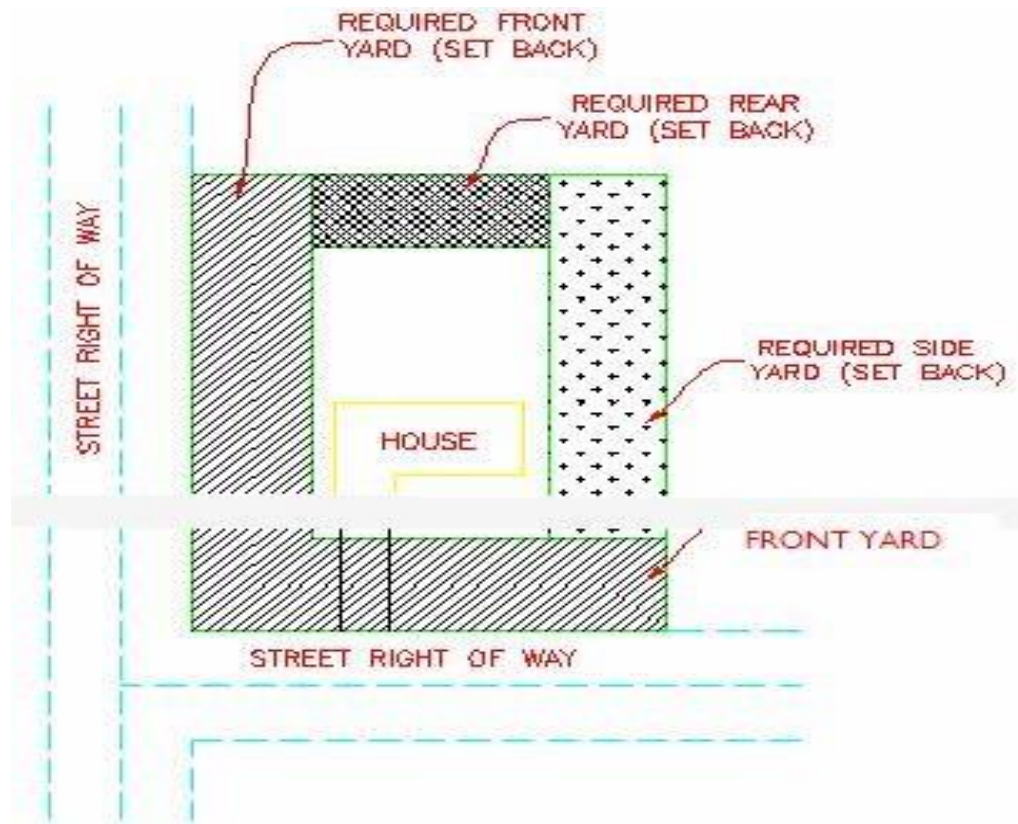
No structure shall be erected, altered, or moved upon any parcel for use as a dwelling, office, business, industry or public facility unless it is provided with a safe, sanitary, and potable water supply and with a safe and effective means of collection, treatment, and disposal of human, domestic, commercial,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

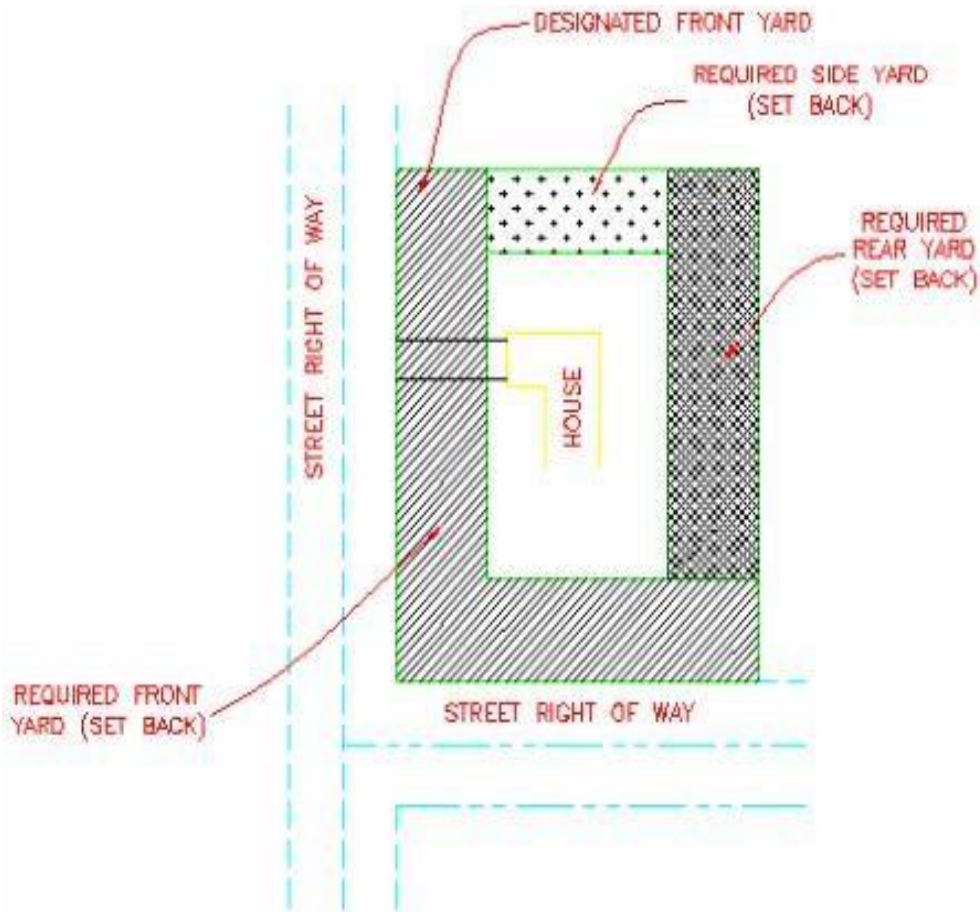
SECTION 11.11 CORNER LOTS

Lots or parcels which have frontage on two or more streets shall be subject to the following (refer to Figure 3):

- A. All yards having frontage on a street shall be considered front yards for the purposes of satisfying dimensional requirements.
- B. The mailing address of a property shall designate which yard shall be considered the front yard for the purposes of establishing the rear and side yards.
- C. Structures shall be set back the required front yard distance on both streets.

Corner Lots Figure 3





SECTION 11.12 PRIVATE ROADS.

Landowners installing a private roadway or driveway for more than two dwellings shall meet the following standards:

- A. Review and approval of a private road will evaluate, at minimum, the following:
 1. The number of parcels to be served.
 2. How the proposed road will fit into the thoroughfare system of the Township and county.
 3. The topography and design of the development.
- B. The Township may hire or require an analysis by qualified engineers or other experts at the applicant's expense to aid in its review. If reasonable standards for road design and construction cannot be agreed upon, Bay County standards for subdivision plat development shall be required.
- C. The edge of the travel way or paved portion of the road shall be a minimum of 6 feet from the property boundary unless it is a shared driveway. The Township Board may

require a greater distance if surrounding uses indicate a greater distance is necessary to separate existing or future incompatible uses.

- D.** All private roads shall be a minimum width of 66 feet.
- E.** All dead-end roads shall terminate in a cul-de-sac with at least a forty-eight-foot radius or a T-shaped or hammerhead turnaround sufficient for emergency vehicle turnaround.
- F.** All roads shall be named, and such names are subject to approval of the County Road Commission and County Emergency Management Authority.
- G.** Road signs shall be installed and maintained at all intersections. Where stop signs or other traffic regulation signs are indicated, they shall conform to uniform traffic sign size, shape, color and installation.
- H.** The Township may require installation of a private road, and the posting of a sufficient bond for construction thereof, before land use or building permits are issued.
- I.** As-built drawings of installed roads certified by a registered engineer shall be supplied to the Township upon completion of road construction.
- J.** A copy of the maintenance agreement providing for safe travel on the road at all times, which shall be a deed-recorded covenant for all parcels to be served by a private road, shall be provided to the Township.
- K.** Landowners creating private roads shall provide the Township with a recorded easement, master deed or plat containing said private road(s) and an affidavit that:
 - 1.** The road(s) to be constructed shall never become public roads, unless brought to the Bay County Road Commission standards in effect at the time of application and accepted by the Road Commission; and
 - 2.** These landowners shall indemnify and hold harmless the Township and its representatives from any and all claims for personal injury or property damage arising from the use of the private road(s). This recorded affidavit shall become a deed restriction of all parcels to which the proposed road will provide access and shall be disclosed at the time of sale or transfer of any parcel.

SECTION 11.13 SUBDIVISIONS OF LAND

Beginning on the effective date of this Ordinance, all plats or proposed land divisions newly submitted to the Township Board pursuant to the Land Division Act, PA 591 of 1996 (formerly the Subdivision Control Act of 1967, PA 288) as amended shall be reviewed by the Township Supervisor. The Supervisor shall review all proposed divisions to determine whether those divisions are consistent with the requirements of this Ordinance, the Township's Land Division Ordinance, and any other applicable law.

SECTION 11.14 OUTDOOR FURNACES

Although outdoor furnaces may provide an economical alternative to conventional heating systems, concerns have been raised regarding the safety and environmental impacts of these heating devices, particularly with respect to the production of offensive odors and the potential health effects of uncontrolled emissions. This Section is intended to ensure that outdoor furnaces are utilized in a manner that does not create a nuisance and is not detrimental to the health, safety and general welfare of the residents of the Township.

- A.** No person may construct, install, or operate an outdoor furnace except in conformity with the manufacturer's instructions and this Section. In the event of a conflict between this Ordinance, and the manufacturer's instructions, the stricter regulation will apply.
- B.** Outdoor furnaces shall only be permitted within the AG district, on a parcel size of at least 2 acres. Notwithstanding the above, Outdoor furnaces which are clean burning and equipped with a catalytic converter may be located in the AG and SR districts, along with all non-residential districts, provided that the lot on which the furnace will be located is at least 2 acres.
- C.** An outdoor furnace may only be installed in the rear yard, with a minimum setback of 100 feet from any neighboring property line, and a minimum setback of 10 feet from any existing vegetation or combustible material. In addition, all outdoor furnaces must maintain a setback of at least 50 feet from the residence or structure being served, and 300 feet from any neighboring residence.
- D.** Chimneys within 300 feet of any residence must be the greater of 2 feet above the peak of the residence, or fifteen feet high, but not in excess of the manufacturer's maximum recommendations.
- E.** Permitted Fuel – Only firewood, untreated lumber, coal, corn, or wood pellets are permitted to be burned in any outdoor furnace. Burning of any other material in an outdoor furnace is prohibited.
- F.** Spark Arrestors – All outdoor furnaces shall be equipped with properly functioning spark arrestors.
- G.** No person shall cause, allow or maintain the use of an outdoor furnace within the Township without first having obtained a land use permit from the Zoning Administrator. As part of an application for a land use permit, the applicant must include a copy of the manufacturer's manual or instructions. In addition, the owner of a proposed outdoor furnace must demonstrate that it has been laboratory tested and meets appropriate safety standards promulgated by Underwriters Laboratories, American National Standards Institute, or a similar entity.
- H.** Prior to installation, an owner must obtain all applicable construction permits under the appropriate building, electrical, mechanical, and construction codes. An application for a land use permit must demonstrate compliance with this Subsection, and include a site

survey showing the location, dimensions, and types of existing structures on the owner's property, including all residences within 300 feet of the proposed outdoor furnace location.

- I. Abandonment/Removal – Any outdoor furnace which has reached the end of its useful life or has been abandoned must be removed. An outdoor furnace will be considered abandoned when it fails to be operated for 1 year. Upon notice by the Township, the owner of an abandoned outdoor furnace will be given 30 days to demonstrate that the system has not been abandoned. Failure to do so will constitute a violation of this Section.
- J. Suspension – A land use permit for an outdoor furnace will be suspended if any of the following conditions occur:
 - 1. Air contaminants from the outdoor furnace are detectable outside the property where the furnace is located;
 - 2. Emissions from the outdoor furnace interfere with the reasonable use and enjoyment of property;
 - 3. Emissions from the outdoor furnace damage vegetation or property;
 - 4. Emissions from the outdoor furnace are, or are likely to be, harmful to human or animal health.

A suspended permit may be reinstated after the offending condition is remedied. Failure to remedy the offensive condition within a period of 30 days shall result in the automatic revocation of the land use permit, and a new application will be required to resume operation of the outdoor furnace. Operation of an outdoor furnace when the land use permit is suspended or revoked is a violation of this Section.

SECTION 11.15 GRADING

The finished surface of ground areas outside the walls of any building or structure hereafter erected, altered, or moved shall be so designed that surface water shall flow away from the building walls in such a direction and with such a method of collection that inconvenience or damage to adjacent properties will not result.

SECTION 11.16 LIVING AREA

No area shall be considered as living area where more than 4 feet of walls are below outside grade except that such finished area may be included if one wall is entirely above the grade line of the lot adjacent to the wall and that has an entrance to the out-of-doors through the wall, furnishing access to and from such finished quarters.

SECTION 11.17 LOCATION OF RECREATIONAL VEHICLES, BOATS, UTILITY TRAILERS, AND OTHER VEHICLES

A. Prohibition on Outdoor Storage. No person shall be permitted to store any registered vehicle or trailer on any public property or right-of-way, or upon any private property not specifically zoned for that use, except as provided below:

1. Any outdoor vehicle storage shall comply with applicable setbacks, and be stored in an orderly and aesthetically pleasing fashion.
2. On any lot with an area of less than 1 acre, up to 5 currently registered vehicles, not including recreational vehicles, may be parked in the front yard outside a completely enclosed building.
3. It shall be unlawful to store any boat or unoccupied trailer on any site lot, field, parcel, or tract of land that does not have an occupied dwelling.
4. No inoperable or unlicensed motor vehicles, or parts thereof, may be stored outside a junk yard, unless kept wholly within a fully enclosed structure.

B. Recreational Vehicles.

1. No person shall occupy a Recreational Vehicle outside of a property not specifically zoned for that purpose except as provided in this Ordinance.
2. It shall be unlawful to store any Recreational Vehicle on any site, lot, field, parcel or tract of land that does not have an occupied dwelling or is not an established campground.
3. The outdoor storage of Recreational Vehicles in subdivisions is prohibited.

SECTION 11.18 REQUIRED LOT AREA OR SPACE

- A.** No lot being a part of a recorded plat and no parcel of unplatted land or site shall be so reduced that the yard, setback, open space, or area is less than the minimum requirements of this Ordinance.
- B.** Accessory buildings, including enclosed and un-enclosed porches and private garages attached to a dwelling or another principal building shall be deemed a part of such building for the purpose of determining yard space, areas, and setbacks.
- C.** In determining lot and yard requirements, no area shall be ascribed to more than one (1) main building or use, and no area necessary for compliance with the space requirements for one (1) principal building shall be included in the calculations of the space requirements for any other building or use.

SECTION 11.19 LOT SIZE

- A.** All lots platted, subdivided, or otherwise created after the effective date of this Ordinance shall conform to the minimum lot size and lot width required for the district in which such lot shall be established.

- B. Square footage and setbacks of all newly created lots will be measured excluding any public right of way.
- C. If a nonconforming lot of record abuts one or more nonconforming lots of record in the same ownership, such lots shall be combined and considered as one lot for the purposes of this Ordinance. No portion of the combined lot shall be used or sold in a manner that diminishes compliance with lot area or lot width requirements of the district in which it is located, nor shall any division of the combined lot be made that creates a lot with area or width less than the requirements of the district in which it is located.

SECTION 11.20 DEMOLITION

The demolition of any structure shall require an application for a land use permit and a building permit. Demolition activities shall include removal of any elements of a structure's previous construction, including removal of any foundation or related superstructure. Any party engaged in the demolition of a structure shall be responsible for restoring the property to as close to its natural state as is possible, including the restoration of natural grade, the removal of any and all building materials, junk, or scrap materials, and the planting of appropriate grasses or other vegetation. Demolition activities shall be completed no more than 30 days from the date they are commenced.

SECTION 11.21 ANIMALS IN RESIDENTIAL DISTRICTS

The keeping, maintaining, caring for or raising of any wild or exotic animals is prohibited in the Suburban Residential District. Animals such as, but not limited to pigs, hogs, horses, burros, sheep, cattle, goats, mules, llamas, chickens, rabbits, pigeons, ducks, geese, or turkeys are prohibited in the Suburban Residential District.

Any person desiring to keep, maintain, care for or raise any dangerous or venomous animals must first notify the Township and Emergency Services and obtain a land use permit.

SECTION 11.22 PONDS

All ponds are subject to the following requirements:

- A.** No pond may be constructed on a parcel that is less than 1 acre.
- B.** The outer edge of any pond must maintain a minimum setback of 50 feet from any neighboring parcel.
- C.** Pond slopes shall not exceed a ratio of 1 vertical foot to 4 horizontal feet to the water's edge. From the water's edge, a ratio of 1 vertical foot to 7 horizontal feet, extending 20 feet into the pond, is acceptable.
- D.** A wall, fence, or other enclosure is required for any pond located on a lot that does not contain a permanently occupied dwelling. That enclosure shall:
 - 1. Be at least 4 feet high.
 - 2. Be designed so a child cannot pass through, under, or climb over the enclosure, except at a lockable gate or door.
 - 3. Be equipped with gates or doors that are closed when the pond is not in use, and must be fitted with a positive latching device which automatically latches when the gate or door is closed. Further, all gates or door will be locked whenever the occupant of the property is absent.
- E.** All land adjacent to a pond must be graded, seeded, and mulched to conform with adjacent areas.
- F.** Any pond larger than 1 acre must obtain a Soil Sedimentation and Erosion Control permit from the appropriate Federal, State and County agencies. Compliance with this requirement must be demonstrated prior to construction.
- G.** Any pond to be located in a designated floodplain, floodway, or wetland must obtain all appropriate permits prior to construction.

ARTICLE 12: PARKING

SECTION 12.1 INTENT AND PURPOSE

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

SECTION 12.2 OFF-STREET PARKING REQUIRED

For all uses, adequate off-street parking shall be required to prevent conflicts with vehicular traffic. Off-street parking areas shall be designed with enough capacity to provide safe and sufficient parking for all vehicles during normal use. Direct access to off-street parking areas shall be provided from a public road or approved private street or lane. Parking within street rights-of-way shall not be construed as satisfying the requirements of this Ordinance except as allowed by specific districts and uses in this Ordinance.

SECTION 12.3 DEVELOPMENT STANDARDS

- A. Parking spaces shall be of sufficient size for vehicles intended, with parking spaces for cars measuring 9 feet by 20 feet. Parking spaces smaller than this proportion shall be designated "compact." Drives and running areas may not be included in calculating the size of parking spaces.
- B. State and federal handicapped parking requirements shall be followed.
- C. Striping and lighting may be required.
- D. Parking lot design and construction shall conform to requirements of Article 13.

