

HAGAR TOWNSHIP ZONING ORDINANCE

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PART 116
ORDINANCE NO. 77-1
HAGAR TOWNSHIP ZONING ORDINANCE
THE TOWNSHIP BOARD OF HAGAR TOWNSHIP ORDAINS:

An Ordinance to establish Zoning Districts and provisions governing the unincorporated portions of Hagar Township, Berrien County, Michigan, in accordance with the provisions of the Zoning Enabling Act, Act 110 of the Public Acts of 2006, as amended; to define certain terms used herein; to prescribe the powers and duties of certain officials; to provide for regulations governing nonconforming uses and structures; to establish a Zoning Board of Appeals and define its duties and powers; to amend the former Zoning Ordinance in its entirety; to provide for the administration and enforcement of this Ordinance and to provide penalties for the violation of this Ordinance.

ARTICLE I

INTENT AND PURPOSE

Section 1.01 Short Title

This Ordinance shall be known as the “Hagar Township Zoning Ordinance” and will be referred hereinafter as “this Ordinance.”

Section 1.02 Intent and Purpose

- A. This Ordinance is adopted for the following purposes:
1. To promote the public health, safety, and general welfare.
 2. To implement the goals, objectives and future land use recommendations of the Hagar Township Development Plan and the M-63 and Lakeshore Sub Area Plan and to regulate the intensity of land use in a manner compatible with said plans;
 3. To provide adequate natural light, air, and safety and to protect the public health;
 4. To lessen or avoid the hazards to persons and damage to property resulting from the accumulation or run-off of storm or flood waters;
 5. To lessen or avoid congestion in the public streets and highways;
 6. To conserve the value of land and buildings throughout the Township;
 7. To preserve and enhance aesthetic values throughout the Township;
 8. To facilitate orderly growth in the undeveloped areas in Hagar Township;
 9. To protect lands best suited for the pursuit of agriculture from the encroachment of development;
 10. To provide for the needs of recreation, residence, commerce, and industry in future growth;
 11. To protect land, woodlands, rivers, streams and underground deposits of mineral resources;
 12. To regulate the completion, restoration, reconstruction, and extension of nonconforming uses;
 13. To create a Zoning Board of Appeals and to define the powers and duties thereof;
 14. To designate and define the power and duties of the official or officials in charge of the administration and enforcement of this Ordinance;
 15. To provide for the payment of fees for permits and escrow accounts to support the expense of administration and proper review of applications for permits;
 16. To provide penalties for the violation of this Ordinance;
 17. To provide safety in traffic and vehicular parking;
 18. To accomplish any other purposes contained in Public Act 110 of 2006, as amended.

ARTICLE II DEFINITIONS

Section 2.01 Construction of Language

For the purpose of this ordinance, certain terms or words used herein shall be interpreted as follows, unless the context clearly indicates to the contrary:

- A. Words used in the present tense include the future tense;
- B. Words used in the singular number include the plural; and words used in the plural number include the singular;
- C. The word “herein” means this ordinance;
- D. The words “regulation,” “standard,” and “requirement” mean the regulations of this ordinance;
- E. The words “this ordinance” shall mean the ordinance illustrations, text, tables, maps and schedules included herein, as enacted or subsequently amended;
- F. The term “shall” is always mandatory;
- G. Lists of examples prefaced by “including the following”, “such as,” or other similar preface shall not be construed as exclusive;
- H. The term “building,” “structure,” “premises” or any similar term, shall be interpreted to include any part of the building, structure, premises or other similar term unless otherwise stated;
- I. The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual;
- J. The words “used” or “occupied” include intended, designed or arranged to be used or occupied; and,
- K. The word “his” includes “her,” and vice versa.

Section 2.02 “A”

Access: A way or means of approach to provide vehicular or pedestrian physical entrance to a property.

Accessory Caretaker Dwelling: A permanent residence, secondary and accessory to an existing principal use, for persons employed primarily on-site for purpose of care and protection of persons, property, plants, animals, equipment, or other circumstances on site or on contiguous lots under the same ownership.

Accessory Building: An accessory structure, as defined herein, which is a supplementary building on the same parcel as the principal building, or part of the principal building, occupied by or devoted exclusively to an accessory use.

Accessory Structure: A structure which is clearly subordinate or incidental to a principal structure or principal use. Accessory structures include, but are not limited to, the following: parking lots, loading docks, radio and television antennas, or any part thereof; but shall not include fences or elements related to septic systems.

Accessory, or Accessory Use: A use which is clearly incidental to, customarily found in connection with, and located on the same property as the principal use to which it is related. When “accessory” is used in this ordinance, it shall have the same meaning as accessory use.

Agri-Tourism Establishment: An enterprise primarily involved in attracting and hosting customers in connection with agricultural, horticultural, or agribusiness operations for the purpose of enjoyment, leisure, involvement in the agricultural process, produce picking, or education.

Airplane Landing Field: An airstrip restricted to use by the owner of the land and, on an infrequent and occasional basis, by invited guests and by commercial aviation activities in connection with permitted uses of the land.

Animal Hospital: An establishment for the care and treatment of the diseases and injuries of animals and where animals may be boarded during their convalescence.

Assisted Living Facility: A unique combination of housing, supportive services, personalized assistance, and health care supervision designed to respond to the individual needs of the elderly who may need help with activities of daily living; a facility with a central or private kitchen, dining, recreational, and other facilities, with separate bedrooms or living quarters, where the emphasis of the facility remains residential.

Automobile Repair Establishment: The use of a site for the repair of automobiles and noncommercial trucks weighing less than 7,000 pounds, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of related equipment and parts. This use includes muffler shops, auto repair shops, tire sales and installation, wheel and brake shops, body and fender shops, automobile service establishments as defined herein, and similar repair and service activities, but excludes dismantling or salvage.

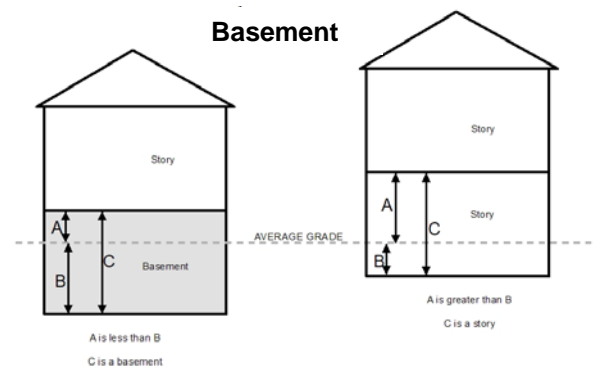
Automobile Sales or Rental Establishment: A retail business typically characterized by a mixture of related uses upon a commercial site; however, the principal use of the site shall be the marketing of new or used automobiles, whether by sale, rent, lease, or other commercial or financial means. Secondary supporting uses may also exist upon the same site, such as automobile repair and service areas, a car wash, parts storage areas, and financial service areas.