SECTION 12.4 OFF-STREET PARKING REQUIREMENTS

- A. Total parking required is the sum of spaces for all land uses proposed on the site plus employee parking, as defined below.

Table of Off-Street Parking Requirements

Land Use	Number of Spaces	Per Activity Unit
Banks, Libraries	1	300 square feet of floor area
Veterinary Clinics and Kennels	1	400 square feet of floor area, plus one for every 2 employees.
Personal Service Establishment	1	250 square feet of public area
Doctor, dentist, veterinarian	1	100 square feet of floor area
Churches, Theaters, Auditoriums	1	Four seats
Professional Offices	1	100 square feet of floor area
Dwelling	2	Dwelling unit
Human Care Establishments	1	Four beds, plus an additional space for every 2 employees
Laundromats	1	2 washing machines
Mobile Home Park	2	Site
Motel, Hotel, Bed and Breakfast	1 1/2	Guest Room
Manufacturing, Wholesale, Warehousing	2	Per 3 employees on maximum shift
Retail Sales	1	150 square feet of floor area
Restaurants/Taverns (not including drive-in establishments)	1	100 square feet of floor area
Grade school	2	Classroom
High school	1	The greater of 6 seats in the main assembly area, or 3 per classroom.

B. Where an applicant can substantiate a different parking need than those indicated above, upon submittal of convincing written evidence to the Planning Commission, a deviation may be allowed.

- C.** Temporary use of unpaved area for parking associated with special or non-routine events may be authorized through the issuance of a temporary parking permit by the Zoning Administrator.
- D.** Uses not listed. The parking requirements for a use not listed above shall be determined by the Zoning Board of Appeals. The Zoning Board of Appeals' determination shall be based on a comparison of the proposed use and a similar use that is listed in the Table of Off-Street Parking Requirements, or, in the event there is no sufficiently similar use, pursuant to a traffic study provided by the applicant.
- E.** Expansions or additions. Additional parking consistent with the requirements of this section shall be provided in the event of an increase in floor area, a change from a less-intensive land use to a more-intensive land use, an addition, or the expansion of a building or site.
- F.** Joint parking. The use and construction of shared parking is encouraged and allowed when it can be demonstrated that the parking requirements of this Article can be met.
- G.** Required off-street parking shall be provided on the lot on which the use is located, and the parking pertains.
- H.** The use of any required parking space for the storage of any motor vehicle other than the purpose of parking is prohibited.
- I.** Parking lot layout shall take into consideration pedestrian circulation.
- J.** Parking for commercial uses shall be sufficient to provide parking for the employees of all proposed uses as well as long-term customer parking.
- K.** Off-street parking lots shall be prohibited in any front yard setback area, shall be located at the rear of buildings on the interior of lots and shall be accessed by means of common driveways, preferably from side streets, or service drives. Such lots shall be small sized (fewer than 25 parking spaces), where possible, and interconnected with commercial parking lots on adjacent properties.
- L.** Cross-access easements with language acceptable to the Township shall be required for adjacent lots with interconnected parking lots.
- M.** Driveway access should be from lanes or service drives. Driveways shall be set back a minimum of 3 feet from any side property line, unless such driveway is shared by buildings on adjacent lots.
- N.** Parking for multiple family dwellings shall be provided in a common off-street parking area or in public garages or parking spaces with access from a rear lane wherever possible. This common parking shall be connected to a street only by an access drive. Parking for multi-family dwellings with more than 10 dwelling units may be located in common parking lots located on a lot other than that containing the building but within 400 feet of building entrances.

- O.** If access to a public garage is provided from a street, the front entrance of such a garage shall be set back 15 feet further than the front wall of the dwelling unit. The location of a garage shall be set back a minimum of 6 feet from side or rear property line.
- P.** Loading spaces shall be at least 50 feet long and 12 feet wide. Every lot used for commercial or industrial purpose and having a building with a total floor area of at least 10,000 square feet must provide an off-street loading space. An additional off-street loading space may be required for each 10,000 square feet, or fraction thereof, in excess of the first 10,000.

**SECTION 12.5 OFF-STREET PARKING AREA CONSTRUCTION
REQUIREMENTS**

- A.** Off-street parking areas and drives shall be surfaced with a material that provides a durable, smooth and dustless surface (asphalt, concrete, pavers, etc.) which shall be graded to drain and dispose of storm water.
- B.** Storm water collection, drainage and retention structures meeting all requirements of the Bay County Road Commission and the Bay County Drain Commissioner shall be installed for all off-street parking areas.
- C.** Driveways and aisles for any off-street parking area shall be clearly defined meeting the following requirements:
 - 1.** Each driveway lane shall be a minimum of 9 feet and a maximum of 20 feet in width per direction. Lanes for entering and exiting traffic shall be defined.
 - 2.** A driveway shall intersect the abutting street at a ninety-degree angle.
 - 3.** Drive aisles shall be at least 18 feet wide.
 - 4.** Each parcel shall have no more than one driveway entrance and exit opening to an abutting public thoroughfare for each 450 feet of frontage, or fraction thereof.
 - 5.** If a driveway cannot fulfill these requirements because of an existing driveway on another parcel, the new driveway will be located to maximize compliance with these standards.
- D.** All lighting of a required off-street parking area shall be arranged in such a manner and shall be of such height that the illumination is shielded and directed toward the ground and is not directed toward a public thoroughfare or adjacent properties.
- E.** Parking and loading areas in general shall be located beside or behind structures, but in no case closer than 50 feet to any road right-of-way.
- F.** Parking lot design shall follow any applicable landscaping requirements.

- G.** Any parking area larger than 10 spaces shall have a visual screen not less than 4 feet high between the parking area and adjacent property zoned for residential uses.
- H.** A land use permit shall be required for construction of any parking lot.

ARTICLE 13: SIGNS

SECTION 13.1 PURPOSE AND INTENT

The intent of this Article is to establish a comprehensive system for the regulation of signs in the Township. Such regulations are necessary to ensure that the character and appearance the community is striving for can be attained. It is a purpose of this Article to make Pinconning Township attractive to residents, visitors, and commercial, industrial and professional businesses while maintaining a sustainable economy through an appropriate signage program. The elements of this program will:

- A.** Protect the general public health, safety and welfare of the community and enhance its economy and its businesses through the regulation of sign sizes, numbers, locations, design, and illumination.
- B.** Reduce possible traffic and safety hazards.
- C.** Direct persons to various activities and uses, in order to provide for maximum public convenience.
- D.** Encourage a desirable community character with a minimum of clutter.
- E.** Provide a reasonable system of sign regulations to ensure the development of a high-quality aesthetic environment by encouraging signs which are well designed and pleasing in appearance and providing latitude for variety and good design in relation to the business or use it serves.

SECTION 13.2 PERMIT REQUIREMENTS AND REVIEW PROCEDURES

An application for either major review or minor review shall be made on forms provided by the Township Zoning Administrator. Such an application shall be filed with the Zoning Administrator with applicable plans as required by the Zoning Administrator and shall be accompanied by any fees as required by the Township. Fees for sign permits shall be set by resolution by the Township Board. Failure to obtain a sign permit shall be a violation of this Ordinance.

SECTION 13.3 ADMINISTRATION

- A.** A permit shall be issued or denied within thirty (30) days of the submission of a complete application and the required fees to the Zoning Administrator.
- B.** If a permit is issued on the basis of misstatement of material fact or fraud, the Zoning Administrator shall, in writing, suspend or revoke the permit with the reasons for denial.
- C.** When the Zoning Administrator denies a sign permit, such denial shall be in writing, with the reasons for denial.

- D. The sign permit becomes null and void if installation does not commence within 180 days of permit date. If work is suspended or abandoned for 90 days, a new permit and application fee shall be required.
- E. Signs that are illegally posted within public rights of way or on publicly owned property may be removed by, or at the direction of, the Zoning Administrator. Any signs removed will be held in the Pinconning Township Hall for thirty (30) days before being destroyed, and can be recovered by the owner upon payment of a ten dollar (\$10.00) per sign recovery fee. Pinconning Township and the individual or entity removing such signs shall not be held responsible for any damage done to such signs.
- F. At the discretion of the Zoning Administrator, any sign request may be referred to the Planning Commission for its review and recommendation, with a final determination to be made by the Township Board.
- G. The Zoning Administrator's or Township Board's decision may be appealed to the Zoning Board of Appeals within 10 calendar days of such decision. Such appeal shall be made on the forms provided by the Township and fees paid in accordance with the Township fee schedule. The submission of the completed application and fees shall constitute the filing of the appeal.

SECTION 13.4 EXEMPT SIGNS; PROHIBITED SIGNS; ENFORCEMENT; CONSTRUCTION AND MAINTENANCE

- A. Exempt signs. A sign permit is required for any erection, construction, enlargement, or movement of any sign in Pinconning Township, except for those signs described below:
 - 1. Temporary window signs, provided that all of the following are met:
 - a. The total area of such signs shall not exceed the greater of 25% of the window area or 12 square feet per business frontage is permitted.
 - b. Such signs shall be affixed to the surface for no more than 14 continuous calendar days but for no more than 30 days each calendar year.
 - 2. Up to three temporary signs per parcel, each not exceeding 4 square feet in area or 5 feet in height, provided that any such sign is unlit and is removed within 30 days of installation.
 - 3. Any sign authorized by law, or by regulation or administrative rule of a governmental entity, having appropriate jurisdiction.
 - 4. House numbers, addresses, name plates, erection dates and building names when cut into, inlaid or mounted against a building surface.
- B. Prohibited signs. All signs not expressly permitted are prohibited in all zones, including but not limited to the following:

1. Animated signs.
2. Signs within the public right-of-way, except those required by a governmental agency. No sign shall be so placed, erected or constructed on a utility pole, traffic device, traffic sign, or warning sign or so as to impede access to any public improvement, or to obstruct the vision of any such signs, except as expressly permitted by this Article.
3. Signs located on public property except as expressly permitted by this Article.
4. Signs blocking doors or fire escapes.
5. Billboards.
6. The lesser of signs exceeding the maximum height in the applicable district.
7. Any sign that by reason of size, location, movement, content, coloring or illumination would be confused with a traffic control sign, signal or device or lights of emergency and road control vehicles.
8. Signs containing obscenity according to state or federal law.
9. Signs that emit or project audible sound or visible matter.
10. Signs displayed without the consent of the legal owner of the property on which the sign is mounted or displayed.

C. Construction and maintenance.

1. Construction. Every sign and all parts, portions, and materials shall be manufactured, assembled, and erected in compliance with all applicable state, federal, and Township regulations.
2. Maintenance. Every sign and all parts, portions, and materials shall be maintained and kept in proper repair. The display surface of all signs shall be kept clean, neatly painted and free from rust and corrosion. Any cracked or broken surfaces and malfunctioning or damaged portions of a sign shall be repaired or replaced within 30 calendar days following notification by the Zoning Administrator. Noncompliance. Any maintenance which does not involve a structural change is permitted.
3. All sign installers shall comply with any necessary licenses, certifications and all applicable codes, laws and ordinances.
4. No sign shall be erected, constructed or altered until a sign permit has been issued by the Zoning Administrator, unless otherwise exempted from permitting requirements by this Ordinance.

SECTION 13.5 DESIGN STANDARDS

Each sign shall be designed to complement the buildings and the surroundings of its intended location while conveying its intended message(s). To the extent possible, a sign located on a commercial site in a predominantly residential area shall take into consideration compatibility with the residential area.

- A.** Landscaping. Each freestanding sign shall be located, wherever possible, in a planted landscaped area which is of a shape, design and size that will provide a compatible setting and ground definition to the sign. The planted landscaped area shall be maintained in a neat, healthy, and thriving condition. Plantings must be no higher than 3 feet.
- B.** Illumination and motion. Signs shall be nonmoving, stationary structures (in all components), and illumination, if any, shall be maintained by an artificial light source that is stationary and constant in intensity and color at all times (non-flashing), which shall not exceed 3000 lumens.
- C.** Relationship to streets. Signs shall be designed so as not to obstruct any pedestrian, bicyclist, or driver's view of right-of-way. Signs shall comply with a 10-foot setback from any right of way, or with a greater setback if such is deemed necessary for the safety or convenience of motorist, pedestrians, or neighboring properties.
- D.** Nuisance. Notwithstanding any other provision of this Article, no sign shall be installed, maintained, or operated in manner that creates a nuisance.
- E.** Electronic Message Display Boards. Electronic message display boards are permitted only within the C-1 and PUD Districts. These signs are subject to the following additional standards:
 - 1. An electronic message display board may not have any distracting appearance of motion, flashing, blinking, or shimmering.
 - 2. No more than one electronic message display board may be permitted per lot.
 - 3. An electronic message display board must be easily discernable, so as to not distract drivers.
 - 4. An electronic message display board may not include graphic, pictorial, or photographic images, and is limited to alphanumeric characters.
 - 5. Phasing, scrolling, rolling, flashing, or bending of any message on an electronic message display board is prohibited.
 - 6. Electronic message display boards may not exceed 100 square feet in area.
- F.** Notwithstanding anything contained in this Section to the contrary, any sign erected pursuant to the provisions of this Section may, at the option of the owner, contain a non-commercial message in lieu of a commercial message and the noncommercial copy may

be substituted at any time in place of the commercial copy. The noncommercial message may occupy the entire sign face or any portion thereof. The sign face may be changed from a commercial message to a noncommercial message or from one noncommercial message to another non-commercial message; provided, however, that there is no change in the size, height, setback or spacing criteria contained in this Section.

SECTION 13.6 NONCONFORMING SIGNS

- A.** Intent. It is the intent of this section to recognize that the eventual elimination of existing signs that are not in conformity with the provisions of this Article is as important as is the prohibition of new signs that would violate these regulations.
- B.** General requirements.
 - 1.** A nonconforming sign may not be:
 - a.** Changed to another nonconforming sign.
 - b.** Structurally altered to extend its useful life.
 - c.** Expanded, moved or relocated.
 - d.** Reestablished after damage or destruction of more than 50% of the sign's state equalized value.
 - e.** In poor repair.
- C.** Historical signs. Signs which have historical significance to the community but do not conform to the provisions of this Article may be issued a permit to remain, provided that the Planning Commission makes the following findings:
 - 1.** The sign has a bona fide historical significance for the community;
 - 2.** The sign does not constitute a traffic hazard;
 - 3.** The sign does not diminish the character of the community;
 - 4.** The sign is properly maintained and structurally sound; and
 - 5.** The sign does not adversely affect adjacent properties.
- D.** Abandoned Sign. Any sign that is associated with a business that has not been operational for a period of 6 months shall be deemed to be abandoned. All such signs shall be removed by the current property owner, and no land use, construction, or restoration of an existing use may occur unless the sign is removed, replaced, or brought up-to-date with the standards of this Section.

SECTION 13.7 DISTRICT REGULATIONS

- A.** Agricultural District. The following signs are permitted within the AG Agricultural District:
 - 1.** One non-illuminated freestanding sign per road frontage, not to exceed 30 square feet in area or 10 feet in height.

2. One non-illuminated wall sign not to exceed 24 square feet in area. No wall sign shall be erected to extend above the top of the wall to which it is attached, nor extend beyond the ends of the wall to which it is attached.
3. Up to three flag poles not to exceed 50 feet in height, with no more than 2 flags per pole, and one flag bracket or stanchion per structure displaying one flag. Flags shall not exceed 24 square feet in area.

B. Suburban Residential District. The following signs are permitted within the SR Suburban Residential District:

1. One non-illuminated freestanding sign per road frontage, not to exceed 6 square feet in area. In addition, one non-illuminated freestanding sign is allowed at each point of ingress or egress to or from a residential subdivision or development not to exceed an area of 50 square feet and a height of 12 feet. The freestanding sign shall be located on a landscaped island or lawn area protected from vehicular contact and shall not impede visibility of oncoming traffic.
2. One non-illuminated wall sign not to exceed 24 square feet in area. No wall sign shall be erected to extend above the top of the wall to which it is attached, nor extend beyond the ends of the wall to which it is attached.
3. Up to three flag poles not to exceed 50 feet in height, with no more than 2 flags per pole, and one flag bracket or stanchion per structure displaying one flag. Flags shall not exceed 24 square feet in area.

C. C-1 Commercial District. The following signs are allowed in the C-1 Commercial District:

1. Two freestanding signs per road frontage, not to exceed 40 square feet in area or 15 feet in height.
2. One wall sign, with an allowable sign area of one square foot for each one linear foot of building frontage, not to exceed a total of 60 square feet in area. No wall sign shall project beyond or overhang a wall or permanent architectural feature, nor shall it extend beyond the highest point of the building to which it is attached.
3. One freestanding canopy or marquee sign, not exceed 100 square feet in area or 40 feet in height or the height of the principal building on the parcel, whichever is less.
4. One electronic message display board, not to exceed 100 square feet in area or 25 feet in height.
5. Up to three flag poles not to exceed 50 feet in height, with no more than 2 flags per pole, and one flag bracket or stanchion per structure displaying one flag. Flags shall not exceed 24 square feet in area.
6. One roof sign, not to exceed 40 square feet in area.

D. Light Industrial District. The following signs are permitted in the LI Light Industrial District:

1. One freestanding sign per road frontage, not to exceed 200 square feet in area or 40 feet in height or the height of the principal building on the parcel, whichever is less. Such signs must maintain a setback of 100 feet from any residential district.
2. One wall sign, with an allowable sign area of one square foot for each one linear foot of building frontage, not to exceed a total of 60 square feet in area. No wall sign shall project beyond or overhang a wall or permanent architectural feature, nor shall it extend beyond the highest point of the building to which it is attached.
3. One electronic message display board, not to exceed 100 feet in area or 25 feet in height.
4. Up to three flag poles not to exceed 50 feet in height, with no more than 2 flags per pole, and one flag bracket or stanchion per structure displaying one flag. Flags shall not exceed 24 square feet in area.
5. One roof sign not to exceed 60 square feet in area.

E. PUD District: Permitted signage in Planned Unit Developments shall be determined by the Planning Commission during site plan review.

ARTICLE 14: SITE PLAN REVIEW

SECTION 14.1 INTENT AND PURPOSE

Land development affects the character of the community and its public health, safety, and general welfare. This Article provides that all the land uses shall be subject to site plan review except single- or two-family dwellings located on a single lot and agricultural uses not subject to a special use permit or as otherwise indicated in this Ordinance.

SECTION 14.2 SCOPE

Site plan review by the Planning Commission is required for all uses other than single family dwellings in residential districts. The Planning Commission shall conduct site plan review for the following uses:

- A. All land developments, including structures to be erected, moved, externally altered, added to, or to have any change in use which would affect their approved off-street parking, landscaping, site drainage, or any other requirements, shall be reviewed under this Article, excluding single- or two-family dwellings located on a single lot and agricultural uses not subject to a special use permit.
- B. Planned Unit Developments (PUD).
- C. Special uses in all Districts.
- D. Subdivision of land in all Districts.
- E. All Condominium projects including site condominiums.
- F. Any change in a use subject to site plan review.

Site plans not required to be reviewed by the Planning Commission shall be reviewed by the Zoning Administrator. The Zoning Administrator shall review such plans in accordance with the same procedures, requirements, and standards used by the Planning Commission.

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

SECTION 14.3 APPLICATION AND FEE

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

- B. The application fee shall be set by resolution of the Township Board. Once accepted by the Zoning Administrator, no portion of the fee shall be returned to the applicant, unless authorized by the Township Board.
- C. The Zoning Administrator, after review of the application, shall establish an amount to be deposited by the applicant with the Township Clerk as an escrow deposit to defray the anticipated costs incurred by the Township to review and process the application(s). The Planning Commission shall not commence consideration of the merits of the application(s) until the escrow deposit is received by the Township Clerk. Any unused portions of the escrow deposit remaining after consideration and processing of the application shall be returned to the applicant(s). If this escrow becomes insufficient to cover the Township's costs, applicant will be required to replenish the escrow in the estimated amount required to complete review. No review will occur, or approval granted, when this escrow is deficient.

SECTION 14.4 REVIEWING AUTHORITY

The Planning Commission, or its qualified designee, shall review site applications in accordance with the standards presented in this Article and this Ordinance. The Planning Commission shall review the site plan application and its designee's report and shall thereafter approve, approve with conditions, or deny the request for site plan approval. The Planning Commission may hire a qualified professional at the applicant's expense to aid in its review of a site plan.

SECTION 14.5 MAJOR AND MINOR DEVELOPMENT PROJECTS

- A. A minor project, for the purposes of this Article, is defined as follows:
 - 1. The remodeling, alterations, or additions to commercial and industrial buildings of less than 25% of the square footage of the existing structure.
 - 2. Improvements to, erection of, or reconstruction of accessory buildings and structures, parking areas, and similar facilities.
 - 3. A change from one permitted use to another.
 - 4. Site changes that do not exceed 25% of the existing developed site area.
- B. Major projects are all projects not listed above.

SECTION 14.6 CONCEPTUAL SITE PLAN REVIEW

The applicant is encouraged to submit a conceptual plan for review by the Planning Commission to ensure that that errors, miscalculations or misconceptions are not incorporated into preliminary plans. This procedure is intended to be informational only and shall not necessarily bear directly upon later reviews.

SECTION 14.7 SITE PLAN REVIEW; REQUIRED INFORMATION

For major projects, site plan review shall entail the examination of all the items in Subsection B of this section. For minor projects, the abbreviated review indicated in Subsection A is allowed.

- A.** Required submittals, minor projects. All project applicants shall submit to the Zoning Administrator the site plan application provided by the Township and 3 copies of a detailed site plan. The Zoning Administrator shall then have the authority to either approve the project, or require the applicant to submit the application to the Planning Commission for further review.

- B.** The detailed site plan shall consist of the following items for review:
 - 1.** A site plan, drawn to scale, with a North arrow, showing the property boundaries, the proposed location of structures and other improvements, including, where appropriate, roads, driveways, pedestrian walks, off-street parking areas, landscaped areas, fences and walls.
 - 2.** A conceptual landscape plan, including required buffers, existing vegetation, watercourses, and other significant site features, and proposed new plantings.
 - 3.** Accurate scale drawings of all signs indicating their size, material, color and illumination, if any, and the method of installation of any freestanding sign.
 - 4.** Conceptual grading and drainage plans with existing and proposed elevations.
 - 5.** Such other data as may be required by the Planning Commission to ensure that the purposes of this Article are satisfied.
 - 6.** The Planning Commission may waive a requirement or requirements listed above if not deemed necessary for a thorough review.

- C.** Required submittals, major project. In addition to the requirements of a minor project, major projects must also include the following information in an application for site plan review.
 - 1.** A site plan drawn to the scale of at least one inch equals 100 feet showing the site and all land and structures within 500 feet of the site. The Planning Commission may require details to be provided in a scale as little as one inch equals 20 feet. If multiple sheets are used, each must be labeled and dated and the preparer identified.
 - 2.** The location of proposed or existing property lines, dimensions, legal descriptions, tax parcel numbers, setback lines, and monument locations.
 - 3.** A vicinity map drawn at a scale of a minimum of one inch equals 2,000 feet with a North arrow indicated.
 - 4.** Existing topographic elevations at two-foot intervals, proposed grades and directions of drainage flows.

5. The location and type of existing soils on the site and any certifications of borings.
6. Boundaries and elevations of existing and proposed watercourses and water bodies, including county drains and man-made surface drainage ways, floodplains and wetlands within 500 feet of the project site and proposed erosion control measures.
7. Location, screening, dimensions and heights of proposed buildings, including accessory buildings and uses, and the intended uses thereof. Rooftop or outdoor appurtenances should also be indicated, including proposed methods of screening such equipment, where appropriate.
8. Location of abutting streets and proposed alignment of streets, drives and easements serving the development, including existing right-of-way and pavement widths.
9. Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes or tapers (if any) serving the development. Details of entryway and entryway sign locations should be separately depicted with elevation views.
10. Location, design, and dimensions of existing and proposed curbing, barrier-free access, garages, parking areas (including indication of all spaces, method of surfacing and striping), fire lanes and all lighting and signing thereof.
11. Location, size and characteristics of all loading and unloading areas.
12. Location and design of all trails, walkways, bicycle paths, and other areas for public use.
13. Location of water supply lines and/or wells, including fire hydrants and shutoff valves, and the location and design of storm sewers, retention or detention areas, wastewater lines, cleanout locations, connection points and treatment systems, including septic systems, if applicable.
14. Location and routing of all other utilities on the site, including but not limited to natural gas, electric, and data and telecommunication transmissions.
15. Proposed location, dimensions, and details of common open spaces and common facilities, such as community buildings or swimming pools, if applicable.
16. Exterior lighting locations with areas of illumination illustrated, as well as the type of fixtures and shielding to be used.
17. Location and specifications for all fences, walls, and other screening features with cross sections.
18. General location and type of significant existing vegetation, including the location and size of all existing trees with a trunk of six inches or more in diameter, 4 1/2 feet

- above the ground, if not located in a forest. Forests or large vegetation areas to be preserved shall be demarcated and designated as such.
- 19.** Locations and specifications for all proposed perimeter and internal landscaping and other buffering features.
 - 20.** Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
 - 21.** Location and specifications for any existing, proposed, or required above- or below-ground storage facilities for any chemicals, salts, or flammable or hazardous materials, as well as any containment structures or clear zones required by government regulations and a pollution incident prevention plan as required by the Michigan Natural Resources and Environmental Protection Act, MCL 324.3101 *et seq.*
 - 22.** Identification of any significant or unique site features.
 - 23.** Indication of any significant views onto or from the site.
 - 24.** The zoning classifications of the site and adjacent properties.
 - 25.** North arrow, scale and date of original submittal and all revisions and the preparer's name, qualifications, e.g., PE, PS, RS, AICP, etc., and stamps where appropriate.
 - 26.** Such other data as may be required by the Planning Commission to ensure that the purposes of this Article are satisfied.
 - 27.** Proposed landscaping, including quantity, size at planting and botanical and common names of plant materials.
 - 28.** Proposed grades and site drainage patterns, including necessary drainage structures. Where applicable, indicate the location and elevation(s) of 100 year flood plain.
 - 29.** Signs, including location, height, and sizes.
 - 30.** Development plans for residential projects (multiple family developments, mobile home parks) shall include the following additional information:
 - a.** Minimum floor area of the dwelling units.
 - b.** Total number of units proposed.
 - c.** Number of bedrooms per unit in multiple family developments.
 - d.** Areas to be used for open space and recreation.
 - e.** Space allowance for accessory buildings in mobile home parks.

- E.** 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, to accomplish these purposes.
- F.** All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access.
- G.** Streets and drives that are part of an existing or planned street pattern serving 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 required by the Bay County Road Commission.
- H.** Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate storm water, prevent erosion and the formation of dust. The use of detention/retention areas may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas.
- I.** 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 an opaque wall or landscaped screen not less than 6 feet in height.
- J.** Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.
- K.** Buffer zones shall be required where a non-residential use is adjacent to residential areas.
- L.** Waiver from Landscaping and Screening Requirements: The Planning Commission during Site Plan review may determine that existing landscaping or screening intended to be preserved would provide adequate landscaping and screening. The Planning Commission may also determine dimensional conditions unique to the parcel would prevent development of required buffer zones, off-street parking area landscaping, or required buffer zones. If such determination is made, the Planning Commission may waive, in whole or in part, the landscaping provisions of this section. Criteria that shall be used when considering a waiver shall include, but shall not be limited to:
 - 1.** Existing natural vegetation.
 - 2.** Topography.
 - 3.** Existing wetland, floodplain and poor soil areas.
 - 4.** Existing and proposed building placement.
 - 5.** Building heights.
 - 6.** Adjacent land uses.

7. Distance between land uses.
8. Dimensional conditions unique to the parcel.
9. Traffic sight distances.
10. Traffic operational characteristics on and off site.
11. Visual, noise and air pollution levels.
12. Health, safety and welfare of the Township's residents.

SECTION 14.10 FINAL APPROVAL

- A. Complete drawings, plus all certified final drawings and plans which are subject to site plan review and contain all necessary modifications or additions required, shall be submitted before final site plan approval is granted.
- B. Conditions of final approval. Site plans may be approved subject to the performance of certain conditions, including the provision of required improvements as the Planning Commission shall deem to be reasonable and necessary, or advisable under the circumstances, so that the objectives of this Ordinance, the Master Plan, and any other Township policy or regulation shall be achieved. A site plan approval may be conditioned on necessary or required approvals by other local, county, state, or federal agencies.
 1. Performance guarantee for required conditions. Security may be required to ensure performance of required conditions. The applicant may be required to furnish security in the form of a bond, certified check, or an irrevocable letter of credit, acceptable to the Township, in the amount fixed by the Township Board. If security is required, the Zoning Administrator shall not issue a land use permit until the required performance guarantee is received and verified by the Township Clerk.
 2. Provisions of required improvements. Whenever a site plan approval is granted or modified subject to the conditions that specified improvements be provided by the applicant, such improvements shall be installed by the applicant and approved and accepted by the Zoning Administrator.
 3. Nonperformance of required conditions. In the event the applicant defaults in making the improvements for which the performance guarantee was required, the Planning Commission shall have the right to enforce a letter of credit or to use the moneys being held as security to complete the improvements, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to cover the costs incurred by the Township to complete the improvements, including attorney fees and court costs, if any, the applicant shall be required to pay the Township the amount by which the costs of completing the improvements exceeded the amount of the performance guarantee. These costs shall be collected in the same manner as delinquent taxes or as allowed by law.

4. Condition declared void. Whenever there becomes final any judgment of a court of competent jurisdiction declaring one or more of conditions to be void or ineffective, or enjoining or otherwise prohibiting the enforcement or operation of one or more of such conditions, said site plan approval shall cease to be valid and all rights or privileges granted thereby shall end.
5. Violation of required condition or conditions. Whenever a site plan is approved or modified by the Township Board subject to a condition or conditions, the use or enjoyment of the site plan in violation of, or without observance of, any such condition shall constitute a violation of this Ordinance, and site plan approval may be revoked.

SECTION 14.11 SPECIAL USES AND CONCURRENT APPROVALS

The Planning Commission may choose to review special use permit and site plan review submittals concurrently. In the event of concurrent review, the Planning Commission shall make sure that both the site plan and special use submittals satisfy all requirements of this Ordinance. The Planning Commission retains final authority with respect to approval or denial of a special use permit.

SECTION 14.12 AMENDMENTS TO APPROVED DEVELOPMENT PLANS

- A. Amendments to an approved site plan may be made by the Planning Commission upon written request by the landowner. Minor changes to an approved site plan may be approved by the Zoning Administrator after construction has begun, provided that no such change results in any of the following:
 1. A significant change in use or character of the development.
 2. An increase in overall coverage of structures.
 3. An increase in the intensity of use.
 4. A reduction in the required open space.
 5. A change that may increase the storm water runoff to adjacent properties.
 6. A reduction in required off-street parking and loading.
 7. A reduction in required pavement widths or utility sizes.
 8. A significant increase in traffic on public streets or an increase in the burden on public utilities or services.
- B. If the Zoning Administrator finds that a proposed amendment to an approved site plan does not qualify as a minor change, he shall notify the landowner that he must apply for a modification of the site plan in accordance with the procedures of this Article, or if the developer or landowner has already affected the changes in question, the Zoning Administrator shall immediately notify the permit holder in writing that site plan

approval has been suspended pending approval by the Township Board of the proposed amendment. The permit holder's notice shall be delivered personally or by certified mail. The permit holder shall then apply for a modification of the site plan in accordance with this Article.

SECTION 14.13 TIME LIMIT FOR APPROVED SITE PLANS

- A.** A site plan approval granted pursuant to this Article shall be valid for 1 year from the date of approval. If construction has not commenced by the end of this period, and if a written request for extension of the approval has not been submitted by the applicant, the site plan approval shall expire.
- B.** The Planning Commission may grant one extension of the site plan approval for a 1-year period upon submittal in writing by the applicant of a request for an extension. The Township Board shall grant such an extension only upon presentation of written evidence indicating that construction of the project has been delayed by factors beyond the reasonable control of the applicant and that construction on the project is likely to proceed within 1 year.
- C.** Notwithstanding any of the above, a site plan approval shall be automatically revoked if construction has not been completed within 5 years of the initial site plan approval.
- D.** An appeal of a site plan approval with total periods specified by this Section.

ARTICLE 15: SPECIAL USES

SECTION 15.1 INTENT AND PURPOSE

It is the purpose of this Ordinance to promote the public health, safety, comfort, convenience, and general welfare of the inhabitants of Pinconning Township by encouraging the use of lands and natural resources in accordance with their character, adaptability and suitability for particular purposes; to enhance social and economic stability; to prevent excessive concentration of population; to reduce hazards due to flooding; to conserve and stabilize the value of property; to provide adequate open space for light and air and preserving rural community character; to prevent fire and facilitate the fighting of fires; to allow for a variety of residential housing types and commercial and industrial land uses; to lessen congestion on the public and private streets and highways; to facilitate adequate and economical provision of transportation, sewage and drainage, water supply and distribution, education, recreation and other public services and facilities; to assure adequate provision for the state's citizens for food, fiber, energy and other natural resources; to ensure appropriate locations and relationships for uses of land; and to facilitate the expenditure of funds for adequate public facilities and services by establishing herein standards for physical development in accordance with the goals, objectives and policies contained in the Master Plan for the Township; and to provide for the administration and enforcement of such standards.

The classification of a use as a special use does not indicate disharmony with the purposes or intent of this Ordinance. Instead, special uses are intended to identify those uses which may be harmonious with the purpose and intent of the district in which they are located. A special use will typically reflect at least some degree of deviation from the general characteristics of a district, and may not entirely reflect the intent and purpose of that district, or the values generally espoused by the Master Plan or this Ordinance. The classification of a use as a special use, however, indicates that despite these deviations, such a use is appropriate in the district in which it is located when properly regulated.

SECTION 15.2 PRE-EXISTING USES

Any existing use which is permissible by right in the district shall continue as a permissible use even if that use is later designated a special land use. Any expansion or enlargement of the original permissible use, designated now as a special use, must proceed through the special land use process for approval.

SECTION 15.3 REVIEWING AUTHORITY

The Planning Commission shall make recommendation to Township Board to grant, with or without conditions, or deny a special use permit.

SECTION 15.4 APPLICATION AND FEE

An application for a special use permit shall be submitted to the Commission through the Zoning Administrator. The applicant shall provide the Zoning Administrator with 2 copies of the application and 2 sets of all required data. Each application shall be made by the owner of record of the property on which the proposed special land use is to exist or be conducted, or by an applicant, if not the owner, with a signed authorization of the property owner, and shall be

accompanied by the payment of a fee as set forth in the schedule established by the Township Board to cover the costs of processing the special use permit application.

The Zoning Administrator, after review of the application, shall establish an amount to be deposited by the applicant with the Township Clerk as an escrow deposit to defray the anticipated costs incurred by the Township to review and process the application(s). The Planning Commission shall not commence consideration of the merits of the application(s) until the escrow deposit is received by the Township Clerk. Any unused portions of the escrow deposit remaining after consideration and processing of the application shall be returned to the applicant(s). If this escrow becomes insufficient to cover the Township's costs, applicant will be required to replenish the escrow in the estimated amount required to complete review. No review will occur, or approval granted, when this escrow is deficient.

SECTION 15.5 INFORMATION REQUIRED

A. Each application shall include the following information:

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

SECTION 15.6 PROCEDURE UPON RECEIPT OF APPLICATION

Upon receipt of a special use permit application, which is supported by all the data and fees required above, the application shall be put on the agenda for preliminary consideration at the earliest Commission meeting practicable.

- A. Notice requirements. Notice that a special use application has been received and will be considered by the Commission shall meet the requirements of the Michigan Zoning Enabling Act, MCL 125.3101 *et seq.*
- B. The Planning Commission shall hold a public hearing on the special use permit request.
- C. The Planning Commission shall review the request and shall establish that the standards and requirements of this Article are satisfied.
- D. Following its review of the request, the Planning Commission shall take one of the following actions:
 - 1. Recommend approval of the special use permit if it is found to satisfy the requirements of this Article;
 - 2. Recommend approval of the special use permit with conditions to ensure that it complies with the requirements of this Article; or
 - 3. Recommend denial of the special use permit because it is found that the proposed use fails to satisfy the requirements of this Article.

SECTION 15.7 BASIS FOR DETERMINATION

Before approval of a special use permit, the Commission shall establish that the standards specified in this Section, as well as applicable standards outlined elsewhere in this Ordinance, shall be satisfied. Each of the proposed special land uses on the proposed location shall:

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

- G. Not directly or indirectly have an adverse effect upon the natural resources of the Township, including but not limited to prime or unique agricultural lands, water recharge areas, lakes, rivers, streams, forests, wetlands, and wildlife areas.
- H. Be in compliance with the requirements of the district in which it is proposed and all other standards in this Ordinance, as well as with the requirements of the County Road Commission, County Building Inspector, County Drain Commissioner, District Health Department, Soil Erosion Officer, County Conservation Service, area fire departments, Department of Natural Resources and any other applicable Township, county, state and federal statutes.
- I. Phases of development shall be in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, drainage or erosion control.

SECTION 15.8 CONDITIONS AND SAFEGUARDS

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

SECTION 15.9 VARIANCES

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

SECTION 15.10 GRANT OR DENIAL OF SPECIAL USE PERMIT

The Planning Commission may approve, deny, or approve with conditions a request for a special use permit approval. The decision on a special use permit under consideration shall be incorporated in a statement containing the conclusions which form the basis of the decision and any conditions and safeguards imposed. One copy shall be distributed to each of the following: Zoning Administrator, Township Clerk, and the Secretary of the Planning Commission.