Automobile Service Establishment: An establishment primarily engaged in furnishing automotive maintenance services, such as routine oil changes and tire rotations, and which sells or dispenses automobile products such as motor oils, lubricants and various minor parts, and which may be an accessory and integral portion of a gas station or automobile sales or rental establishment or a stand-alone facility.

Section 2.03 “B”

Banquet Hall: An establishment which is rented by individuals or groups to accommodate generally private functions including, but not limited to, banquets, weddings, anniversaries and other similar celebrations. Such a use may or may not include: 1) kitchen facilities for the preparation or catering of food; 2) the sale of alcoholic beverages for on-premises consumption, only during scheduled events and not open to the general public; and 3) outdoor gardens or reception facilities.

Basement: That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.



Beach: The flat portion of land from the shoreline to the foredune area or bluff, devoid of vegetation.

Bed and Breakfast: A private residence at which overnight accommodations and a morning meal are provided to transients for compensation, for periods no longer than seven (7) days.

Bluff: A shoreline area where there is an abrupt rise from the beach to an elevation of 30 feet or more above beach level. Bluffs are usually characterized by a flat plateau on top of the bluff and soil characteristics are generally a mixture of clay, soil and sand.

Boat House: An enclosed or partially enclosed accessory structure designed for the use and storage or private watercraft and marine equipment, constructed wholly or partially over a body of water.

Boat Livery: A commercial establishment providing boat launching or hauling facilities, rental of boat slips or dock space or enclosed dry storage space, rental or sale of boats, repair and maintenance of boats, and sale of marine fuel and lubricants.

Breezeway: A roofed structure or passageway for the primary purpose of connecting the principal building and an accessory building.

Building: Any structure, either temporary or permanent, having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

Building Height: The vertical distance measured from the median grade to the highest point of the roof's surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs.

Section 2.04 "C"

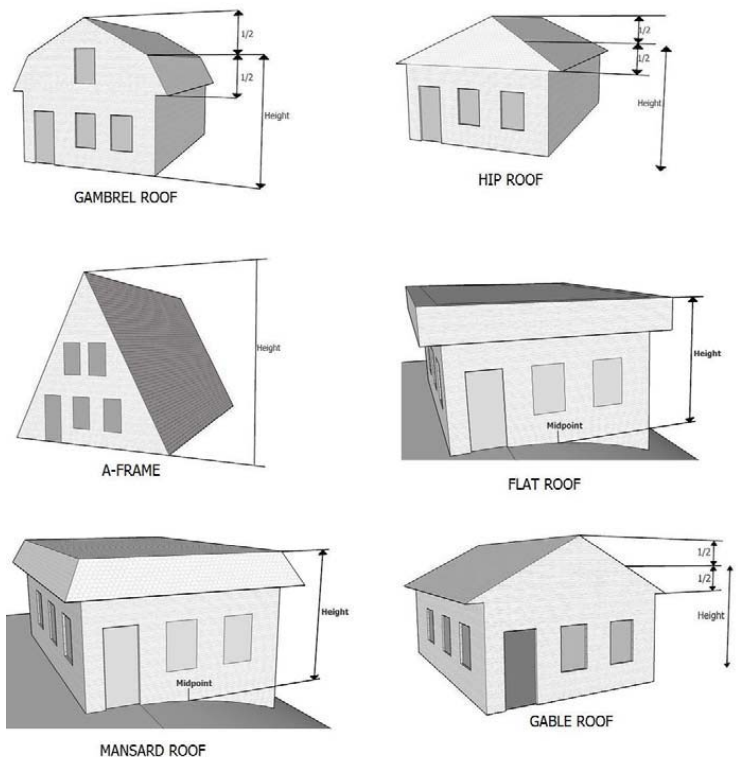
Campground: Any parcel or tract of land under the control of any person, organization or governmental entity, wherein sites are offered for the use of the public or members of any organization for the establishment of temporary living sites generally for recreational purposes through use of tents or recreational vehicles.

Car Wash: An establishment utilizing mechanical facilities for the washing, drying or waxing of private automobiles, light trucks and vans, but not commercial fleets, and which may be an accessory use to a gas station.

Cemetery: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes including columbariums, crematoriums, mausoleums, and funeral establishments, when operated in conjunction with and within the boundary of such cemetery.

Commercial Recreation Establishment: Any establishment whose main purpose is to provide the general public with a sport or recreational activity and where tickets are sold or fees are collected for the activity, including without limitation, skating rinks, miniature golf, arcades, bowling alleys, billiard halls, go-cart tracks, exercise and health clubs, tennis clubs; and including a place equipped and designed for the conduct of sports and leisure-time activities in an outdoor setting, including polo fields, archery clubs, outdoor sports fields; and similar uses.

Building Height



Commercial Riding Stables: Any parcel or tract of land on which equines are kept for sale or rent, or kept and offered to the public to ride for a fee. Breeding, boarding, or training of equines may also be conducted.

Community Center: A building used as a place of meeting, recreation, or social activity and not operated for profit and in which neither alcoholic beverages or meals are normally dispensed or consumed.

Contractor's Office and Yard: A facility or site and associated buildings used primarily for the office operations and the storage of equipment, vehicles, machinery, building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of any building trades or building craft.

Section 2.05 "D"

Day Care Center: A facility, other than a private residence, receiving one (1) or more preschool or school age children for care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. Day care center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Day care center does not include any of the following:

- A. A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not more than three (3) hours per day for an indefinite period, or not more than eight (8) hours per day for a period not to exceed four (4) weeks during a twelve (12) month period.
- B. A facility operated by a religious organization where children are cared for not more than three (3) hours while persons responsible for the children are attending religious services.

Drive-Through Facility: A commercial establishment or part thereof whose character is significantly dependent on providing a driveway approach and service windows or facilities in order to serve patrons while in or momentarily stepped away from the vehicle.

Driveway: An access from a public road serving a property which does not meet the definition of private road.

Dry Cleaning Plant: A building used or intended to be used for cleaning fabrics, textiles, wearing apparel, or articles of any sort by immersion and agitation, or by immersions only, in volatile solvents including, but not by way of limitation, solvents of the petroleum distillate type, and/or the chlorinated hydrocarbon type, and the processes incidental thereto.

Dwelling or Dwelling Unit: Rooms connected together constituting a separate, independent housekeeping establishment for one (1) family occupancy, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, bathroom and sleeping facilities.

Dwelling, Multiple-Family: A structure containing three (3) or more dwelling units designed for residential use.