SECTION 15.11 PERMIT EXPIRATION

- A. A special use permit issued pursuant to the requirements of this Ordinance shall be valid for a period of one year from the date of issuance of said permit. If the construction or use has not commenced and proceeded meaningfully toward completion by the end of this period, the special use permit shall be null and void.
- B. The Planning Commission may grant one extension of the special use approval for a 1-year period upon submittal in writing by the applicant of a request for an extension. The Township Board shall grant such an extension only upon presentation of written evidence indicating that construction of the project has been delayed by factors beyond the reasonable control of the applicant and that construction on the project is likely to proceed within 1 year.
- C. Notwithstanding any of the foregoing, a special use permit shall become null and void if construction is not completed within 3 years of the date the special use permit is approved, or if the approved use has not operated during that same time.
- D. An appeal of a special use approval will total the periods described in this Section.

SECTION 15.12 BINDING EFFECT; REVOCATION OF PERMIT

- A. Any special use permit approved by the Planning Commission pursuant to the provisions of this Ordinance shall be binding between the parties, and said use shall not be modified, altered, expanded, or otherwise changed unless such a change is authorized in a writing signed by both parties. Further, such conditions shall run with the land and shall be binding on the landowner, his successors, heirs and assigns.
- B. If at any time during the existence of a permitted special land use the land, lot, or structures are used contrary to the conditions and provisions of the permit, said use shall be deemed a violation of the special use permit and the permit may be revoked.

SECTION 15.13 INSPECTIONS

The Zoning Administrator shall be responsible for verifying compliance with the conditions imposed by a special use permit. All subgrade improvements, such as utilities, subbase and base installations for streets, drives, and parking lots, and similar improvements shall be inspected by the Zoning Administrator or other appropriate official or individual and approved before covering. It is the responsibility of the applicant to request such necessary inspections at the appropriate times. The Zoning Administrator shall report periodically to the Township Board and Planning Commission on the progress of each special use permit. He or she shall notify the Township Board and Planning Commission in writing of any failure on the part of the applicant to meet any requirement of the site plan or special use permit, and will report on steps being taken to ensure compliance. The expense of any compliance inspection and related activities shall be borne solely by the permit holder.

SECTION 15.14 PERFORMANCE GUARANTEE

In the interest of ensuring compliance with the provisions of this Ordinance and protecting the natural resources and the health, safety and welfare of the residents of the Township and future users or inhabitants of an area for which a proposed special use permit has been submitted, the Commission may require the applicant to deposit a performance guarantee as set forth herein.

- A. The purpose of the performance guarantee is to ensure completion of improvements connected with the proposed use as required by this Ordinance.
- B. "Performance guarantee" as used herein shall mean a cash deposit, certified check, or irrevocable letter of credit in an amount equal to the estimated cost of completing or removing any improvements as determined by the applicant and verified by the Planning Commission.
- C. The performance guarantee shall be deposited with the Township Board at the time of the issuance of the permit authorizing the activity or project. No special use permit may be issued before the receipt of the required performance guarantee.
- D. Upon the satisfactory completion of the improvements for which the performance guarantee was required, the Clerk shall return to the applicant the performance guarantee deposited.
- E. In the event that the applicant defaults in making the improvements for which the performance guarantee was required within the time period as agreed to in the site plan, the Township shall have the right to use the performance guarantee deposited to complete the improvements. Should the Township use the performance guarantee or a portion thereof to complete the required improvements, any amounts remaining after said completion shall be applied first to Township administrative costs in completing the improvements, with any balance remaining being refunded to the applicant. If the performance guarantee is not sufficient to allow the Township to complete the improvements for which it was given, the applicant shall be required to pay the Township the amount by which the costs of completing the improvement exceeded the amount of the performance guarantee deposited. These costs shall be billed to the permit holder, and shall constitute a lien to be collected in the same manner as delinquent taxes or as allowed by law.

SECTION 15.15 REGULATIONS ASSOCIATED WITH SPECIFIC USES

A. ADULT BUSINESSES

1. Purpose and Intent

The purpose and intent of this Section pertaining to the regulation of adult businesses is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the township, and to minimize their negative secondary effects. It is recognized that sexually oriented businesses, because of their very nature, have serious objectionable operational characteristics that cause negative secondary effects upon nearby residential, educational, religious, and other similar public and private uses. The regulation of sexually oriented businesses is necessary to ensure that their

negative secondary effects will not contribute to the blighting or downgrading of surrounding areas and will not negatively impact the health, safety, and general welfare of township residents. The provisions of this Ordinance are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this Ordinance to legitimize obscene activities that are prohibited by Township ordinance, state or federal law. If any portion of this Ordinance relating to the regulation of sexually oriented businesses or referenced in those sections is found to be invalid or unconstitutional by a court of competent jurisdiction, the Township intends that portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law. The Township further states that it would have passed and adopted what remains of any portion of this Ordinance relating to regulation of sexually oriented businesses following the removal, reduction or revision of any portion so found to be invalid or unconstitutional.

2. Standards and Additional Requirements

In order to prevent undesirable concentration of such uses, the following uses and activities shall not be located within 1,000 feet of any other such use, nor within 1,000 feet of a church or school, nor within 500 feet of any residentially zoned district or property being used as a residence in other zoned districts, as measured along a line forming the shortest distance between any portion of the respective properties of the following:

- a. Adult book store;
- b. Adult mini motion picture theatre;
- c. Adult motion picture theatre;
- d. Adult smoking or sexual paraphernalia store;

3. Waiver of Requirements

The Township Board may waive the foregoing spacing requirements if it finds the following conditions exist:

- a. The proposed use will not be contrary to the public interests or injurious to nearby properties in the proposed location;
- b. The proposed use will not enhance or promote a deleterious effect upon adjacent areas by causing or encouraging blight, a chilling effect upon other businesses and occupants, or a disruption in neighborhood development;
- c. The establishment of the additional regulated use in the area will not be contrary to any program of neighborhood conservation nor interfere with any program of urban renewal;

- d. All other applicable regulations within this Ordinance or other pertinent township ordinances will be observed.

B. KENNELS

1. Outdoor kennels:

- a. Must be located on a minimum of 20 acres. Ten dogs are permitted for the first 20 acres, and 1 additional dog for each additional 1/2 acre, with a maximum of 20 dogs.
- b. Buildings and runs for the housing of dogs shall be a minimum of 200 feet from any lot line.
- c. Outside runs must be individually fenced and paved with concrete.
- d. Dogs must be housed within an enclosed building between the hours of 9 pm. and 7 am each day.
- e. Retention and storage of animal waste produced will not be allowed. It must be disposed of in a sanitary manner on a daily basis in accordance with the Michigan Department of Health requirements.
- f. Kennels shall be operated in conformance with all applicable county, township, state and federal regulations and American Boarding Kennel Standards.

2. Indoor kennels:

- a. The kennel shall be housed within an enclosed, soundproof, heated, ventilated building with concrete floors throughout.
- b. Kennels shall be operated in conformance with all applicable Township, county, state and federal regulations and American Boarding Kennel Standards.
- c. The facility shall be arranged in such a manner as to insure safe and controlled transfer of animals from vehicles to the kennel building.
- d. Any outdoor exercise enclosure shall be screen with a solid wall.
- e. Retention and storage of animal waste produced will not be allowed. It must be disposed of in a sanitary manner on a daily basis in accordance with the Michigan Department of Health requirements.
- f. Minimum setback of 20 feet from rear and side property lines and 50 feet from front is required.

C. MULTIPLE-FAMILY DWELLINGS

1. Minimum lot area: 2 acres per structure containing 4 dwelling units, with an additional ¼ acre per additional dwelling unit in that structure. Additional area may be required to comply with County Health Department septic system requirements.
2. Minimum square feet of lot area per dwelling unit: 5,000 square feet.
3. Minimum frontage: 75 feet.
4. Minimum dwelling unit size: 720 square feet.
5. Minimum front setback: 25 feet.
6. Minimum side setback: 15 feet, with an additional 15 feet required for each 10 feet by which the dwelling exceeds 40 feet in overall dimension along the adjoining lot line.
7. Maximum building length: 200 feet.
8. Minimum rear setback: 25 feet.
9. Maximum height: 35 feet.
10. Minimum parcel size for planned development: 5 acres.
11. Maximum lot coverage of all structures: 60%.
12. Where more than one structure is erected on the same lot, they will be separated by a minimum distance of 30 feet, with an addition 2 feet for each 10 feet of the largest structure's total length on its longest side.

D. WIND ENERGY CONVERSION SYSTEM (WECS)

1. **Purpose:** The purpose of this Section is to establish standards for the siting, installation, operation, and removal or repair of Wind Parks within the Township as a special use.
2. **Application Materials**
 - a. **Application; Signatures:** The application for special use for a Wind Park shall be submitted on a form prepared for that purpose by the Township, and shall demonstrate the support in writing of each and every legal and equitable owner of each lot or parcel within the Township that is located in whole or in part within the Wind Park. If any owners of property within the Township that is proposed to be within the Wind Park do not support the application, the application shall identify those owners by name, address and telephone number, and a copy of the last offer the applicant made to that owner. If no offer was made to the owner, a copy of any and all communications between the applicant and the owner shall be submitted to the Planning Commission. The Planning Commission shall investigate the basis for each owner's objections. The record of the investigation shall be made a part of the record in the consideration of the special use

proceedings and the Planning Commission shall give due consideration to the basis for the objections in determining whether to permit any properties to be excluded from the Wind Park.

- b. Submission Requirements:** The applicant shall submit three (3) copies of the application and all supporting materials to the Township Zoning Administrator. The Zoning Administrator will cause the application to be placed on the Planning Commission's next regular meeting agenda.
- c. Site Plan Drawing and Supporting Materials:** All applications for a Wind Park special use must be accompanied by a detailed Site Plan, drawn to scale and dimensioned, and certified by a registered engineer licensed in the State of Michigan, displaying the following information.
 - i.** All requirements for a site plan contained in this Ordinance.
 - ii.** All lot lines and dimensions, including a legal description of each lot or parcel within the Wind Park.
 - iii.** Names of owners of each lot or parcel within the Township that is proposed to be within the Wind Park.
 - iv.** Location and height of all proposed buildings, structures, electrical lines, towers, guy wires, guy wire anchors, security fencing, and all above ground structures associated with each WECS.
 - v.** Location and height of all buildings, structures, and above ground utilities located or proposed within the Wind Park.
 - vi.** Specific distances to all onsite buildings, structures, and utilities shall be provided.
 - vii.** Location of all existing and proposed overhead and underground electrical transmission or distribution lines within the Wind Park, as well as within 1,000 feet of the outside perimeter of the Wind Park.
 - viii.** Proposed setbacks between each WECS and from each WECS to all existing and proposed structures within the Wind Park.
 - ix.** Topographical drawings displaying land elevations at each proposed WECS location and its relationship to the land elevations of all existing and proposed structures within the Wind Park.
 - x.** Access driveways to each WECS, together with a detailed narrative regarding dimensions, composition, and maintenance of each proposed driveway. All access driveways shall be subject to Bay County Road Commission approval, and the use of the drives shall be planned so as to minimize the use of lands for that purpose.

- iii. Manufacturer's name.
 - iv. Emergency numbers (list more than one number).
 - v. FAA regulated sign with precise description with latitude and longitude and shall also contain both the applicant's current telephone number and the current telephone number for the FAA's regional office having jurisdiction over the Township.
 - vi. If fences, all signs shall be placed on that fence.
- g. Lighting: A lighting plan for each WECS shall be approved by the Township Board. Such plans must describe all lighting that will be utilized, including any lighting that may be required by the FAA. Such a plan shall include but is not limited to the planned number and location of lights, light color and whether any lights will be flashing. All tower lighting will comply with FAA regulations and guidance and shall be consistent with the United State Fish and Wildlife Service and Michigan Department of Natural Resources guidelines.
- h. Electromagnetic Interference: Each WECS shall be designed; constructed and operated so far as possible so as not to cause radio, television and other wireless signal interference. If electromagnetic interference is experienced by properties outside the Wind Park, and the WECS is determined to cause radio, television or other wireless signal reception to be degraded from the conditions prior to the installation of the Wind Park through the proper utilization by an expert of relevant facts, data and reliable scientific principals and methods, the WECS owner shall provide alternate service to each individual resident or property owner affected. If a property owner or resident is successful in demonstrating degradation of their radio, television or other wireless signal reception caused by a WECS, then the WECS owner shall also reimburse the property owner or resident for their reasonable costs and fees incurred to prove the existence and cause of the degradation.
- i. Noise Emissions: All WECS shall be manufactured and constructed with the best available noise reduction technology available at the time of their construction. Noise emissions from the operation of one or more WECS operating within a Wind Park shall not in any case exceed fifty (50) decibels on the dBA scale as measured at any point on the boundary between land within the Wind Park and land outside the Wind Park and not more than fifty (50) decibels on the dBA scale as measured at residences outside the Wind Park. Sound shall be measured based on the L_{eq} method. A state-of-the-art baseline noise emission study of the proposed site and impact of estimated operating noise levels upon all areas within one (1) mile radius of each proposed WECS location shall be performed (at the applicant's cost) and submitted to the Township with the application for a special use.

- j. Distribution; Transmission and Interconnection:** All collection lines and interconnections from the WECS to the electrical substation shall be located and maintained underground inside the Wind Park. The Township Board may waive the requirement that collection lines and interconnections be located and maintained underground if the Township Board determines that it would be impractical or unreasonably expensive to install, place, or maintain such collection lines and interconnections underground.
- k. Approved Standards:** In addition to the other requirements and standards contained in this section, the Township Board shall not approve any Wind Park special use unless it finds that all of the following standards are met:

 - i.** The general special use standards contained in this Ordinance; and
 - ii.** The Wind Park will not pose a safety hazard or unreasonable risk of harm to the occupants of any surrounding properties or area wildlife.
- l. Conditions and Modifications:** Any conditions or modifications approved by the Township Board shall be recorded in the minutes of the appropriate Township Board Meeting. The Township Board may, in addition to other reasonable conditions, require landscaping, walls, fences, and other improvements that are reasonable in relation to and consistent with the nature of the district in which the WECS is located. After approval, at least two (2) copies of the final approved Site Plan shall be signed and dated by the Township Supervisor and authorized representative of the Applicant. One copy shall be kept on file by the Township Clerk, and one copy shall be returned to the applicant's authorized representative.
- m. Completion; Testing:** The applicant shall complete the Wind Park construction within 12 months after commencement of construction. Within 12 months of completion and commencement of operation, the applicant shall be required to present a report prepared by a third-party qualified professional, demonstrating that the Wind Park while in operation meets the requirements of this Ordinance and the permit for a special use with respect to noise emissions and electromagnetic interference, and shadow flicker effect.
- n. Inspection:** The Township shall have the right upon issuing any Wind Park special use to inspect the premises on which each WECS is located at any reasonable time. The Township may hire a consultant to assist with any such inspections at the applicant's reasonable cost.
- o. Maintenance and Repair:** Each WECS must be kept and maintained in good repair and condition at all times. If the Zoning Administrator determines that a WECS fails at any time to meet the requirements of this Ordinance and the permit for a special use with respect to noise emissions, electromagnetic interference, or shadow flicker effect, or that it poses a potential safety hazard, the applicant shall shut down the WECS within 48 hours after notice by the Zoning Administrator

and not start the WECS until the condition has been corrected. The applicant shall keep a maintenance log on each WECS, which shall be available for the Township's review on a monthly basis. The applicant shall keep all sites within the Wind Park neat, clean and free of refuse, waste or unsightly, hazardous or unsanitary conditions.

- p. Roads:** Any material damages to a public road located within the Township resulting from the construction, maintenance, or operation of a WECS shall be repaired at the applicant's expense. In addition, the applicant shall submit to the appropriate County agency a description of the routes to be used by construction and delivery vehicles; any road improvements that will be necessary to accommodate construction vehicles, equipment or other deliveries; and a performance guarantee acceptable to the County in an amount necessary to assure repair of any damage to the public roads caused by construction of the Wind Park or any of its elements.
- q. Complaint Resolution:** The applicant shall develop a process to resolve complaints from nearby residents and property owners concerning the construction and operation of the Wind Park. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude the Township from acting on a complaint. During construction and operation the applicant shall maintain a telephone number during business hours where nearby residents and landowners can reach a project representative.
- r. Abandonment:** Any WECS that is not used for the production of energy equal to 20% of the energy output described in the site plan for a period of 6 successive months or longer shall be deemed to be abandoned and shall be promptly dismantled and removed from the property, unless the applicant receives a written extension of that period from the Zoning Administrator in a case involving an extended repair schedule for good cause. All above and below ground materials (down 4 feet below the ground) must be removed. The ground must be restored to its original condition within 180 days of abandonment. The cost of such removal shall be borne solely by the applicant or its successor(s) or assign(s).
- s. Decommissioning Agreement:** Following the operational life of a Wind Park, or at the time a Wind Park project becomes obsolete, uneconomical, or abandoned, as determined by the Township Engineer or any other expert or specialist designated by the Township to make such a determination, the applicant shall perform decommissioning and removal of all of the WECS and their components within a Wind Park. The applicant shall negotiate a decommissioning agreement with the Township outlining a plan and funding source incorporating the security requirements in this section for decommissioning and removing of WECs within a Wind Park and submit such agreement to the Planning Commission for review and approval prior to issuance of any zoning permits. Under this agreement, all structures and facilities shall be removed and lawfully disposed, including any structures below-grade. No concrete, cables, and other materials may be left in

place. Any WECS that becomes abandoned shall be removed under the decommissioning agreement. Further, any land altered by a Wind Park or WECS must be restored to its original condition within 180 days of decommissioning.

t. Continuing Security and Escrow: If any WECS is approved for construction under this Ordinance, the applicant shall be required to post continuing security and a continuing escrow deposit prior to commencement of construction, which shall remain in effect until the WECS has been finally removed, as provided below:

i. *Continuing Security*: If a special use is approved pursuant to this section, the Township Board shall require security in the form of a cash deposit, irrevocable letter of credit, corporate bond or surety bond in a form, amount, time and duration deemed acceptable to the Township, which will be furnished by the applicant to the Township in order to ensure full compliance with this section and all conditions of approval. When determining the amount of each required security, the Township may also require an annual escalator or increase based on the Consumer Price Index (or the equivalent or its successor). Such financial guarantee shall be deposited or filed with the Township Clerk after a special use has been approved but before construction commences upon a WECS within the Wind Park. At a minimum, the financial security shall be in an amount determined by the Township to be reasonably sufficient to have each WECS fully removed (and all components properly disposed of and the land returned to its original state) should such structure or structures become abandoned, dangerous or obsolete, or not in compliance with this ordinance or the special use permit. Such financial security shall be kept in full force and effect during the entire time a WECS exists or is in place, and such financial security shall be irrevocable and non-cancelable (except by the written consent of both the Township and the then-owner of the WECS).

ii. *Continuing Escrow Deposit*: A continuing escrow deposit to be held by the Township shall be funded in cash by the applicant prior to the commencement of construction of any WECS and shall be maintained by the WECS owner until the WECS has been permanently removed. The monetary amount placed by the applicant in escrow with the Township shall be estimated by the Township to cover all reasonable costs and expenses associated with continuing enforcement of this Ordinance and the terms of the special use permit, which costs can include, but are not limited to, reasonable fees for the Township Attorney, Township Planner and Township Engineer, as well as costs for any reports or studies which the Township anticipates it may have done that are reasonably related to enforcement of the Ordinance and the special

use Permit. If the Township is required to expend any portion of the escrow deposit or if the existing escrow amount paid by the applicant proves to be insufficient to cover the Township's enforcement costs, the Township may require the WECS owner to place additional monies into escrow with the Township.