Dwelling, Single-Family: A structure containing one (1) dwelling unit and that is not attached to any other dwelling by any means and is surrounded by open space or yards.

Dwelling, Two-Family: A structure containing ~~not more than~~ two (2) separate dwelling units designed for residential use.

Section 2.06 “E”

Easement: A grant of one or more property rights by a property owner to and/or for the use by the public, a corporation, or another person or entity.

Emergency services: Police, fire, ambulance or other public service required to respond to a call for public aid.

Essential Services: The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground, surface or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles and other similar equipment, and accessories in connection therewith, but not including buildings, reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare. Essential services shall not include cellular telephone towers, commercial reception towers, air quality monitoring stations, school bus parking yards, sales or business offices, or commercial buildings or activities.

Existing: As it relates to the private road provisions of this Ordinance, existing shall describe that condition which was present as of the adoption of this Ordinance, which has remained unchanged since the adoption of this Ordinance, or which does not meet the definition of extension.

Extension: As it relates to the private road provisions of this Ordinance, extension shall mean any enlargement in length of an easement, increase in usage of an existing easement by addition of more easement grantees, or improvement on an existing easement which had not been used as an active private road as of the adoption of this Ordinance.

Section 2.07 “F”

Family: For the purposes of this ordinance, a family is one or more persons occupying a single dwelling unit, all related by blood, legal adoption, or marriage, and not more than three (3) other persons; or, not more than three (3) unrelated persons. Domestic servants employed on the premises may be housed on the premises without being counted as a family or part of a family.

Family Day Care Home (6 clients): A private home in which one (1) but not more than six (6) 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 that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

Farm: As defined by the Right to Farm Act, P.A. 93 of 1981, as amended.

Fence: A manmade enclosure or barrier constructed of wood, masonry, stone, wire, metal, or other material or combination of materials erected to enclose, screen, or separate areas.

Financial Institution: Any building wherein the primary occupation is concerned with such federal or state-regulated businesses as banking, savings and loans, loan companies, and investment companies.

Floodplain: That area mapped by the National Flood Insurance Program having a flood elevation that has a one (1) percent chance of being equaled or exceeded each year, and as determined by the Federal Emergency Management Agency.

Floor Area, Usable (for the purpose of computing parking space): That area used for, or intended to be used for, the sale of merchandise or services, or for use to serve patrons, clients, or customers and all that area devoted to employee work space.

Foredune (or Primary Dune): A gently sloping area immediately inland of the beach, generally stabilized by dune grasses and low shrub vegetation.

Funeral Home: A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

Section 2.08 “G”

Garage: A building that is accessory to a residential building and that is used for the parking and storage of vehicles owned and operated by the residents thereof and other storage incidental to a residential use such as rakes, lawnmowers, garbage cans, etc.

Gas Station: Any building or land area used for the retail dispensing or sales of vehicular fuels and convenience items; and which may include an automobile service establishment or a car wash as an accessory use, and the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

Golf Course/Country Club: A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways and hazards. A golf course or country club may include shelters, a clubhouse, driving ranges, incidental retail sales, repair of equipment used at the facility, and small-scale banquet and restaurant facilities as accessory uses, but shall not include miniature golf or other commercial enterprises.

Golf Driving Range: An area equipped with distance markers, clubs, balls, and tees for practicing golf drives and putting, and which may include an accessory snack-bar and pro-shop, but excludes miniature golf courses and “putt-putt” courses.

Grade, Finished: The final elevation of the ground level after development.

Grade, Median: The finished median ground elevation along the perimeter of the building.

Grade, Natural: The elevation of the ground level in its natural state, before construction, development, filling, or excavation.

Greenhouse and Nursery: A space, building or structure, or combination thereof, for the cultivation and storage of live trees, shrubs or plants offered for retail sale on the premises including products used for gardening or landscaping, but generally not including the sale of fruit or vegetables.

Group Camp Facility: The use of a site for provision of primarily outdoor activities for children, and which includes a campground, and sports, arts and crafts, entertainment, recreation, educational activities, swimming, fishing, horseback riding, and incidental food service. If incidental to the camp use, camp facilities may be used to provide meeting, recreation, or social facilities for a private association or group.

Group Day Care Home (7-12 clients): A private home in which between seven (7) and 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.

Section 2.09 “H”

High Dune Shoreline Area: A shoreline area where the elevation above mean lake level within a distance of 300 feet of the shoreline exceeds 60 feet.

High Risk Erosion Area: The portion of the Lake Michigan shoreline which includes the area determined by the Department of Natural Resources Water Resources Commission, on the basis of studies and surveys, to be subject to erosion pursuant to the provisions of the Shorelands Management Act, Act 245 of 1970.

Home-Based Business: Any occupation, profession or activity carried out for gain from a residential property that is clearly subordinate and incidental to the residential nature of the property, and which may involve business activities generally conducted at other locations, or the sale or exchange of services at the residential property, and which, under normal circumstances, is not apparent to neighbors.

Hospital: A facility providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central service facilities and staff offices which are an integral part of the hospital facility.

Hotel: A facility offering transient lodging accommodations to the public with access from interior lobbies, and which may provide such additional services or facilities meals or restaurant service, meeting rooms, entertainment, and recreational facilities.

Section 2.10 “I”

Impervious Surface: Any hard-surfaced, human-made area that does not readily absorb or retain water, including but not limited to building roofs, parking and driveway areas, graveled areas, sidewalks, and paved recreation areas.

Improvements: Any human-made, immovable item which becomes part of, is placed upon, or is affixed to land.

Inland Dune: An area of rising dunes inland of the foredune area. The seaward slope may be forested or still exhibit vegetation characteristic of the foredune area; the backside of the dune supports woody vegetation.

Inland Duneline: The line of dunes facing the lake and rising behind the foredune area. Their crest is roughly parallel to the shoreline.

Section 2.11 “J”

Junk: Worn-out, cast-off, or discarded articles or materials that have been collected or stored for salvage, destruction, or conversion to some use, but not including articles or material that, unaltered or unchanged and without further reconditioning, can be used for its original purpose as readily as when new.

Junkyard: Any area, lot, land, parcel, building, or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage, or disposal of junk.

Section 2.12 “K”

Kennel: Any lot or premise on which three (3) or more domesticated animals are either permanently or temporarily boarded or trained for remuneration.

Section 2.13 “L”

Laundry and Dry Cleaning Establishment: A commercial establishment providing dry cleaning and laundry services on-site for businesses and residents, but which does not include a dry cleaning plant.

Library: A public, nonprofit facility in which literary, musical, artistic, or reference materials such as, but not limited to, books, manuscripts, computers, recordings, or films, are kept for use by or loaning to patrons of the facility, but are not normally offered for sale.