- iii.** *Continuing Obligations:* Failure to keep such financial security and escrow deposit in full force and effect at all times while a WECS exists or is in place shall constitute a material and significant violation of a special use and this Ordinance, and will subject the WECS owner to all remedies available to the Township, including possible enforcement action and revocation of the special use.
- u.** Liability: The applicant shall insure each WECS at all times, and shall maintain such insurance on its own behalf and on behalf of the Township as a co-insured, with limits of liability not less than \$2,000,000.00 per occurrence for damages to persons and property (to be adjusted annually to an amount equivalent to 2020 dollars based on CPI). Insurance coverage may only be demonstrated through a copy of the applicable policy; a certificate of insurance will not satisfy this requirement.
- v.** Color: A WECS shall be painted a non-obtrusive (light environmental color such as beige or gray) color that is non-reflective. The wind turbine base and blades shall be of a color consistent with all other turbines in the area. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.
- w.** Shadow Flicker Effect: All reasonable efforts shall be made to not affect any resident with any shadow flicker effect in the operation of any WECS, but at a minimum shall not exceed thirty (30) hours per a year; or such shadow flicker shall now fall within one hundred fifty (150) feet from a dwelling.
- x.** Vibrations or Wind Currents: Under no circumstances shall a WECS produce vibrations or wind currents humanly perceptible beyond the perimeter of the Wind Park.
- y.** Stray Voltage: The applicant shall be responsible for compensation for damages due to any stray voltage caused by a WECS in accordance with the rules of the Michigan Public Service Commission.
- z.** Environmental Impact Assessment: At the Township's request, the applicant shall fund an environmental assessment or impact study and/or other relevant report(s) or studies (including, but not limited to, assessing the potential impact on endangered species, eagles, birds, plants, and/or other wildlife) as required by the Township for review by the Township regarding the Wind Park or surrounding areas. Each study or report shall be provided to the Township prior to the time

when the Township Board makes its final decision regarding the special use permit.

- aa. Application Escrow Account:** An escrow account shall be funded by the applicant when the applicant applies for a special use permit for a Wind Park. The monetary amount placed by the applicant in escrow with the Township shall be estimated by the Township to cover all reasonable costs and expenses associated with the special use permit review and approval process, which costs can include, but are not limited to, reasonable fees of the Township Attorney, Township Planner and Township Engineer, as well as costs for any reports or studies which the Township anticipates it may have done that are reasonably related to the zoning review process for the particular application. Such escrow amount shall be in addition to any filing or application fees established by resolution. At any point during the special use permit review process, the Township may require that the applicant place additional monies into escrow with the Township should the existing escrow amount filed by the applicant prove insufficient. If the escrow account needs replenishing and the applicant refuses to do so promptly, the special use permit review and approval process shall cease until and unless the applicant makes the required escrow deposit. Any applicable zoning escrow resolutions or other ordinances adopted by the Township shall also be applicable.
 - bb. Reasonable conditions:** In addition to the requirements of this section, the Planning Commission may impose additional reasonable conditions on the approval of a Wind Park as a special use.
 - cc. Other Requirements:** Each Wind Park and WECS shall also comply with all applicable federal, state, and county requirements, in addition to other Township Ordinances.
- 6. Single WECS for On-Site Service Only.**
- i.** Single WECS applications of wind energy conversion system, including WECS testing facilities, to service the energy needs of only the property where the structure is located may be approved in any zoning district as a special use, provided the property upon which the WECS is located is at least three and one-half (3-1/2) acres in size, complies with all applicable federal, state, and local laws, rules, and regulations.
 - ii.** Single WECS are subject to the special use permit and site plan review and approval procedures and standards/criteria of this Ordinance, as well as the following:

 - a)** The tower shall not exceed 100 feet.
 - b)** The blade diameter (tip to tip) shall not exceed 100 feet.

- c) The height of the overall WECS (with the blade in vertical position) shall not exceed 130 feet above ground level (at a normal grade).
- d) The distance of the structure from all property lines shall be at least the height of the tower to the top of the rotor.

E. LANDFILLS

1. **Applicability of State Law; Purpose.** The Township acknowledges that the State of Michigan is solely responsible for the licensing of lands that are intended for use as sanitary landfills, and that those facilities are required to comply with Part 115 of the Natural Resources & Environmental Protection Act, 1994 PA 451, as amended. If a license is issued for a landfill within the Township, the following additional regulations will apply so as to ensure compatibility with surrounding land uses, and to safeguard the public health, safety, and welfare.
2. **Fencing.** All landfills must be completely enclosed by a cyclone-type fence of commercial grade and quality. This fence must be at least 6 feet in height.
3. **Landscaping.** Within and adjoining the fence required by this Section, there shall be a landscaped green belt at least 150 feet wide, planted with at least 3 rows of deciduous or evergreen trees. These rows may be staggered or straight, with trees planted no more than 25 feet apart. When planted, all trees must be at least 6 feet above the surrounding terrain, and must grow to a minimum final height of 16 feet. In addition, there will be 3 rows of deciduous or evergreen shrubs no more than 8 feet apart, with a minimum final height of 12 feet. All trees and shrubs are to be maintained during the use of the property as a landfill, and maintenance may be required after the facility is closed.
4. **Adjacent Land Use.** The Township may require the use of any commercially reasonable device to segregate a landfill from neighboring land uses.
5. **Access.** All landfills must be accessed through a private road, compliant with the Township's ordinances and all standards established by the County Road Commission.
6. **Nuisance.** All reasonable efforts must be made to keep the landfill free of rodents vermin, pests, and similar health hazards. Conditions related to noise, smell, glare, vibration, and other nuisances may also be implemented to minimize potential impact.
7. **Security.** All landfills must be secured when not in operation. The premises must be securely locked, and patrolled by security officers, whenever it is not in use.
8. **Setbacks.** All landfills must maintain a minimum setback of 1000 feet from any existing, occupied dwelling.

F. GROUP DAY CARE HOMES

- 1.** A group day care home shall be issued a special use permit if the following standards are met:
 - a.** It is not located closer than 1,500 feet to any of the following:
 - i.** Another licensed group child care home.
 - ii.** An adult foster care small group home or large group home licensed under the adult foster care facility licensing act, MCL 400.701 et seq.
 - iii.** A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under Article 6 of the public health code, MCL 333.6101 et seq.
 - iv.** A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.
 - b.** Has appropriate fencing for the safety of the children in the group child care home as determined by the Township.
 - c.** Maintains property consistent with the characteristics of neighborhood.
 - d.** Does not exceed 16 hours of operation during a 24-hour period. Hours may be limited between 10:00PM and 6:00AM, but operation may not be prohibited during that time.
 - e.** Meets regulations governing the signs used to identify itself.
 - f.** Meets regulations requiring the operator to provide off-street parking accommodations for employees.

G. SOLAR ENERGY

- 1.** Solar Energy Systems, General Regulations
 - a.** Small Solar Energy Systems shall require an application for a land use permit. Any Small Solar Energy System mounted on the ground shall comply with those requirements applicable to accessory buildings, or those requirements applicable to an accessory building within the zoning district in which the Solar Energy System is located, whichever are more stringent.
 - b.** A site plan shall be prepared and submitted to the Zoning Administrator for approval prior to commencing installation. The site plan shall include the proposed location and an elevation drawing showing the proposed height and foundation details.
 - c.** Small Solar Energy Systems shall not be constructed or installed in the front yard of any lot, absent a showing that the Solar Energy System cannot be operated

efficiently on any other location on the property, and that such operation will not unreasonably interfere with adjacent properties.

- d.** Any Small or Medium Solar Energy System erected on a building shall not extend beyond the peak of the roof, provided that a Small or Medium Solar Energy System erected on a flat roof shall otherwise comply with the other requirements of this Section. In no event shall any portion of a Solar Energy System extend beyond the lesser of either 35 feet or the maximum building height permitted within the district in which that Solar Energy System is located.
- e.** Any Solar Energy System mounted on the roof of a property must be installed with a minimum three (3) foot setback from the edges of the roof, the peak, the eave, or the valley.
- f.** No Solar Energy System shall be installed in such a way as to pose an Unreasonable Safety Hazard.
- g.** All Solar Energy Systems must conform to all applicable federal, state and county requirements, in addition to other applicable Township Ordinances, as well as any applicable industry standards.
- h.** All Solar Energy Systems must be installed in a manner ensuring that concentrated solar glare shall not be directed onto nearby properties or roadways.
- i.** Any Small Solar Energy System mounted on the ground shall be sufficiently screened from the view of adjacent properties or roadways through the use of solid fencing consistent with Article 12, or the installation of a wall, hedge, or other vegetation not less than four (4) feet and no more than eight (8) feet in height.
- j.** All power transmission lines from a ground-mounted Solar Energy System to any building or other structure shall be located underground. The Township Board may waive this requirement, or may limit it through conditions, if it determines that it would be impractical or unreasonably expensive to install, place or maintain such transmission lines underground.
- k.** Any Solar Energy System and the surrounding premises must be kept and maintained in good repair and condition at all times, and must continuously conform with all applicable building and electrical codes. This shall include, but is not limited to, ensuring that any fencing is maintained to provide sufficient protection and screening, that the property is kept clear of trash and other debris, that all aspects of the Solar Energy System are maintained according to industry standards, and that no portion of the Solar Energy System is in a blighted, unsafe, or substandard manner.
- l.** An Abandoned Solar Energy System shall be removed by the property owner within six (6) months.

2. Large Solar Energy Systems

- a. Purpose and Intent: The purpose and intent of this Subsection is to establish standards for the siting, installation, operation, repair, decommissioning and removal of Large Solar Energy Systems as a special use.
- b. Site Plan Drawing and Supporting Materials: All applications for a Large Solar Energy System must be accompanied by detailed site plans, drawn to scale and dimensioned and certified by a registered engineer licensed in the State of Michigan, displaying the following information in addition to the information required by Article 15:
 - i. A site plan.
 - ii. All lot lines and dimensions, including a legal description of each lot or parcel comprising the Large Solar Energy System.
 - iii. Names of owners of each lot or parcel within the Township that is proposed to be within the Large Solar Energy System.
 - iv. Vicinity map showing the location of all surrounding land uses.
 - v. Location and height of all proposed Solar Array(s), buildings, structures, electrical tie lines and transmission lines, security fencing, and all above-ground structures and utilities associated with the Large Solar Energy System.
 - vi. Horizontal and vertical (elevation) scale drawings with dimensions that show the location of the proposed Solar Array(s), buildings, structures, electrical tie lines and transmission lines, security fencing and all above ground structures and utilities on the property.
 - vii. Location of all existing and proposed overhead and underground electrical transmission or distribution lines within the Large Solar Energy System and within 1,000 feet of the outside perimeter of the Large Solar Energy System.
 - viii. Proposed setbacks from the Solar Array(s) to all boundary lines and all existing and proposed structures within the Large Solar Energy System.
 - ix. Land elevations for the Solar Array(s) location and the relationship to the land elevations of all existing and proposed structures within the Large Solar Energy System.
 - x. Access driveways within and to the Large Solar Energy System, together with a detailed narrative regarding dimensions, composition, and maintenance of each proposed driveway. All access drives shall be subject to Bay County Road Commission or Michigan Department of

Transportation approval as appropriate, and shall be planned so as to minimize the use of lands for that purpose.

- xi.** Planned security measures to prevent unauthorized trespass and access and to warn of potential dangers during the construction, operation, removal, maintenance or repair of the Large Solar Energy System.
- xii.** A written description of the maintenance program to be used for the Solar Array(s) and other components of the Large Solar Energy System, including decommissioning and removal procedures when determined by the Township to be obsolete, uneconomic or an Abandoned Solar Energy System. The description shall include maintenance schedules, types of maintenance to be performed, and decommissioning and removal procedures and schedules if the Large Solar Energy System becomes obsolete, uneconomical or an Abandoned Solar Energy System.
- xiii.** A copy of the manufacturer's safety measures.
- xiv.** Planned lighting protection measures.
- xv.** The environmental impact of the Large Solar Energy System, as reflected in an environmental impact study, including, but not limited to, a review of the following factors
 - a)** Impact on area water resources
 - b)** Impact on air quality
 - c)** Noise impacts caused by the Solar Energy System
 - d)** Impact on utilities and infrastructure
 - e)** Protection of neighboring property owners and children
 - f)** Impact on wildlife
 - g)** Effects on floodplains and wetlands
 - h)** Unique farmlands or soils
 - i)** Areas of aesthetic or historical importance
 - j)** Archeological or cultural concerns
 - k)** Any other environmental factors typically evaluated by other members of the commercial energy industry when evaluating locations for a proposed power-generating facility

- xvi.** A written description of measures to be taken to support the flow of rainwater throughout the Large Solar Energy System, including any measures to promote the growth of vegetation beneath the arrays and/or otherwise limit the impacts of storm water runoff. The measures shall be subject to the approval of the Bay County Drain Commission.
- xvii.** A written contract with any energy provider or other purchaser of the energy produced by the Large Solar Energy System, demonstrating a commitment to purchase said energy. If this information is considered a confidential trade secret, the Township, upon written request from an energy provider, will keep such information confidential to the extent and through the means authorized by Public Act 442 of 1976.
- xviii.** Additional detail(s) and information as required by the Special Land Use requirements of the Zoning Ordinance, or as required by the Township.
- c.** Application Escrow Deposit: An escrow deposit shall be paid to the Township by the applicant when the applicant applies for a special use permit for a Large Solar Energy System. The monetary amount deposited by the applicant in escrow with the Township shall be the amount estimated by the Township to cover all reasonable costs and expenses associated with the special use permit review and approval process, which costs shall include, but are not limited to, reasonable fees of the Township Attorney, Township Planner and Township Engineer, as well as costs for any reports or studies that are reasonably related to the zoning review process for the application. Such escrow amount shall be in addition to any filing or application fees established by resolution. At any point during the special use permit review process, the Township may require that the applicant place additional funds into escrow with the Township if the existing escrow amount deposited by the applicant is deemed insufficient by the Township. If the escrow account needs replenishing and the applicant refuses to do so promptly, the special use permit process shall cease unless and until the applicant makes the required additional escrow deposit. Any applicable zoning escrow resolutions or other ordinances adopted by the Township must also be complied with by the applicant.
- d.** Compliance with the State Building Code and the National Electric Safety Code: Construction of a Large Solar Energy System shall comply with the National Electric Safety Code and the state construction codes as administered and enforced by the Township (as shown by approval by the Township) as a condition of any special use permit under this section.
- e.** Certified Solar Array Components: Components of a Solar Array shall be approved by the Institute of Electrical and Electronics Engineers (“IEEE”), Solar Rating and Certification Corporation (“SRCC”), Electronic Testing Laboratories (“ETL”), or other similar certification organization acceptable to the Township.

- f. Height: Maximum height of a Solar Array shall not exceed fifteen (15) feet. Other collection devices, components or buildings of the Large Solar Energy System shall not exceed thirty-five (35) feet, or five and one-half (5.5) feet greater than the maximum building height permitted within the district in which that Solar Energy System is located, whichever is less, at any time or location on the property. The height shall be measured from the natural grade at the base of the Solar Array, device, component or building measured. The Township Board may waive or modify these height requirements for certain aspects of a Solar Energy System (such as structures associated with above-ground transmission lines) through the implementation of conditions when appropriate.
- g. Lot Size: A Large Solar Energy System shall be located on one or more parcels with an aggregate area of 10 acres or greater.
- h. Setbacks: A minimum setback distance of forty (40) feet from all property boundaries on the outside perimeter of the Large Solar Energy System shall be required for all buildings and Solar Arrays.
- i. Lot Coverage: A Large Solar Energy System is exempt from maximum lot coverage limitations.
- j. Screening/Security: A Large Solar Energy System shall be completely enclosed by perimeter security fencing to restrict unauthorized access. Such fencing shall be 8 feet in height as measured from the natural grade of the fencing perimeter. Electric fencing is not permitted. The perimeter of Large Solar Energy Systems shall also be screened and buffered by installed evergreen vegetative plantings whenever existing natural forest vegetation does not otherwise continuously obscure the Large Solar Energy System's entire perimeter from adjacent parcels, subject to the following requirements:
 - 1. Unless screened and buffered at times by natural forest vegetation meeting the minimum spacing and height requirements, and having a substantially similar obscuring effect of an evergreen vegetative buffer installed pursuant to this Section, a continuous evergreen vegetative buffer shall be installed and maintained at all times at the perimeter of the all Large Solar Energy Systems, including without limitation between such Large Solar Energy Systems and adjacent residential or agricultural areas and/or public highways or streets. Nothing contained herein shall be construed to prevent reasonable access to any Large Solar Energy System as approved by the special use permit.
 - 2. The evergreen or native vegetative buffer shall be composed of native or evergreen trees that at planting shall be a minimum of 4 feet in height and shrubs 2 feet in height. The evergreen trees shall be spaced no more than 15 feet apart on center (from the central trunk of one plant to the central trunk of the next plant), native trees shall be placed no more than 30 feet apart on center and shrubs shall be spaced no more than 7 feet apart on

center. All unhealthy (60 percent dead or greater) and dead material shall be replaced by the applicant within 6 months, or the next appropriate planting period, whichever occurs first, but under no circumstances should the applicant allow unhealthy or dead material to remain in place for more than 6 consecutive months. Failure to maintain the required evergreen vegetative buffer as required by this section shall constitute a violation of this Ordinance and sufficient grounds for revocation of any special use permit previously granted.

3. All plant materials shall be installed between March 15 and November 15. If the applicant requests a final certificate of occupancy from the Township and the applicant is unable to plant during the installation period, the applicant will provide the Township with a letter of credit, surety or corporate guarantee for an amount equal to 1.5 times the cost of any planting deficiencies that the Township shall hold until the next planting season. After all plantings have occurred, the Township shall return the financial guarantee.