Loading Space, Off-Street: An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

Lot: For the purposes of this Ordinance, a lot is a parcel of land of at least sufficient size, exclusive of areas under water, to meet minimum zoning requirements for use, coverage, access and area, and to provide such yards and other open spaces as are herein required. The word lot includes the words plot and parcel.

Lot Area: The total horizontal area within the lot lines of a lot.

Lot, Corner: A lot situated at the intersection of two or more streets, which streets have an angle of intersection of not more than 135 degrees.

Lot Depth: The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line.

Lot, Divided: A lot that is bisected by a street or private street.

Lot Frontage or Frontage: The distance for which the front boundary line of the lot and the street line are coincident. In the case of a metes and bounds parcel, frontage is measured along that part of the lot abutting a street.

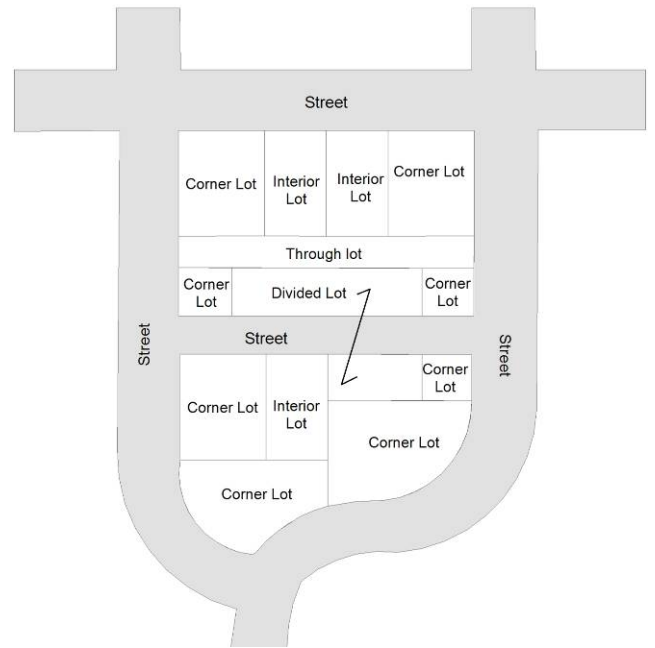
Lot, Interior: A lot other than a corner lot with only one frontage on a street.

Lot, Lake Front: A lot with a rear lot line which is coincident with the high water mark of a named lake.

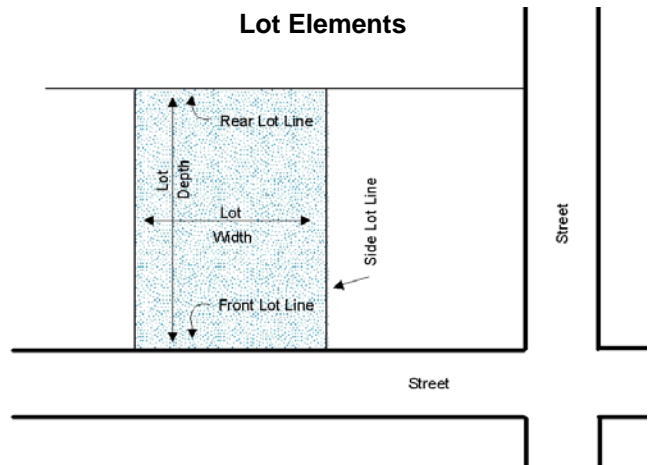
Lot Lines: The lines bounding a lot as defined herein:

- A. **Front Lot Line:** In the case of an interior lot, is that line separating the lot from the street. In the case of a through lot, is that line separating the lot from either street. In the case of a corner lot, the shorter street line shall be considered the front lot line; except in the case of both street lines being equal, the choice may be made at the discretion of the property owner. However, once declared, the designated front lot line shall remain as such.
- B. **Rear Lot Line:** That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot.
- C. **Side Lot Line:** Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

Lot Types



Lot Elements



Lot of Record: A lot which is part of a subdivision recorded in the office of the Berrien County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Lot, Through: A lot that fronts upon two (2) more or less parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot.

Lot Width: The horizontal straight-line distance between the side lot lines, measured between the two (2) points where the minimum front setback line intersects the side lot lines.

Low Dune Shoreline Area: A shoreline area where the maximum elevation above the mean high water mark for a distance of 300 feet inland to the shoreline does not exceed 60 feet.

Section 2.14 “M”

Manufactured Home: A dwelling which is transportable in one (1) or more sections, that is built on a permanent chassis, and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein and is installed by a Michigan Licensed Mobile Home dealer or Michigan Licensed Mobile Home installer as required by Michigan statute, and administrative rules promulgated thereunder.

Manufactured Housing Community: A use which is a parcel of land under the control of a person upon which three or more manufactured homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incidental to the occupancy of a manufactured home and which is not intended for use as a temporary manufactured home or trailer.

Manufacturing: An enclosed establishment engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, usually in a continuous and regular action or succession of actions.

Mean High Water Mark: That mark on lakes and streams that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in ordinary years, as to mark upon the soil a character distinct from that of the abutting upland. This is also commonly referred to as ordinary high water mark; and for Lake Michigan, it has been determined to be at 579.8 feet above sea level. For purposes of this ordinance, the juncture of the seaward edge of the foredune and the beach is a more readily identifiable location than the mean high water mark and may be used whenever mean high water is specified.

Medical Clinic: A facility in which medical, dental, health and related providers maintain offices and provide services to patients on an outpatient basis and which may include minor surgical care.

Mezzanine: An intermediate floor in any story occupying space not to exceed one-third (1/3) of the floor area of such story.

Mining: The process of altering the grade elevation by cutting or filling the earth, or any activity by which soil or rock is cut, dug, quarried, uncovered, removed, displaced, or relocated.

Mini-Storage Facility: A building or grouping of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-storage of personal property.

Motel: An establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

Museum: A building having public significance by reason of its architecture or former use or occupancy or a building serving as a repository for a collection of natural, scientific, or literary curiosities or objects of interest, or works of art, and arranged, intended and designed to be used by members of the public for

viewing, with or without an admission charge, and which may include as an accessory use the sale of related goods to the public.

Section 2.15 “N”

Nightclub: A commercial establishment in which dancing, comedians, musicians, and the dispensing of food and alcohol for consumption on the premises are permitted.

Nonconforming Lot: A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the ordinance, but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the applicable zoning district or other zoning regulations.

Nonconforming Structure or Building: A structure, building or portion thereof lawfully existing prior to the effective date of this ordinance, which thereafter does not conform to the provisions in the district in which it is located relative to building height, bulk, area or setbacks or other regulations herein.