- k. Signage: No lettering, company insignia, advertising, graphics or other commercially-oriented inscriptions or designs shall be on any part of the Solar Arrays or other components of the Large Solar Energy System. This section does not prohibit signs reasonably necessary to inform the public of potential safety hazards associated with the Large Solar Energy System, nor does it prohibit any other signs that may be required by this Ordinance, the special use permit or other applicable law.
- l. Noise: No component of any Large Solar Energy System shall emit noise exceeding 50 dBA as measured at the outside perimeter of the project using the L_{eq} method.
- m. Lighting: All lighting for parking lots, driveways, external illumination of buildings, or the illumination of signs shall be directed away from and be shielded from adjacent properties and shall be so arranged as to not adversely affect driver visibility on adjacent public roads.
- n. Glare: All solar panels shall be placed such that concentrated solar glare shall not be directed onto nearby properties or roadways.
- o. Distribution, Transmission and Interconnection: All collection lines and interconnections from the Solar Array(s) to any electrical substations shall be located and maintained underground inside the Large Solar Energy System. The Township Board may waive this requirement, or modify it with appropriate conditions, if it determines that it would be impractical or unreasonably expensive to install, place or maintain such collection lines and interconnections underground.

- p. Abandonment and Decommissioning: Following the operational life of the project, or at the time the project becomes obsolete, uneconomic or an Abandoned Solar Energy System, as determined by the Township Engineer or any other expert or specialist to be designated by the Township to make such a determination, the applicant shall perform decommissioning and removal of the Large Solar Energy System and all its components. The applicant shall prepare a decommissioning plan and submit it to the Planning Commission for review prior to issuance of the Special Land Use Permit. Under this plan, all structures and facilities shall be removed, including any structures below-grade, and removed offsite for disposal. No concrete, piping and other materials may be left in place. Any Solar Array or combination of Photovoltaic Devices that become an Abandoned Solar Energy System shall be removed under the decommissioning plan. The ground must be restored to its original condition within 180 days of becoming an Abandoned Solar Energy System, or decommissioning, whichever occurs first.
- q. General Standards: The Planning Commission shall not recommend for approval any Large Solar Energy System special use permit unless it finds that all of the applicable standards for special use permit contained in this Ordinance are met.
- r. Safety: The Planning Commission shall not recommend for approval any Large Solar Energy System special use permit if it finds the Large Solar Energy System will pose an Unreasonable Safety Hazard to the occupants of any surrounding properties or area wildlife.
- s. Conditions and Modifications: Any conditions and modifications approved by the Planning Commission shall be recorded in the Planning Commission's meeting minutes. The Planning Commission may, in addition to other reasonable conditions, require landscaping, walls, fences and other improvements that are reasonable in relation to and consistent with the nature of the applicable or adjacent zoning districts. After approval, at least two (2) copies of the final approved Site Plan shall be signed and dated by the Chairman of the Planning Commission and authorized representative of the applicant. One copy shall be kept on file by the Township Clerk, and one copy shall be returned to the applicant's authorized representative.
- t. Inspection: The Township shall have the right at any reasonable time to inspect the premises on which any Large Solar Energy System is located. The Township may hire one or more consultants to assist with any such inspections, at the applicant's or project owner's expense.
- u. Maintenance and Repair: Each Large Solar Energy System must be kept and maintained in good repair and condition at all times. If the Township Zoning Administrator determines that a Large Solar Energy System fails at any time to meet the requirements of this Ordinance and the special use permit, or that it poses a potential Unreasonable Safety Hazard, the applicant shall shut down the Large Solar Energy System within 48 hours after notice by the Zoning

Administrator and not operate, start or restart the Large Solar Energy System until the condition has been corrected. Applicant shall keep a maintenance log on the Solar Array(s), which shall be available for the Township's review on a monthly basis. Applicant shall keep all sites within the Large Solar Energy System neat, clean and free of refuse, waste or unsightly, hazardous or unsanitary conditions.

- v. Roads: Any material damages to a public road located within the Township resulting from the construction, maintenance or operation of a Large Solar Energy System shall be repaired at the applicant's expense. In addition, the applicant shall submit to either the Bay County Road Commission or MDOT (as appropriate) a description of the routes to be used by construction and delivery vehicles; any road improvements that will be necessary to accommodate construction vehicles, equipment or other deliveries; and a performance guarantee acceptable to the appropriate agency in an amount necessary to assure repair of any damage to the public roads caused by construction of the Large Solar Energy System or any of its elements.
- w. Continuing Security and Escrow: If any Large Solar Energy System is approved for construction under this Section, applicant shall be required to post continuing security and a continuing escrow deposit prior to commencement of construction, which shall remain in effect until the Large Solar Energy System has been finally removed, as provided below:
 - i. Continuing Restoration Security: If a special use permit is approved pursuant to this section, the Township Board shall require security in the form of a cash deposit, letter of credit, or surety bond acceptable to the Township, which will be furnished by the applicant to the Township in order to ensure full compliance with this section and all conditions of approval. When determining the amount of each required security, the Township may also require an annual escalator or increase based on the Consumer Price Index (or its equivalent or successor). Such financial guarantee shall be deposited or filed with the Township Clerk after a special use permit has been approved but before construction commences on the Large Solar Energy System. At a minimum, the financial security shall be in an amount determined by the Township to be reasonably sufficient to restore the property to its previous condition prior to construction and operation of the Large Solar Energy System. Such financial security shall be kept in full force and effect during the entire time that the Large Solar Energy System exists or is in place, and such financial security shall be irrevocable and non-cancelable. In addition, the party operating a Large Solar Energy System approved by the Township shall inform the Township in the event that System, or a material portion of that system is sold to a third party, and any such sale shall require the purchasing party to provide the Township with the security described by this section, along with relevant contact information.

- ii.** Continuing Compliance and Enforcement Escrow Deposit: A continuing escrow deposit shall be held by the Township and shall be funded by a cash deposit, letter of credit, or surety bond by the applicant prior to the commencement of construction of any Large Solar Energy System and shall be maintained by the owner or operator until the Large Solar Energy System has been permanently decommissioned and removed. The monetary amount placed by the applicant in escrow with the Township shall be estimated by the Township to cover all reasonable costs and expenses associated with continuing enforcement of this Ordinance and the terms of the special use permit, which costs can include, but are not limited to, reasonable fees for the Township Attorney, Township Planner and Township Engineer, as well as costs for any reports or studies that the Township determines are reasonably related to enforcement of the Ordinance and the special use permit. If the Township is required to expend any portion of the escrow deposit or if the existing escrow amount paid by the applicant proves to be insufficient to cover the Township's enforcement costs, the Township may require the applicant to place additional monies into escrow with the Township.
- iii.** Continuing Obligations: Failure to keep any required financial security and escrow deposit in full force and effect at all times while a Large Solar Energy System exists or is in place shall constitute a material and significant violation of the special use permit and this Ordinance, and will subject the Large Solar Energy System applicant, owner and operator to all remedies available to the Township, including enforcement action and revocation of the special use permit. A review of security and escrow requirements shall occur no less than annually to determine compliance with this section.
- x.** Completion of Construction: The construction of any Large Solar Energy System must commence within a period of one (1) year from the date a special use permit is granted, and must be completed within a period of three (3) consecutive years from the date a Special Land Use Permit is granted. The Township Board may grant an extension not to exceed one (1) year, provided the applicant requests the extension prior to the date of the expiration of the special land use approval. Failure to complete construction within the permitted time period shall result in the approved special use permit being rendered null and void. An appeal of a SUP approval shall reflect the total of these periods.
- y.** Quarterly Reports: The owner or operator of a Large Solar Energy System shall provide the Zoning Administrator with quarterly reports on trends and usage of that System as set by the Township Board. If this information is considered a confidential trade secret, the Township, upon written request from an energy provider, will keep such information confidential to the extent and through the means authorized by Public Act 442 of 1976.

- z. Transfer of Ownership/Operation:** Prior to a change in the ownership or operation a Large Solar Energy System, including, but not limited to, by the sale or lease of that System or the underlying property, the current owner or operator shall provide written notice to the Township at least sixty (60) days prior to that change becoming effective. This notice shall inform the Township of the intended transfer of control of the Large Solar Energy System, and shall include a copy of the instrument or agreement effecting that transfer. Such an instrument or agreement shall include an express statement that the new owner or operator of the Large Solar Energy System shall not be permitted to operate that System until compliance with the terms of this Ordinance, including requirements for continuing security and escrow funds, has been established

3. Medium Solar Energy Systems

- a. Purpose and Intent:** The purpose and intent of this Subsection is to establish standards for the siting, installation, operation, repair, decommissioning and removal of Medium Solar Energy Systems as a special use.
- b. Requirements:** Medium Solar Energy Systems require a special use permit and are subject to all provisions applicable to Large Solar Energy Systems established by Section 17.15(F)(2), except the following parts thereof:

- 1.** Subsection (F)(2)(b)(iii);
- 2.** Subsection (F)(2)(b)(xvii);
- 3.** Subsection (F)(2)(y).

H. MINING AND EXTRACTION OPERATIONS

- 1. Minimum Parcel Size:** The minimum parcel or lot size for a mining and extraction operation shall be forty (40) acres.
- 2. Specific Requirements:** In addition to the information required on the standard special use permit application, the applicant shall provide the following information with the application for the initial special use permit and for any renewal of the special use permit:
 - a.** Name and address of the person, firm or corporation who will be conducting the actual mining and extraction operations, if different than the applicant.
 - b.** Location, size, and legal description of the area from which the removal is to be made.
 - c.** Type of materials or resources to be mined, stockpiled, or hauled away.
 - d.** Proposed method of removal and general haul route.
 - e.** General description of types of equipment to be used.
 - f.** The estimated number of years to complete operations and number of phases where appropriate.
 - g.** A plan of operation with which the applicant and operator will be expected to comply during the period for which the license is issued. The plan of operation shall include a topographic survey of the existing parcel drawn to a scale of 1 inch = 100 feet and prepared by a registered civil engineer or registered land surveyor with contour intervals not to exceed 10 feet based upon United States Geological Survey datum. The drawing shall also clearly show the area to be mined, including existing areas and roads within 100 feet of all property lines, areas for stockpiling, maintenance areas, berms, fencing, and similar use areas. The plan of operation shall be accompanied by a projected schedule of mining and extraction operations, including the following specific dates:
 - i.** Commencement and completion of mining and extraction operations as provided by the plan of operation;
 - ii.** Commencement and completion of erosion and drainage control measures to be instituted during mining and extraction operations; and
 - iii.** Commencement and completion of fencing, roads, utilities, or any other structures or improvements to be located on the site as provided by the plan of operation.
 - h.** A reclamation plan, which shall be submitted in three parts: (1) A recent aerial photograph with a reclamation plan as an overlay or as a separate drawing; (2) a

reclamation contour plat, (3) and a description of reclamation methods and materials proposed for renewal of topsoil and replanting. The plan of reclamation shall be presented at the same scale as the aerial photograph and shall provide the following information:

- i.** The general area of completely reclaimed land.
- ii.** The general area of reclamation under way.
- iii.** The general area currently used for topsoil and overburden storage.
- iv.** The general area proposed for reclamation during the 2-year period of the special use permit.
- v.** The general area proposed for topsoil and overburden storage.
- vi.** The acreage for each item shown on the overlay or separate drawing.
- vii.** A reclamation contour plat with contour intervals not to exceed 2 feet indicating the general grade and slopes to which excavated areas are to be reclaimed.
- viii.** A description of the methods and materials proposed for restoration of topsoil to the required fertility and the amount of any type of planting as a part of the reclamation plan.
- ix.** The projected schedule of reclamation operations, including the following specific dates:
 - a)** Commencement and completion of reclamation operations as provided by the reclamation plan;
 - b)** Commencement and completion of erosion and drainage control measures to be instituted under the reclamation plan; and
 - c)** Commencement and completion of final grading, top-soil replacement, and replanting or landscaping as provided by the reclamation plan.
- x.** Operation and reclamation plans shall be prepared to clearly depict and describe the sequence of mining operations including existing conditions, mining underway, mining completed, reclamation underway, reclamation completed, mining proposed, reclamation proposed, stock piles, roadways, and similar land use elements. All operation and reclamation plans shall be reviewed by the Township Board and subject to its approval, disapproval or modification.

- i.** Construction of a raised earthen berm area on the mining site along boundary lines thereof where such lines abutting a public highway or residential property. The berm shall be sufficient in length and height to screen the mining or stockpile area. During the planting season following the placement of the berm and as often as may be necessary to assure the existence of a vegetative ground cover, the applicant shall seed or plant the berm in a manner suitable for the area and soil conditions so as to provide vegetation to check erosion and to provide a visible ground cover substantially similar to the adjacent vegetation cover. Where the topography of the area acts as a screen, the Township Board may waive the berm requirement. The berm shall have slopes not in excess of one foot vertical to 2 feet horizontal.
 - ii.** Planting of coniferous trees along the boundaries of the property with sufficient rows and depth to permit effective screening of the mining area.
 - iii.** To the extent that the foregoing is not practical, the applicant may submit alternate proposals. The amount and extent of required screening shall be reasonable and practical as determined by the Township Board.
- 7.** Hours of Operation: Maximum hours of operation of the mining operation shall be 8:00 a.m. to 6:00 p.m., Monday through Friday. No hours of operation shall be permitted on weekends or legal holidays. In emergencies this time period may be modified by the Zoning Administrator, provided such emergency order shall not be effective for more than 72 hours.
- 8.** Road Access: All sites permitted under the provisions of this Section shall have direct access to a County road having a minimum right-of-way width of 66 feet and improved to the specifications of the Bay County Road Commission. When the permitted operation results in the mined material, overburden and/or similar material being deposited or spilled upon the public roadway, it shall be the responsibility of the applicant to remove such material.
- 9.** Road Maintenance: Access roads within the permitted site shall be maintained by the applicant so as to minimize the dust arising from the use of the roads. Such maintenance shall be accomplished through the application of chloride, water and/or similar dust retardant material. Application of oil shall be prohibited. A paved road from the entrance and exit, a distance of not less than 300 feet from the right-of-way line into the area of operation shall be provided in order to minimize the deposit of dirt and gravel from trucks onto the public highway. Entrances and exits shall be securely locked during non-operating hours.
- 10.** Operation of Use: All equipment and facilities used in the mining of sand, gravel, and stone shall be conducted, maintained, and operated in such manner as to eliminate insofar as practicable, noises, vibrations, or dust that interfere with the reasonable use and enjoyment of surrounding property.

11. Noise Standards: Mining sites shall be operated such that the noise of operation or equipment vibration cannot reasonably be considered disturbing to neighboring uses of land. Objectionable noises due to intermittence, beat, frequency, or shrillness shall be muffled so as not to become a nuisance to adjacent uses. Equipment on permitted sites at any time or under any condition shall not be operated so as to result in noise that would be offensive to a person of normal sensitivities outdoors on any property line abutting a property used for residential purposes.

I. TELECOMMUNICATION TOWERS AND ANTENNAS

- 1. Purpose:** The purpose of this Section is to establish guidelines for the siting of telecommunications towers and antennas. The goals of this section are as follows:
 - a.** To protect the residents and lands of Pinconning Township from the adverse effects of towers and antennas and to avoid potential damage to adjacent properties from tower failure through proper engineering and careful siting of tower structures;
 - b.** To require users of towers and antennas to locate them, to the extent possible, in areas where the adverse effects upon the community are minimal;
 - c.** To require users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through design, siting, landscape screening, and camouflage techniques;
 - d.** To minimize the required number of towers throughout the community by a rationalized method of siting;
 - e.** To require the joint use of new and existing towers sites as the standard rather than the construction of single-use towers; and
 - f.** To enhance the ability of the providers of telecommunication services to provide such services to the community effectively and efficiently.
- 2. Applicability.**
 - a.** New towers and antennas. All new towers or antennas, or modifications of existing towers or antennas, in Pinconning Township shall be subject to these regulations, except as provided below.
 - b.** AM array. An AM array, consisting of one or more tower units and supporting ground system which functions as on AM broadcasting antenna, shall be considered one tower. Measurement for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array.
 - c.** Receive-Only Antennas and Related Structures. The following requirements shall apply to any tower, antenna, or other structures similar in size, shape and function, which is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operation or that is used exclusively for receiving signals.
 - i.** Antennas, satellite dishes, and similar structures shall be located no closer than the height of the tower to any lot line, and in no instances shall such structures maintain a setback of less than 6 feet from any side or rear lot lines.

- ii.** Towers, satellite dishes, antennas, and similar structures shall not be placed or constructed in any required front yard
- iii.** Satellite dishes may be placed or mounted on poles; however, they shall be subject to accessory building height limitations.

d. General requirements.

- i.** Principal or accessory use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- ii.** Lot size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
- iii.** Tower height. No tower shall be higher than 199 feet unless an applicant can demonstrate that such a restriction is commercially unreasonable based upon the industry standard height.
- iv.** Inventory of existing sites. Each applicant for an antenna and/or tower shall provide an inventory of any existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of Pinconning Township or within one mile of the border thereof, including specific information about the location, height, and design of each tower.
- v.** Aesthetics. Towers and antennas shall meet the following requirements:
 - 1.** Finish and color of towers. At the discretion of the Township, towers shall either be painted a neutral color so as to reduce visual obtrusiveness or maintain a galvanized steel finish subject to any applicable standards of the FAA.
 - 2.** Blend with setting. At a tower site, the design of the buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend with the natural setting and surrounding buildings.
 - 3.** Color of antenna. 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 compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

4. Lighting. Towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the lighting and design chosen must cause the least disturbance to the surrounding views.
 5. Landscaping. Trees, shrubs, and other plants shall be installed to screen the tower and its appurtenant structures and equipment from public view. Plantings shall be done at the borders of a tower site, along its frontage, and in any direction existing vegetation does not screen the tower structure, guys, anchor structures, or equipment enclosures. Existing mature trees and shrubbery and the natural landscape shall be preserved to the maximum extent possible and may be used to achieve this standard.
- vi. State or federal requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
 - vii. Building codes and safety standards. To guarantee the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, Pinconning Township concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense. Buildings and support equipment associated with antennas or towers shall comply with the requirements of this Section.
 - viii. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in Pinconning Township irrespective of municipal and county jurisdictional boundaries.

Article prior to filing any other appeal that may be available under this Ordinance.

- v. List of administratively approved uses. The uses listed below may be approved by the Zoning Administrator after conducting an administrative review.
 - 1. Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any commercial, manufacturing, professional, institutional, or multifamily structure of eight or more dwelling units, provided that the antenna:
 - a. Does not extend more than 30 feet above the highest point of the structure;
 - b. Complies with all applicable FCC and FAA regulations;
 - c. Complies with all applicable building codes; and
 - d. Meets all other conditions of this section.
 - 2. Antennas on existing towers. Any antenna which is attached to an existing tower may be approved by the Zoning Administrator, and to minimize adverse visual and physical impacts associated with the proliferation of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided that such collocation is accomplished in a manner consistent with the following:
 - a. A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type and trim as the existing tower, unless the Zoning Administrator allows reconstruction as a monopole.
 - b. Existing towers may be modified to accommodate collocation of an additional antenna. Such a modification may include construction to increase an existing tower's height by up to 30 feet, but not beyond a maximum height of 199 feet. Such construction may occur only once per tower without a special use permit. The tower's pre-modification height shall continue to be used to calculate such distance separations.
 - c. A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved on site within 50 feet of its existing location. After the tower is

rebuilt to accommodate collocation, only one tower may remain on the site.

- d.** A relocated on-site tower shall continue to be measured from the original tower location for purpose of calculating separation distances between towers.
- e.** No relocated tower shall be placed within the separation distance to residential units or residentially zoned lands.

3. Special use permits.

a. General. The following provisions shall govern the issuance of special use permits for towers or antennas by the Planning Commission:

- i.** If the tower or antenna is not a permitted use, or permitted for administrative approval under this Section, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.
- ii.** Applications for special use permits shall be subject to the procedures and requirements of special uses generally, except as modified in this section.
- iii.** Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
- iv.** An applicant for a special use permit shall submit the information described by this Section and a nonrefundable fee as established by resolution of the Board to reimburse it for the costs of reviewing the application.
- v.** Once a tower or antenna is established pursuant to this Section, the owner shall be required to pay the Township an annual fee consistent with applicable State and Federal regulations. Such fee shall be established by resolution of the Township Board.
- vi.** Information required. In addition to any information required for applications for special uses generally, applicants for a special use permit for a tower shall submit the following information:

1. A scaled site plan clearly indicating:

- a.** The location, type and height of the proposed tower;

9. 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 service to be provided through the use of the proposed new tower.
 10. A description of the feasible location(s) of future towers or antennas within Pinconning Township based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- vii.** Considerations in granting a special use permit for a tower. In addition to any standards for consideration of special use permit applications generally, the Planning Commission shall consider the following factors in determining whether to issue a special use permit for a telecommunication tower or antenna. The Planning Commission may waive or reduce the requirements of one or more of these criteria if the Planning Commission concludes that the goals of this section are better served thereby.
1. Height of the proposed tower;
 2. Proximity of the tower to residential structures and residential district boundaries;
 3. Nature of uses of adjacent and nearby properties;
 4. Surrounding topography;
 5. Surrounding tree coverage and foliage;
 6. Design of the tower, with particular reference to those characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 7. Proposed ingress and egress to the tower location; and
 8. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed below.
- viii.** Availability of suitable existing towers, other structures, or alternative technology. No new tower shall be permitted unless the applicant demonstrates to the satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission relevant to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate

that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna shall consist of any of the following:

1. No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
 2. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
 3. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
 4. 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.
 5. 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.
 6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 7. The applicant demonstrates that 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.
- ix.** Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required. The Planning Commission may reduce the standard setback requirement if the goals of this section would be better served thereby.
1. All towers must be set back a distance equal to the height of the tower from any adjoining lot line.
 2. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

- x. Separation. The separation requirements set forth shall apply to all towers and antennas for which a special use permit is required; however, the Planning Commission may reduce the standard separation requirements if the goals of this section would be better served thereby.
- xi. Separation from off-site uses and designated areas.
 1. Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as

Table 1	
Single-family, duplex, or multifamily residential units	500 feet or 300% height of tower, whichever is greater
Vacant single-family or duplex residentially zoned property from dwelling unit or property lines	Height of tower plus 10% from any lot line or structure
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

specified in Table 1, except as otherwise provided in Table 1.

2. Separation distances between towers. Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to the site plan of the proposed tower. The separations distances shall be as shown in Table 2.

Table 2				
	Lattice (feet)	Guyed (feet)	Monopole Greater than 75 feet in Height	Monopole Less than 75 feet in Height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole Greater than 75 feet in	1,500	1,500	1,500	750

Height				
Monopole Less than 75 feet in Height	750	750	750	750

- xii.** Security fencing. Towers and guy anchor areas shall be enclosed by security fencing not less than 6 feet in height and shall also be equipped with an appropriate anti-climbing device.
- xiii.** Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required.
 - 1.** Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least 4 feet wide around the perimeter of the compound, but any effective method may be proposed.
 - 2.** Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may provide a sufficient buffer and no additional landscaping would be required.
- xiv.** Bond for removal. The Township may require a bond equivalent to the cost of removing an antenna or tower to ensure removal of any abandoned or unused tower or antenna.

b. Building and other equipment storage.

- i.** Antennas mounted on structures on rooftops. The equipment cabinet or structure used in association with antennas shall comply with the following:
 - 1.** The cabinet or structure shall not contain more than 200 square feet of gross floor area or be more than 13 feet in height. If the related unmanned equipment structure is over 200 square feet of gross floor area or 13 feet in height, it shall be located on the ground and shall not be located on the roof of the structure.
 - 2.** If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 25% of the roof area.

from the Township. Failure to remove an abandoned antenna or tower within said 90 days shall be grounds for the Township to remove the tower or antenna at the owner's expense.

d. Nonconforming uses.

- i.** Expansion of nonconforming use. Towers that are changed or antennas that are installed in accordance with the provisions of this Section shall not be deemed to constitute the expansion of a nonconforming use or structure.
 - ii.** Preexisting towers. Preexisting towers shall be allowed to continue their present usage. Routine maintenance, including replacement with a new tower of like construction and height, shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this section.
- e.** Rebuilding damaged or destroyed nonconforming towers or antennae. Nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit, but the type, height, and location of the tower on site shall be of the same type and trim as the original structure's approval unless an allowed change is authorized by the Zoning Administrator or the Planning Commission as appropriate. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified above.

J. HOME OCCUPATIONS

- 1.** No more than one non-family member may be employed in a home occupation.
- 2.** No activity shall become a nuisance to its immediate neighbors or neighborhood.
- 3.** The use of a dwelling unit shall be incidental and subordinate to its residential purpose, and not exceed 20 percent of the dwelling unit's floor area.
- 4.** The outside appearance of the property shall remain unchanged, and there shall be no evidence of the home occupation occurring.
- 5.** No article may be sold on the property unless prepared on the property or provided as incidental to the service offered.
- 6.** Traffic may not exceed the traffic to a normal residence, with parking limited to two on premises parking spaces. Parking cannot be located in the front yard.
- 7.** No outdoor storage is permitted.

8. The occupation may not create a fire, explosion, or radioactivity hazard;
9. Signs, other than a single sign mounted to the home, not exceeding 10 square feet in area, are not permitted.

ARTICLE 16: ADMINISTRATION AND ENFORCEMENT

SECTION 16.1 ZONING ADMINISTRATOR AS ENFORCING OFFICER

The Zoning Administrator appointed by the Township Board, is hereby authorized to direct, supervise, and enforce the provisions of this Ordinance and any requirements, standards or conditions imposed under a special use permit. The Zoning Administrator's duties shall include, among others, the following: investigation of ordinance violations; issuing and serving ordinance violation notices; issuing and serving appearance tickets as authorized by law; issuing and serving municipal ordinance violation notices and municipal civil infraction citations as authorized by law; appearance in court or other ordinance enforcing duties as may be delegated by the Township Board, Township Supervisor or assigned by the Township Attorney. The Township Board may delegate duties of the Zoning Administrator to the Township Supervisor, the Township Code Enforcement Officer or other qualified Township officials as necessary.

SECTION 16.2 LAND USE PERMIT REQUIRED

Before any change of use of any building or parcel of land is undertaken, or before an existing structure is removed, replaced, or more than 50 percent of the structure is repaired, the owner, or his duly-authorized agent, shall apply to the Zoning Administrator for a Land Use Permit on forms provided by the Township. Once it has been determined by the Zoning Administrator that the proposed building, structure, or use is in conformance with all the provisions of this Ordinance and appropriate fees are paid, a land use permit may be issued. The land use permit shall be nontransferable and shall remain valid for 1 year from the date of issuance. A land use permit must be obtained prior to the application for a building permit.

SECTION 16.3 APPLICATION FOR LAND USE PERMIT

All applications for land use permits shall be made to the Zoning Administrator with the accompanying fee. The fee shall be set by the Township Board. The application shall be made up of the following:

- A. A site plan drawn to scale showing the name and address of the owner, the intended use, the location and size of the proposed building, structure, or use as it relates to roads and rights-of-way, lot lines, other buildings on the site, existing or proposed sewage disposal facilities, existing or proposed water wells, and lakes, streams, or wetlands.
- B. A statement by the applicant outlining the intended use and purpose for the proposed building, structure, or land in question.

SECTION 16.4 ISSUANCE OF LAND USE PERMIT

Within 30 days of the receipt of the application for land use permit, the Zoning Administrator or other designated official shall issue a land use permit if it is found that the application is complete and that the proposed building, structure and/or use is in conformance with the requirements of this Ordinance and all required fees are paid. The Zoning Administrator or other designated official shall keep a record of all permits issued and report these monthly to the Township Board.

SECTION 16.5 FAILURE TO OBTAIN PERMIT

The permit fee shall be doubled upon failure to obtain a permit from the Zoning Administrator or other designated official before beginning construction.

SECTION 16.6 REVOCATION OF LAND USE PERMIT

The Zoning Administrator or other designated official shall have the power to revoke or cancel any land use permit in case of failure or neglect to comply with any provision of this Ordinance or the requirements, standards or any conditions imposed upon a special use permit, or in the case of false statements or misrepresentation in the application. The revocation or cancellation of the land use permit shall be made in writing, and all construction, uses, or other activities allowed by the permit shall cease.

SECTION 16.7 ENFORCEMENT

- A.** Any violation of this Ordinance, or any of the permits, conditions, or approvals authorized herein is hereby declared a nuisance per se.
- B.** The Zoning Administrator or other designated official shall inspect all alleged violations of this Ordinance. In the event that a violation is found, the Zoning Administrator or other designated official shall issue, within 7 days from the date of inspection, a written order to correct the violation and to otherwise comply with the provisions of this Ordinance.
- C.** After the order to correct has been issued, the violation shall be corrected within 30 days. If the violation cannot be corrected within 30 days, an application to extend the correction period may be made to the Township Board. Any violation not corrected shall be reported to the Township Board.
- D.** Any person, firm, or corporation, who violates, disobeys, omits, neglects, or refuses to comply with, or who resists enforcement of any of the provision of this Ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine of up to \$500.00, along with the Township's costs and attorney's fees in prosecuting the violation. Each day during which a violation continues shall be deemed a separate offense. The Township Zoning Administrator, Township Supervisor and Township Code Enforcement Officer are expressly authorized to issue municipal civil infractions pursuant to this Section.
- E.** The Township Board reserves the right to pursue civil remedies or alternative enforcement actions permitted by law, such as a civil action or misdemeanor prosecution, at its discretion. In the event the Township Board enforces this Ordinance as a criminal misdemeanor, such a misdemeanor shall be punishable by a fine of up to \$500.00, 90 days imprisonment, or both. Each day during which a violation continues shall be deemed a separate offense.
- F.** Stop Work Order. If the Zoning Administrator or other designated official discovers that work on any structure or land use is being undertaken contrary to this Ordinance, he or

she shall deliver an order to the property owner requiring that such work shall immediately cease. The stop work order shall be posted on the property with a copy mailed or delivered to the owner of the property in question, person occupying the property and the person doing the work, and shall state the conditions under which the work may be resumed. Any person who shall continue any work in or about the structure or premises after having been served with a stop work order, except such work as such person is directed by the Zoning Administrator or other designated official to perform in order to remove violations or unsafe conditions, shall be found responsible for a violation of this Ordinance.

- G.** The Township Board may bring a suit for an injunction, mandamus, abatement or any other appropriate method to prevent, enjoin, abate, or remove any violations of this Ordinance. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

ARTICLE 17: ZONING BOARD OF APPEALS

SECTION 17.1 AUTHORIZATION

There is hereby established a Zoning Board of Appeals, which shall derive its authority from Public Act 110 of 2006, the Michigan Zoning Enabling Act, as amended, MCL 125.3101 et seq. The Board of Appeals shall ensure that the spirit and intent of this Ordinance are upheld, that the public health, safety, and welfare are advanced, and that substantial justice is done.

SECTION 17.2 MEMBERSHIP AND PROCEDURES

- A.** The Zoning Board of Appeals shall consist of five members. The first member of the Board of Appeals shall be a member of the Township Planning Commission, one member may be a member of the Township Board, and the remaining members shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the Township. An elected officer of the Township may not serve as Chairman of the Zoning Board of Appeals. An employee or contractor of the Township Board may not serve as a member or employee of the Zoning Board of Appeals. Members of the Board of Appeals shall be removable by the Township Board for nonperformance of duty or misconduct in office upon written charges and after a public hearing.
- B.** The Township Board may appoint not more than two alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called upon to serve as a regular member of the Zoning Board of Appeals in the absence of a regular member if the regular member is absent from or will be unable to attend one or more consecutive meetings of the Board of Appeals, or is absent from or will be unable to attend meetings for a period of more than 30 consecutive days. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member shall serve on the Board of Appeals until a final decision is made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.
- C.** Terms of Zoning Board of Appeals members shall be for 3 years, except for members of the Planning Commission or Township Board, whose terms shall be limited to the time they are members of said bodies and the period stated in the resolution appointing them. A successor shall be appointed not more than 1 month after the term for the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.
- D.** The total amount allowed such Board of Appeals in 1 year as per diem or as expenses actually incurred in the discharge of their duties shall not exceed a reasonable sum, which sum shall be appropriated annually in advance by the Township Board.
- E.** The Board of Appeals shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The Board shall choose a Chairman and, in the Chairman's absence, an Acting Chair.

- F.** Meetings shall be held at the call of the Chairman and at such other times as the Board in its rules of procedure may specify. A simple majority of the membership of the Board of Appeals shall constitute a quorum and may conduct any items of business brought before the Board. All meetings of the Board shall be open to the public.
- G.** Minutes of all proceedings shall be recorded, and shall contain evidence and dates relevant to every case, the votes of the members, and its final disposition. Such minutes shall be filed in the office of the Township Clerk and become public records.
- H.** The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any decision of the Township Board, Planning Commission, or Zoning Administrator upon which the Board is required to pass, or to grant any variance of the terms or conditions of this Ordinance.
- I.** The Zoning Board of Appeals shall return a decision upon each case within a reasonable amount of time. All decisions of the Board of Appeals are final, and appeals of Zoning Board of Appeals decisions must be filed with a court of competent jurisdiction within 30 days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson (or the members of the Board if there is no chairperson) or within twenty-one days after the Zoning Board of Appeals approves the minutes of the meeting at which the decision was made.
- J.** A member of the Zoning Board of Appeals shall disqualify him or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify oneself from a vote in which the member has a conflict of interest shall constitute misconduct.
- K.** The Township Zoning Board of Appeals shall have the power to act on those matters where this Ordinance provides for an administrative review, interpretation, or variance as defined in this Article.

SECTION 17.3 VARIANCES

The Zoning Board of Appeals is authorized to grant, upon application, variances to such requirements as lot area and width regulations, yard and depth regulations, and off-street parking and loading space requirements. Any requirement of this Ordinance which is dimensional in nature may be brought before the Zoning Board of Appeals to be considered for a variance. The Zoning Board of Appeals may not grant use variances. The Board may attach any conditions it deems necessary to a variance to ensure that the spirit and intent of this Ordinance is carried out.

- A.** The Zoning Board of Appeals shall ensure that all variances comply with the following:
 - 1.** Will not be contrary to the public interest or to the intent and purpose of this Ordinance.
 - 2.** Will not permit the establishment of a use within a district where it is prohibited.
 - 3.** Will relate only to the property for which the application has been submitted.

4. Is not a request that occurs regularly that could be addressed through an amendment to this Ordinance.
- B.** The Zoning Board of Appeals shall not grant a variance unless at least one of the following is demonstrated:
1. Exceptional or extraordinary circumstances to the intended use or physical conditions such as narrowness, shallowness, shape, or topography of the property involved that generally do not apply to other properties or uses in the same district. Such circumstances or conditions shall not be considered grounds for a variance if they have been caused by the applicant or previous owner after the effective date of this Ordinance.
 2. Practical difficulties which prevent the carrying out of the strict letter of this Ordinance. Difficulties should be evaluated in terms of the use of the parcel or property.
 3. The lot or parcel was lawfully recorded prior to the effective date of this Ordinance or any amendment thereto and the dimensional provisions of this Ordinance prohibit the use of the lot or parcel in accordance with the district regulations.
 4. Variation is necessary for the preservation of a substantial property right possessed by other properties in the same district.
- C.** Any variance that is denied wholly or in part shall not be resubmitted for review for a period of 1 year from the date that the Zoning Board of Appeals last took action on the request unless substantive new evidence is to be presented or new circumstances arise.

SECTION 17.4 ADMINISTRATIVE REVIEW

- A.** The Zoning Board of Appeals is authorized to review all decisions made in the administration of this Ordinance. The Board may uphold, reverse, or modify any order, decision or determination made by the Zoning Administrator, Planning Commission, or Township Board except as otherwise noted in this Ordinance. The appeal or request for administrative review shall be submitted to the Township Clerk with the required fee.
- B.** The filing of an appeal or request for administrative review shall stop all proceedings in furtherance of the action being reviewed unless the Zoning Administrator certifies in writing to the Zoning Board of Appeals that a stop or cease would cause imminent peril to life or property. No proceedings shall be stopped unless a restraining order is issued by the Zoning Board of Appeals or by court action. Notwithstanding the above, the appeal of an approval under this Ordinance shall not result in an automatic stop, and shall stop any time limitations associated with the initiation or completion of a specified activity.

SECTION 17.5 INTERPRETATION AND CLASSIFICATION OF USES

Upon application or petition and the filing of the appropriate fees, the Zoning Board of Appeals shall be authorized to interpret any ambiguity that may occur in the administration of this Ordinance. Such ambiguities shall include, but are not limited to:

- A. The precise location of the boundary lines between zoning districts when there is a question about the exact location;
- B. A provision of this Ordinance, the meaning, intent, or purpose of which cannot be clearly determined by the Zoning Administrator, Planning Commission, or Township Board.
- C. The classification of any use which is not specifically mentioned in any district regulations as a permitted principal use or a special use. In classifying an unlisted use, the Zoning Board of Appeals shall base its decision and any accompanying restrictions listed uses that are constituent with and similar to the unclassified use.
- D. A determination of the off-street parking and loading space requirements for any use or activity which is not classified by this Ordinance.

SECTION 17.6 APPEALS

- A. Any person aggrieved by the decision of the Zoning Administrator or Township Board may appeal said decision to the Zoning Board of Appeals. The appellant shall file a letter with the Zoning Board of Appeals within 10 calendar days of the decision being appealed. The appellant's letter shall specify the grounds for the appeal and the facts supporting the appeal. The appeal shall be limited to the issues raised by the appellant.
- B. An appeal shall not be effective until the appellant has paid the appropriate fee to the Zoning Board of Appeals. This fee shall be in an amount as determined by the Township Board, from time to time.
- C. An appeal shall not be reviewed, processed, or scheduled for a hearing until an appellant provides the Zoning Board of Appeals with a sufficient deposit to cover the Township's expenses in reviewing the appeal.
 - 1. The deposit shall be in an amount sufficient to cover the expenses of professional review by the Township Engineer, Attorney, Planner, or other expert consultant.
 - 2. The deposit shall be in the form of an irrevocable letter of credit, surety bond, cash, or some other form of payment acceptable to the Township.
 - 3. In the event the deposit is inadequate to reimburse the Township for the aforementioned expenses, appellant shall be required to provide additional deposits in an amount equal to the shortfall.
 - 4. Any portion of the deposit not used by the Zoning Board of Appeals in reviewing an appeal shall be returned to the appellant, regardless of whether or not the appeal is successful.