Nonconforming Use: A use for which a building or land was lawfully used prior to the effective date of this ordinance, which does not contain a use of land permitted in the district in which it is located.

Nursing or Convalescent Home: A home licensed by the State for the aged or chronically or incurably ill persons in which five or more such persons not of the immediate family are provided with food and shelter or care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Section 2.16 “O”

Off-Street Parking Area: A land surface or facility providing vehicular parking spaces off of a street together with drives and maneuvering lanes so as to provide access for entrance and exit for the parking of motor vehicles.

Section 2.17 “P”

Park: A noncommercial, not-for-profit facility designed to serve the recreation needs of the community, designed primarily as an outdoor, open space for passive or active use. An improved park typically includes ancillary constructed or installed facilities, such as playground equipment, restrooms or picnic shelters, while an unimproved park may include interpretive programs and trail systems that take advantage of geological, biological or scenic resources. A park does not include a commercial recreation establishment, community center, or recreation facility.

Parking Space: An off-street space available for the parking of one motor vehicle conforming to the typical parking lot standards.

Personal Service Establishment: An establishment primarily engaged in providing services involving the care of a person or his or her goods or apparel.

Pervious Surface: Area maintained in its natural condition, or covered by a material that permits infiltration or percolation of water into the ground.

Planned Unit Development: A Special Land Use for a unified development for which the otherwise applicable bulk, use and other requirements may be modified in order to allow for more flexible planning in conformance with the development approval process and developed in accordance with the provisions, intent and purpose of this ordinance.

Planning Commission: The Planning Commission of the Township of Hagar.

Principal Building: A building in which is conducted the principal use of the lot on which it is located.

Principal Use: The main use to which the premises are devoted and the principal purpose for which the premises exist.

Private Club or Organization: An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, agriculture, or similar activities, but not operated for profit and open only to members, not the general public.

Private Road: A road that is not dedicated or that is not owned or maintained by a municipal or public governmental entity. A private road, for the purposes of this Ordinance, is a privately owned and maintained road which has not been accepted by the public for ownership and maintenance which persons, in addition to the owners of the property underlying said road, have a lawful right to use for ingress and/or egress, whether as an invitee, by common custom or otherwise. Private roads may be further defined and qualified as to class as may be found in this Ordinance. This definition shall not include: a private driveway which serves only one single-family dwelling or a private driveway which serves one two-family dwelling (or duplex).

Private Road Easement: An easement granted exclusively for private access to 1 or more parcels of land and which contains or is intended to contain a private road.

Professional Office: A place, such as a building, room, or suite, in which services, clerical work, professional duties, or the like are carried out.

Professional Services Establishment: An establishment engaged in providing assistance, as opposed to products, to individuals, businesses, industries, governments, and other enterprises, including printing, legal, engineering, cleaning, consulting, and other similar services.

Public Road: Any road or street, as defined in this Ordinance, which is owned or controlled by the Berrien County Road Commission or the State of Michigan or the Federal Government of the United States.

Public Utility: Any person, firm, corporation, municipal department or board, duly authorized to furnish and furnishing under state or municipal regulations to the public, electricity, gas, steam, communications, telegraph, transportation or water.

Section 2.18 “Q”

Reserved.

Section 2.19 “R”

Recreation Facility: A private or semi-public facility for use solely by the residents and guests of a particular residential area or development, or a publicly-owned and operated facility, engaged primarily in the conduct of indoor recreational activities and scaled to fit the context of the surrounding neighborhood.

Recreational Vehicle: A vehicle designed or constructed for the transportation of people, primarily for recreational purposes, and which may permit occupancy thereof as a sleeping place, including motor homes, campers, camper trailers, off-road vehicles, boats and boat trailers.

Religious Institution: Places of assembly owned or maintained by an organized religious organization for the purpose of regular gatherings for worship services, such as churches, mosques, synagogues, temples, shrines, meetinghouses and pagodas, and which may include accessory private schools, administration offices, child care for members and visitors and other services incidental to the primary religious use. Food pantries, soup kitchens, homeless shelters or other uses designed to serve social welfare needs are not principal uses.

Research and Development: An establishment for carrying on investigation in the natural, physical, or social sciences, which may include engineering and process or product development, but which does not involve the mass manufacture, fabrication, processing, or sale of products or services.

Resort: A building or group of buildings containing guest rooms, with a large portion of the site devoted to recreational activities, such as tennis, horseback riding, swimming, and golf.

Restaurant: A retail establishment selling food and drink primarily for consumption on the premises, including restaurants, taverns, coffee houses, bakeries, lunch counters and similar facilities selling prepared foods and drinks for immediate on-site consumption or for take-out.

Retail Establishment: An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Roadside Stand: An accessory structure for the seasonal display and sale of agricultural products grown on the site, with no space for customers within the structure itself.

Section 2.20 “S”

School: An institution providing full time instruction and including accessory facilities traditionally associated with a program of study which meets the requirements of the laws of the state.

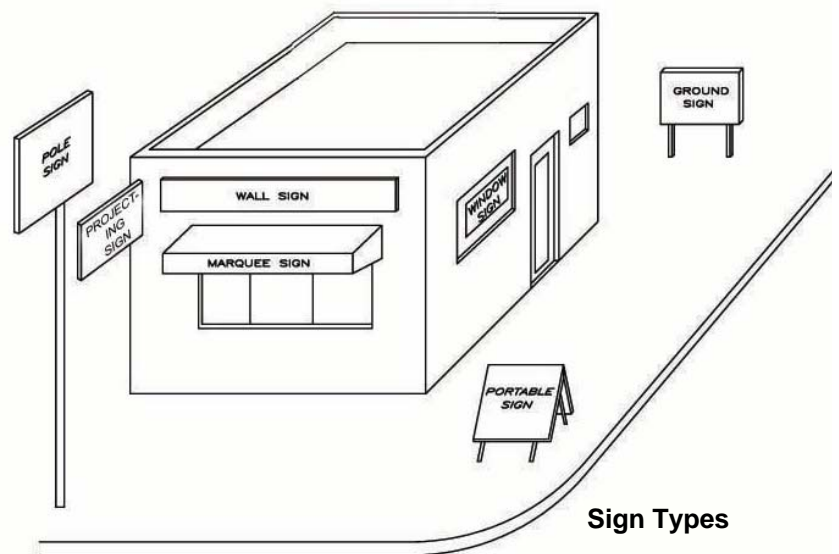
Seasonal Farm Labor Housing: Any living quarters, dwelling, boarding house, bunkhouse, or other housing accommodations, maintained exclusively for the occupancy of farm employees and their families in connection with any farm work or place where farm work is being performed, and the premises upon which they are situated.

Setback: The distance necessary to obtain minimum required front, side or rear yard open space provisions of this ordinance.