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

1. The appellant's letter and validity of grounds for appeal.
2. The factual record available to the decision maker.
3. Any verbal or written information submitted to the Zoning Board of Appeals in response to a request for the information by the Zoning Board of Appeals.

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

1. Affirm the decision with or without modification.
2. Refer the matter back to the decision maker for further consideration, study, or additional documentation. The Zoning Board of Appeals shall inform the decision maker of the issues that it believes are in need of further consideration, study, or documentation. Once the decision maker has examined the issues, it shall send the matter with a report back to the Zoning Board of Appeals for a decision.
3. Reverse the decision if it is not in accordance with the intent and purpose of this Ordinance.

ARTICLE 18: AMENDMENTS AND REZONING

SECTION 18.1 AUTHORITY

The Township Board may amend, supplement, or change the provisions of this Ordinance, provided that all amendments and procedures are in accordance with the Michigan Zoning Enabling Act, MCL 125.3101 *et seq.*

SECTION 18.2 REZONING

For the purposes of this Article and other applicable sections of this Ordinance, the term "rezoning" shall be considered an amendment to the Zoning District Map. The procedure for rezoning shall follow the procedure set forth in this Article for amendments.

SECTION 18.3 INITIATION OF AMENDMENTS

Proposals for amendments may be initiated by the Township Board, Planning Commission, by petition of one or more residents of Pinconning Township, or by one or more persons acting on behalf of a resident of Pinconning Township.

SECTION 18.4 PROCEDURE

- A. Authority.** The Township Board, after review and recommendation by the Planning Commission, has authority to adopt amendments to the text of this Ordinance and the zoning map.
- B. Procedure for Amendment of Zoning Ordinance.**
 - 1. Pre-Application Conference.** The applicant/property owner must attend a pre-application conference to be coordinated by the Zoning Administrator. This meeting may include the Township Supervisor, Chairperson of the Planning Commission, Zoning Administrator, and consultants hired by the Township or other officials to discuss the project. The Zoning Administrator may require the applicant to make an escrow deposit to cover the Township's actual costs incurred for such a meeting.
 - 2. Application.** 2 copies for an application seeking an amendment to the text or map shall be filed with the Township Clerk. The Township Clerk shall date stamp all materials received, retain the original documents, and distribute the copies appropriately.
 - 3. The application shall provide the following information if an application involves an amendment to the official zoning map:**
 - a.** A legal description of the property, including the street address and tax code number(s).
 - b.** The name, address and telephone number of the applicant.

- c. The applicant's interest in the property. If the applicant is not the owner, the name and address of the record and known owner(s), and the owner(s) signed consent to the application.
 - d. Identification of the zoning district requested and the existing zoning of the property.
 - e. Identification of the area that is being considered for rezoning and existing land uses within that area, along with a description of the current zoning and existing land uses of all properties within 500 feet of that area.
 - f. Signature(s) of the applicant(s) and owner(s), certifying the accuracy of the information.
 - g. The filing of an application to rezone shall constitute permission from the owner for the Township to complete an on-site investigation of the property in question for purposes of this Section.
 - h. Further information as requested by the Zoning Administrator, consultants hired by the Township, Planning Commission, or Township Board that is relevant to the site and standards set forth in this Ordinance.
4. The application shall provide the following information if an application involves a change in the text of this Ordinance:
- a. A detailed statement clearly and completely setting forth all proposed provisions and regulations, including all changes in the zoning ordinance necessary to accommodate the proposed amendment.
 - b. Name and address of the applicant.
 - c. Reasons for the proposed amendment.
 - d. Further information as requested by the Zoning Administrator, consultants hired by the Township, Planning Commission, or Township Board, that is relevant to the proposed text amendment.
5. Application Fee. The applicant shall submit to the Township Clerk with the application an application fee in an amount established by resolution of the Township Board to cover the fixed costs associated with processing the application.
6. Escrow deposit. The Zoning Administrator, after review of the application, shall establish an amount to be deposited by the applicant with the Township Clerk as an escrow deposit to defray the anticipated costs incurred by the Township to review and process the application(s). The Planning Commission shall not commence consideration of the merits of the application(s) until the escrow deposit is received by the Township Clerk. Any unused portions of the escrow deposit remaining after consideration and processing of the application shall be returned to the applicant(s). If

this escrow becomes insufficient to cover the Township's costs, applicant will be required to replenish the escrow in the estimated amount required to complete review. No review will occur, or approval granted, when this escrow is deficient.

7. **Initial Review.** The Zoning Administrator shall review the application(s) for completeness, and indicate to the applicant additional information and documents to be provided. The Planning Commission shall schedule all public hearings and the Township Clerk or his/her designee shall coordinate public notices.
 8. **Public Hearing - Planning Commission.** The Planning Commission shall conduct a public hearing on the proposed text amendment or rezoning.
 9. **Administrative Report.** Following the public hearing the Planning Commission may request that the Zoning Administrator and/or other persons retained by the Township present a report that analyzes the application(s) with respect to the requirements and standards of applicable federal and state statutes, ordinances, rules and regulations.
- C. Standards and Burden.** In deciding a request for a zoning text amendment or rezoning, the Planning Commission and Township Board shall be governed by the following principals and standards:
1. The applicant shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact.
 2. Decisions to amend the ordinance text or official zoning map are legislative in nature, and the Township Board ultimately has discretion to act in the interest of the public health, safety and general welfare.
 3. In considering an application for rezoning, the following factors may be considered, among others:
 - a. Whether all required information has been provided and fees paid.
 - b. Consistency with the goals, policies and future land use map of the Master Plan. If conditions have changed since the Master Plan was adopted, the rezoning may be found to be consistent with recent development trends in the area.
 - c. The compatibility of all uses permitted in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values compared to uses permitted under current zoning;
 - d. The capacity of local utilities and public services sufficient to accommodate all the uses permitted in the requested district without compromising the "health, safety and welfare" of the Township, including the capacity of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.

- e. The precedents, and the possible effects of such precedents, that might result from approval or denial of the petition; and
 - f. Whether the requested rezoning will create an isolated and unplanned spot zone.
- D. Payment of Costs.** Prior to any decision on an application for rezoning or concurrent application, the applicant shall pay all costs and expenses incurred by the Township to review and process the application(s). If sums due and owing the Township are not paid, the Township Board may delay making its decision(s) until such time as the sums are fully paid, dismiss the application(s), or take such other action as provided by law.

SECTION 18.5 PUBLIC NOTICE

Public notice of any hearing required by this Ordinance shall comply with the following provisions:

- A.** Notice shall be published in a newspaper of general circulation in the Township no less than 15 days before the date of the hearing.
- B.** Owners of property that is within 300 feet of the property subject to a request, along with at least one of the occupants of all such property, shall be provided with at least 15 days' written notice. Such notice shall be delivered either personal or by mail. If any property within 300 feet of the subject property contains more than 4 dwelling units, notice may be given to the manager or owner of that structure, who shall then post the notice at the structure's primary entrance.
- C.** Notices shall contain, at minimum, the following:
 - 1. A description of the nature of the request.
 - 2. An indication of the property that is subject to the request, along with a listing of all existing street addresses within the property. In the event there are no such addresses existing within the subject property, other means of identification may be used.
 - 3. A statement as to when and where the request may be considered.
 - 4. An indication of where and when written comments will be received concerning the request.
- D.** Any neighborhood organization, public utility company, railroad or any other person or organization may register with the Zoning Administrator or the Clerk to receive written notice of hearing of applications for approval. Fees may be assessed for the provision of this notice.
- E.** All registered entities or persons must reregister biannually to continue to receive notification pursuant to this section.

SECTION 18.6 CONDITIONAL REZONING

- A.** An owner of land may voluntarily offer in writing, and the Township may approve certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.
- B.** In approving the conditions under Subsection A, the Township may establish a time period during which the conditions apply to the land. Except for an extension under Subsection D, if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.
- C.** The Township shall not add to or alter the conditions approved under Subsection A during the time period specified under Subsection B.
- D.** The time period specified under Subsection B may be extended upon the application of the landowner and approval of the Township.
- E.** A Township shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under Subsection A shall not otherwise affect the landowner's rights under this Ordinance, the ordinances of the Township, or any other laws of this state.
- F.** An application for conditional rezoning shall follow the procedures of this Article. If a rezoning is approved, the landowner shall then follow all the applicable procedures and regulations of this Ordinance in pursuance of the intended use or uses.
- G.** Upon approval of a proposed project, the landowner shall provide to the Township an agreement of conditions, in a recordable contractual form, stating the terms, conditions and obligations of the rezoning.

Amendment to the Zoning Ordinance

Of Pinconning Township

Bay County, Michigan

ORDINANCE # 12-02

August 14, 2012

An Ordinance to amend the Zoning Ordinance of Pinconning Township by adding an amendment to the Zoning Ordinance (OUTDOOR FURNACES), which is as follows:

OUTDOOR FURNACES

A. PURPOSE AND INTENT.

The general purpose and intent of these regulations is to regulate the establishment of outdoor furnace systems (solid fuel external heating devices) with regard to the development and location requirements for an outdoor furnace, a self-contained unit designed to provide heat to a building or structure, located outside of that building or structure. Also, it is the purpose and intent of these regulations to insure the safety of such devices and that the environmental impacts are taken into consideration, particularly concerning the production of offensive odors and potential health effects of uncontrolled emissions. Furthermore, it is the intent to ensure that outdoor furnaces are utilized in a manner that does not create a nuisance and are not detrimental to the health, safety and general welfare of Township residents. It is the further purpose and intent of these regulations to:

1. Provide for the appropriate location and development criteria for outdoor furnace system within the township; and
2. Allow the location of outdoor furnace system within restricted areas; and
3. Minimize the adverse effects of such facilities through careful design and location criteria; and
4. Protect the character of individual properties throughout the Township from the effects of outdoor furnace system facilities; and
5. Promote the public health, safety, and welfare.

B. Definitions:

CHIMNEY: Flue or stack that carries off exhaust from an Outdoor Furnace firebox or burn chamber.

EPA: The United States environment protection agency

EPA OWHH PHASE 1 PROGRAM: EPA OWHH (Outdoor Wood-fired Hydronic Heater Program) Phase 1 Program administered by the United Stated environmental Protection Agency.

EPA OWHH PHASE 1 PROGRAM QUALIFIED MODEL: An Outdoor Wood-fired Hydronic Heater that has been EPA OWHH Phase 1 qualified. The model has the EPA OWHH Phase 1 emission levels and has the proper qualifying label and hangtag.

EXTERIOR (OUTDOOR) FURNACE: Any device, contrivance or apparatus or any part thereof which is installed, affixed or situated out-of-doors for the primary purpose of the combustion of fuel from which heat or energy is derived and intended to be directed by conduit or other mechanism into any interior space for the supply of heat or energy, including but not limited to combination fuel furnaces or boilers which burn solid fuel. An outdoor Furnace may also be referred to as an Outdoor Wood Furnace, Outdoor Boiler or Outdoor Wood-fired Hydronic Heater.

FIREWOOD: Trunks and branches of trees and bushes, but does not include leaves, needles, vines or brush smaller than three (3) inches in diameter, including untreated lumber.

FUEL (SOLID): The material used for combustion purposes in an outdoor furnace which may include, coal, corn, firewood and wood pellets.

UNTREATED LUMBER: Dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint, varnishes, resins or other substance.

TREATED LUMBER: Lumber/wood that has been milled, and treated, or combined with a preservative product.

C. OUTDOOR FURNACE SYSTEM.

Outdoor Furnace Systems may be permitted, subject to the conditions hereinafter required and to any and all reasonable conditions which may be imposed in accordance with all applicable Township construction codes and zoning requirements except as imposed herein: the U.S. Environmental Protection Agency (EPA); state and county regulations; and all applicable codes and requirements.

D. OUTDOOR FURNACE REGULATION

1. No person shall construct, install, establish, operate or maintain an Outdoor Furnace other than in compliance with this Ordinance.

2. No person shall operate an Outdoor Furnace unless such operation conforms to manufacturer's instructions regarding such operation and the requirements of this Ordinance regarding fuel that may be burned in an Outdoor Furnace as set forth in E.4. of this Section and the chimney height as set forth in E.3. of this section.
3. All new Outdoor Furnaces shall be constructed, established, installed, operated and maintained in conformance with the manufacturer's instructions and requirements of this Ordinance. In the case of a conflict, the requirements of this Ordinance shall apply unless the manufacturer's instructions are stricter, in which case the manufacturer's instructions shall apply.
4. The owner of any new Outdoor Furnace shall include a copy of the manufacturer's manual or instructions to the Township with the owner's applications for a Zoning permit and construction permits.
5. All new Outdoor Furnaces shall be laboratory tested and listed to appropriate safety standards such as UL (Underwrites Laboratories), CAN/CSA (Canada National Standard/Canada Standards Association), ANSI (American National standard Institute) or other appropriate safety standards.

E. OUTDOOR FURNACE REQUIREMENTS.

1. *Location Requirements:* EPA OWHH Phase 1 Program qualified Outdoor Furnaces shall be expressly prohibited from locating in any zoning district other than the AG, Agricultural District with a minimum parcel size of not less than (2) acres. However, if the applicant can demonstrate that their outdoor furnace is a clean burning and equipped with a catalytic converter the outdoor furnace may be located in the AG.,SR., and all non-residential districts providing the subject parcel contains not less than two (2) acres of land. Outdoor Furnaces shall be expressly prohibited from locating in a plated subdivision or site condominium development. Outdoor Furnaces shall also be expressly from locating in a front or side yard and are permitted only in a rear yard and shall be located no closer than ten (10) feet from any combustible materials.
2. *Property Setbacks:* The distance between an EPA OWHH Phase 1 Program qualified Outdoor Furnace and the owners property lines shall be one hundred (100) feet and not less than fifty (50) feet from the residence and/or structure being served. The distance between an Outdoor Furnace to any residence not being served by the Outdoor Furnace shall not be less than three hundred (300) feet.
3. *Chimney Height:* The height of the chimney and/or emission stack for an EPA OWHH Phase 1 Program qualified Outdoor Furnace when located within three hundred (300) feet of any residence shall not be less than two (2) feet above the peak of the residence or fifteen (15) feet, whichever is higher but shall not exceed the manufacturers maximum recommendations. If there is an existing Outdoor Furnace already installed and there is new construction of a residence not served by the Outdoor Furnace within three hundred (300) feet of such Outdoor Furnace, then the owner of such Outdoor Furnace shall conform to the chimney requirements of this regulation within thirty (30) days of the date such construction is completed.

4. *Permitted Fuel:* Only firewood, untreated lumber, coal, corn, and wood pellets are permitted to be burned in any outdoor furnace. The burning of any other materials in an outdoor furnace is expressly prohibited, i.e., trash, plastics, rubber, foam, synthetic fabrics and materials, PVC and ABC products, polystyrene products, any flammable liquid or gas material, household garbage, treated wood and/or wood products, composite wood products, plywood, leaves, paper products, cardboard, etc.
5. *Spark Arrestors:* All outdoor furnaces shall be equipped with properly functioning spark arrestors.
6. *Abandonment/Removal Requirements:* Any Outdoor Furnace which has reached the end of its useful life or has been abandoned shall be removed. An Outdoor Furnace shall be considered abandoned when it fails to be operated for one (1) year. Upon a notice issued by the Pinconning Township Zoning Administrator, the Outdoor Furnace owner shall have thirty (30) days to provide sufficient evidence that the system has not been abandoned or the Township shall have the authority to enter the owner's property and remove the system at the owner's expense.
7. *Permit Process and Requirements:* The owner shall obtain the applicable zoning and construction permits (the later pursuant to the Michigan Residential Code: Section 105.2) for applicable building, electrical, mechanical and plumbing permits, which shall be required prior to the installation of an Outdoor Furnace system. The applicable building, electrical, mechanical and plumbing permit applications shall be accompanied by deliverables including the following:
 - (a) An approved site survey showing location, dimensions, and types of existing structures on the owner's property including residences within 300 feet from the Outdoor Furnace location.
 - (b) Outdoor Furnace systems specifications, including manufacture and model, along with a copy of the manufacture's installation and operation manual.

F. SUSPENSION OF AN OUTDOOR FURNACE APPROVAL.

A Special Use Approval issued to this Section and Section 1702 may be suspended as the Zoning Administrator may determine to be necessary to protect the public health, safety and welfare of the residents of Pinconning Township if any of the following conditions occur:

1. Malodorous air contaminants from the Outdoor Furnace are detectable outside the property of the person on whose land the Outdoor Furnace is located; and
2. Emissions from the Outdoor Furnace interfere with the reasonable enjoyment of life of property; and
3. The emissions from the Outdoor Furnace cause damage to vegetation or property; or
4. The emissions from the Outdoor Furnace are or may be harmful to human or animal health.

A suspended Special Use Approval may be reinstated once the condition which resulted in

the suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition which has previously resulted in suspension of a Special Use Approval shall be considered a violation of the Special Use Approval and will result in the permanent suspension of the Special Use Approval and all applicable construction permits, including the removal of the Outdoor Furnace from the owner's land.

A suspended Outdoor Furnace approval may be reinstated once the condition which resulted in the suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition which has previously resulted in suspension of an Outdoor Furnace Approval shall be considered a violation of the required Zoning Permit and will result in the permanent suspension of the Zoning Permit and all applicable construction permits, including the removal of the Outdoor Furnace from the owner's land.

ORDINANCE

All Township Ordinance in conflict herewith, either in whole or in part, shall be and are hereby repealed.

EFFECTIVE DATE

This amendatory Ordinance shall become effective seven (7) days after publication as required by law.

PUBLICATION

This Ordinance shall be published in a general newspaper of general circulation within the Pinconning Township as required by law.

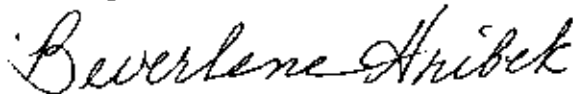
Adopted at a regular scheduled meeting of the Pinconning Township, on the 14th day of August, 2012.

AYES: Holbrook, Stalsberg, Laframboise, Hribek.

NAYS 0

CERTIFICATION

I do hereby certify that the foregoing is a true and correct amendment to the Zoning Ordinance adopted by the Pinconning Township Board, Bay County, and the State of Michigan, at a regular scheduled meeting of the said Board, held at the Pinconning Township Hall, on the 14th day of August, 2012.



Beverlene Hribek Township Clerk