Sexually Oriented Business: For the purposes of this Zoning Ordinance, the terms relating to sexually oriented businesses and the use itself shall be defined as provided in the Hagar Township Sexually Oriented Businesses Ordinance.

Sign: Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, establishment, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images; including the following specific sign types:

- **Sign, Accessory Professional Nameplate:** A sign indicating the name and address of a building or the name of an occupant thereof and the practice of a permitted occupation therein, customarily attached to a building near an entrance.



- **Sign, Off-Premise or Billboard:** An outdoor sign advertising services, products, activities, persons or events which are not made, produced, assembled, stored, distributed, leased, sold or conducted upon the premises upon which the billboard is located.
- **Sign, Changeable Copy:** A sign that consists, in whole or in part, of a message or image that can be changed periodically, whether manually or by automatic or technical means.
- **Sign, Construction:** A sign erected and used temporarily, only during the construction of a development or other permitted land use, and identifying the development of other use under construction, the name of the developer, and similar information.
- **Sign, Development:** A ground sign which identifies the name of a residential development and which is located at an entrance to the development, for the purpose of assisting the public in determining the location of the development.
- **Sign, Farm:** A sign located on and identifying the name of an active farm or identifying a crop planted in a farm field.
- **Sign, Ground:** A sign supported by a foundation or base which is at least half as wide as the sign which it supports when looking at the sign face, and which does not exceed a sign height of eight (8) feet, and with no more than thirty (30) inches clearance from the bottom of the sign to the ground below.
- **Sign, Human:** A sign which is held by or attached to a human for the purpose of advertising any goods, services, functions or specific business locations.
- **Sign, Marquee:** A sign attached to or hung from a marquee, canopy or other covered structure, projecting from and supported by the building and extending beyond the wall, building line or street lot line.
- **Sign, Memorial:** A sign, tablet, or plaque memorializing a person, event, structure or site.
- **Sign, Pole:** A sign structurally separated from a building and supported by one or more poles or braces.
- **Sign, Political:** A sign used in connection with a local, state or national election, political topic or referendum.
- **Sign, Portable:** A sign, usually of a temporary nature, not securely anchored to the ground or to a building or structure, and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character.
- **Sign, Projecting:** A display sign which is attached directly to the building wall and which extends more than one foot from the face of the wall.
- **Sign, Roof:** A sign which is erected, constructed and maintained on or above the roof of the building.
- **Sign, Streamer:** An individual object and/or series of small objects made of lightweight plastic, fabric, cloth or other material, which may or may not contain text, which is suspended from and/or twined around a rope, wire or string; or which is supported by a vertical or horizontal staff and which is intended to flutter in the wind. The definition for streamer sign shall also include exterior string lights when used outside of a holiday display.
- **Sign, Temporary Banner:** A sign constructed of cloth, fabric or other light temporary materials with or without a structural frame, and which is displayed only on a temporary basis.

- **Sign, Vehicle:** A sign shall be considered a vehicle sign when the vehicle or trailer upon which the sign is painted or attached is parked or placed primarily for advertising purposes. Currently licensed commercial vehicles in general daily off-site use are not included as part of this definition.
- **Sign, Wall:** A sign which is painted on or attached directly to a surface of masonry, concrete, frame or other approved building walls, and which extends not more than one foot from the face of the wall.
- **Sign, Window:** A sign attached to, or in close proximity to, the window surface so as to be clearly and comprehensively visible from the outside.

Sign Area: The entire area within a regular geometric form, or combination of regular geometric forms, comprising all of the display area of the sign and including all of the elements of the matter displayed. Framed and structural members not bearing advertising matter shall not be included in computation of surface area.

Sign Height: The measurement of the vertical dimension from the grade at the sign base or foundation to the highest point of any component of the sign.

Special Land Use: A Special Land Use is a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, and character, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted upon the issuance of a Special Land Use Permit by the Planning Commission in such zoning district as permitted, if specific provision for such Special Land Use is made in this ordinance.

Story: That part of a building, except a mezzanine, as defined herein, included between the surface of one (1) floor and the surface of the next floor, or if no floor above, then the ceiling next above. A story, thus defined, shall not be counted as a story when more than fifty (50) percent by cubic content is below the height level of the adjoining ground.

Story, Half: An uppermost story lying under a sloping roof, the usable floor area of which does not exceed seventy-five (75) percent of the floor area of the story immediately below it and is not used or designed or arranged or intended to be used in whole or in part as an independent housekeeping unit or dwelling.

Street, or Road: A thoroughfare for vehicular traffic, including all area within the right-of-way, which affords vehicular traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, street, alley, and other thoroughfare, except a private driveway.

Street Line: The outermost right-of-way line of a street or easement for ingress and egress.

Structure: Anything constructed or erected on site, including a mobile home structure, a pre-manufactured or pre-cut structure, above or below ground, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind, including buildings, walls, fences, billboards, poster panels and swimming pools.

Section 2.21 "T"

Temporary Outdoor Sales: Any sale made by a person, firm, or corporation engaging in the temporary business of selling goods or merchandise from a tent, truck, vending cart, or other area outside of a permanent structure on property owned or leased by the person, firm, or corporation. The temporary outdoor sales must be secondary to or incidental to the principal permitted use or structure existing on the property, and not incompatible with the intent of the district.

Theater: An establishment for the performing arts. Such establishments may include related services such as food and beverage sales and other concessions.

Township Board or Board: The Board of Trustees of the Township of Hagar.

Travel Trailer: A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight (8) feet and a body length not exceeding forty (40) feet.

Section 2.22 “U”

Reserved.

Section 2.23 “V”

Variance: A variance is a relaxation of the terms of the zoning ordinance where, in the judgment of the Zoning Board of Appeals, such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in practical difficulty. As used in this ordinance, a variance is authorized only for height, area and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

Section 2.24 “W”

Warehouse: A building used primarily for the storage of goods and materials.

Wind Energy Conservation System: A wind energy conversion system shall mean all, or any combination of the following:

- A. A mill or machine operated by wind acting on oblique vanes or sails that radiate from a shaft;
- B. A surface area, either variable or fixed, for utilizing the wind for electrical or mechanical power;
- C. A shaft, gearing, belt, or coupling utilized to convey the rotation of the surface areas into a form suitable for driving a generator, alternator, or other mechanical or electricity producing device;
- D. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and,
- E. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.

Wind Energy Conservation System, Large: A Wind Energy Conversion System, as defined herein, which has a rated capacity of more than 100kW/1MW and which is intended to generate utility power for resale.

Wind Energy Conservation System, Small: A Wind Energy Conversion System, as defined herein, which has a rated capacity of not more than 100kW/1MW and which is intended primarily to reduce on-site consumption of utility power.

Section 2.25 “X”

Reserved.

Section 2.26 “Y”

Yards: The open spaces that lie between the principal building or buildings and the nearest lot line. The minimum required yard as set forth in this Zoning Ordinance is unoccupied and unobstructed from the ground upward except as may be specifically provided in this Zoning Ordinance.

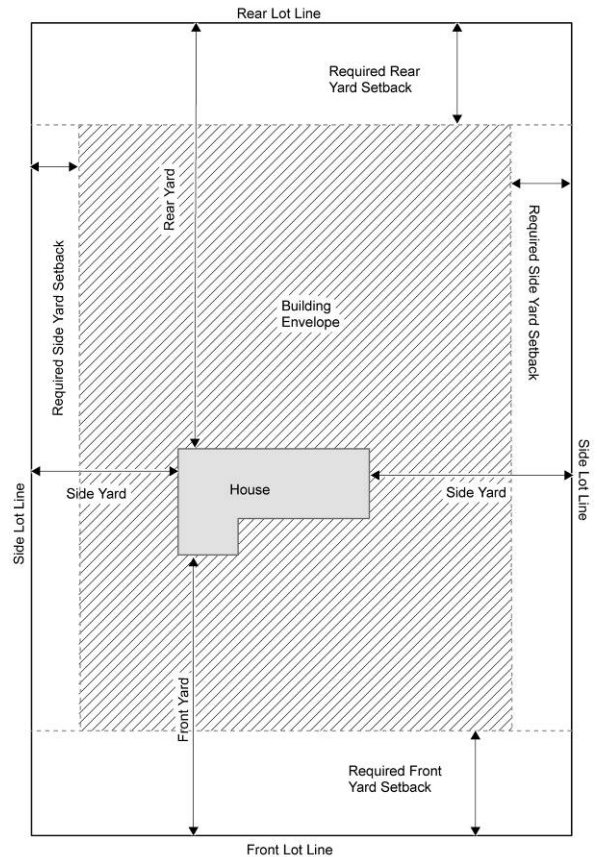
- **Front Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.
- **Rear Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard shall be opposite either street frontage.
- **Side Yard:** An open space between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the main building.

Section 2.27 “Z”

Zoning Administrator: The Township of Hagar Zoning Administrator or Building Inspector.

Zoning Board of Appeals: The Zoning Board of Appeals of the Township of Hagar.

Yards and Setbacks



ARTICLE III GENERAL PROVISIONS

Section 3.01 Purpose and Scope

It is the purpose of this Article to set forth regulations that may apply generally in all Zoning Districts to all permitted uses and special land uses and to provide detail on how the standards of this Ordinance will be applied. The use of all land and structures and the construction, reconstruction, alteration, improvement, repair and moving of all structures within Hagar Township shall conform with all applicable provisions of this Ordinance unless the nonconformance is a matter of record on the effective date of this Ordinance.

Section 3.02 Accessory Buildings and Uses

- A. An accessory building shall only be permitted on a lot where a principal building is present, except in accord with Section 19.04.
- B. A garage that is attached to a dwelling by a common roof, wall or breezeway shall be considered a part of the principal building and not an accessory building, and shall conform to setback, height and other applicable regulations of this Ordinance pertaining to the principal building. However, a detached garage shall meet the accessory building requirements of this Section.
- C. Accessory buildings shall not be erected in any front yard, except as permitted in Section 3.09, D.
- D. Accessory buildings in the AG-R, R-1, R-2, and R-3 Zoning Districts shall comply with the following requirements:
 - 1. A detached accessory building shall be located no closer than 10 feet from any lot line. All accessory buildings shall be located a minimum of 12 feet from any dwelling.
 - 2. Accessory buildings shall be permitted according to the following:

Parcel Acreage	Maximum No. of Buildings	Maximum Square Footage	Maximum Building Height	Maximum Side Wall Height
Less than 1 acre	1	1,008	18 feet	10 feet
1 to 3 acres	1	1,200	18 feet	12 feet
Greater than 3 acres	2	2,400	35 feet, subject to Section 3.07	12 feet
5 acres or more on an active farm in the AG-R District	Unlimited	Unlimited	35 feet, subject to Section 3.07	n/a

- 3. No more than one portable storage shed shall be located on lots or parcels in the R-1, R-2 and R-3 Districts and such portable storage sheds shall not exceed 120 square feet in size. Such storage shed shall not count toward the number of accessory buildings or toward the square footage limitations of this subsection.
- E. In the RE, C-1 and I Districts, there shall be no limit to the number or size of accessory buildings, but height requirements and lot line setback requirements of the district shall be met.
- F. In the R-4 District, accessory buildings and structures, including manufactured housing community management offices and public works facilities, storage buildings, laundry facilities, recreation or

community facilities, and other accessory facilities, shall be designed and operated for use by residents of the community only and shall be shown on the plan submitted for development approval.

- G. When an activity or use is conducted in conjunction with another principal use and the former use; (1) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or (2) is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. Uses may be considered accessory to the principal use regardless of whether the accessory use is separately identified in this ordinance as a permitted or special use. For purposes of interpreting accessory uses:
1. A use may be regarded as incidental or insubstantial if the viability of the principal use is not dependent in any significant way on the accessory use.
 2. To be “commonly associated” with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.
 3. An accessory use shall not generate any effects on neighboring properties, including, but not limited to, noise, parking, traffic, glare, or dust, that are significantly greater than or more burdensome than such impacts from the principal use on the property.

Section 3.03 One Use on a Lot

- A. Each parcel in the Township shall be limited to not more than one principal use; provided that multi-tenant or multiple-occupant commercial, office, industrial or mixed-use developments, or multiple-family complexes, including developments consisting of more than one building, as otherwise permitted, may be regarded as single uses if approved pursuant to the standards of this Ordinance.
- B. Every single-family, two-family and multiple-family dwelling shall be located upon a lot of record, being a premises or parcel of real estate, the description of the boundaries of which is on record at the office of the Register of Deeds of Berrien County, Michigan. No more than one single-family or two-family dwelling structure shall be erected on a lot of record.
- C. Seasonal farm labor housing or structures located upon premises which are being actively farmed, and in conjunction with Section 19.47 which are designated for and occupied by farm labor personnel may be located upon the same lot of record as the main dwelling structure on the farm premises.
- D. The creation of a lot of record as described in paragraph A above on a premises or parcel of land by the proprietor thereof, or by his heirs, executors, administrators, legal representatives, successors or assigns, where the act of creating a lot of record creates five (5) or more lots of record each of which is ten (10) acres or less in area, or are created by successive acts, within a period of ten years shall be deemed subdividing as defined by Act 288, P.A. 1967, being the Subdivision Control Act of the State of Michigan, even in the event said lots of record are retained under common ownership, and said lots of record shall be surveyed and a plat thereof submitted, approved and recorded as required by said Act 288, P.A. 1967.

Section 3.04 Frontage on Public or Private Street

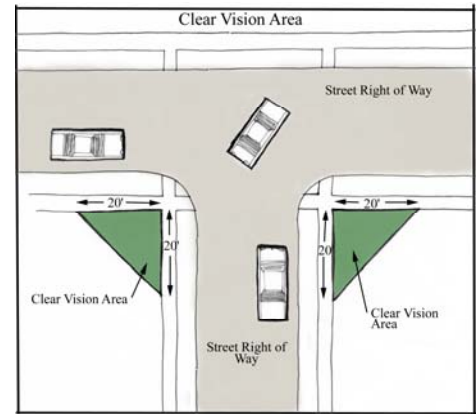
Except as might otherwise be provided for in this Ordinance, every building hereafter erected, moved or relocated shall be on a lot adjacent to a recorded public or private street. Every parcel shall have a minimum lot frontage of 100 feet, except for cul-de-sac lots, which shall have a minimum lot frontage of 50 feet; and except for parcels in the C-1 and I districts.

Section 3.05 Lot Width

The minimum required lot widths in all districts shall not be diminished throughout a given lot, beginning from the front lot line and extending to a distance of at least 200 feet of such lot.

Section 3.06 Clear Vision Area at Intersections

On any corner lot, no fence, accessory structure, plant, shrub or similar object over three (3) feet in height above finished grade shall hereafter be placed, erected, planted or allowed to grow in the area bounded by the street lines of such corner lot and a line joining points along the street lines for a distance of twenty (20) feet from the point of the intersection.



Section 3.07 Exceptions to Height Regulations

The height limitations of this Ordinance shall not apply to spires, belfries, cupolas, antennas, water tanks, silos, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

Section 3.08 Yards Moved from definitions

- A. In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards setbacks shall be met along all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the Zoning Administrator may waive the requirement for the normal front yard and substitute therefor a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.
- B. Every corner lot in a residential district having on its side street an abutting interior lot shall have minimum setbacks from both streets equal to the minimum required front setback of the district in which it is located; provided, however, that the width of buildable area of any lot of record shall not be reduced to less than 25 feet. On corner lots where a rear lot line abuts a side lot line on the adjoining lot, accessory buildings on the corner lot shall have a rear yard setback from the rear lot line a distance equal to the side yard setback required for the district.
- C. In the case of rounded property corners at street intersections, reference points for measurements shall be placed as though the ~~side~~ lot lines would have met the street line if the corner were not rounded. The front and rear lines of the front yard shall be parallel.

Section 3.09 Lake Front Lots

- A. On all lake front lots, no building or structure, except a boat house, shall be constructed or erected with a water side setback less than the average setback of existing similar buildings or structures within 200 feet on each side of the property.

- B. Yard requirements for lake front properties shall be the same as specified in Section 5.01, B, but in no instance shall any building or structure, except a boat house, be constructed or erected within 20 feet of the water line.
- C. Notwithstanding this Section, the requirements of Article XIV shall be met, as applicable.
- D. One detached garage may be permitted in the front yard on a lake front lot abutting Lake Michigan. Said detached garage shall be compatible in appearance to the dwelling on the property and dwellings in the area and shall not utilize a pole barn appearance, as determined by the Zoning Administrator. Said detached garage shall also conform to all applicable requirements for accessory buildings, and front yard setback requirements for the zoning district.

Section 3.10 Temporary Dwelling Structures

- A. No building, garage, cellar, basement or other structure which does not conform to the provisions of this Ordinance relative to permanent dwellings shall be erected, altered or moved upon any premises and used for dwelling purposes except under the following limitations:
 - 1. Except as hereinafter provided, temporary use of a building, garage, cellar, basement or other structure shall be for the sole purpose of providing dwelling facilities for the owner of the premises during the period which a permanent dwelling conforming to the provisions of this ordinance is in process of erection and completion; provided, however, such period shall not exceed 12 consecutive months beginning with the date of issuance of the permit pursuant to paragraphs hereof.
 - 2. Use of any building, garage, basement or other structure for temporary occupancy shall not be adverse to health, safety or the public welfare.
 - 3. The location of each such building, garage, cellar, basement or other structure shall conform to the regulations governing the yard requirements for dwellings, or other applicable structures in the district in which it is situated.
 - 4. In the case of recreational vehicles providing temporary housing of guests or visitors on the premises, such use shall be permitted for a period of time not to exceed 30 days in any 12 consecutive month period, provided the occupants of the recreational vehicle shall have unrestricted use of the sewage disposal and water supply facilities of the principal dwelling.
 - 5. Application for the erection, movement, alteration and use of such building, garage, basement or other structure intended for temporary occupancy shall be made to the Township Building Inspector on an appropriate form signed by the applicant which shall indicate the applicant has read, understands and agrees to abide by all applicable provisions of this ordinance and that failure to abide by such applicable provisions constitutes a violation of this ordinance. Upon a finding of compliance with the provisions of this Section, the Building Inspector shall issue a temporary dwelling permit. The applicant shall be required to demonstrate to the Township Building Inspector the feasibility of discontinuing the temporary dwelling within the maximum 12-month duration.
 - 6. Notwithstanding any other provisions of this ordinance, the Township Board may approve, through the issuance of an annually renewable special land use permit, the use of a mobile home on the same lot as a permitted principal use single family dwelling for occupancy by immediate relatives of the property owners where there is a demonstrated hardship, certified to by a licensed practitioner of medicine, on the part of such occupants, provided a temporary

occupancy permit for a period of 1 year is obtained from the Zoning Administrator after approval by the Township Board.

Section 3.11 Accessory Caretaker Dwelling

- A. No more than one accessory caretaker dwelling shall be permitted on a single parcel.
- B. The accessory caretaker dwelling shall include a kitchen, bathroom, and sleeping area and shall meet all provisions of the Building Code. The accessory caretaker dwelling shall be connected to a water and wastewater system approved by the health department.
- C. The exterior design of an accessory caretaker dwelling shall be compatible with the principal residence on the lot. The building form, height, construction materials, dimensions, and landscaping shall remain consistent with the principle structure and in harmony with the character and scale of the surrounding neighborhood. The design and location of the accessory caretaker dwelling shall maintain a compatible relationship to adjacent properties and shall not significantly impact adjacent properties.
- D. The accessory caretaker dwelling shall not result in excessive traffic, parking congestion, or noise.
- E. Where applicable, the accessory caretaker dwelling shall be located and designed to protect views of the lakeshore and scenic coastal areas on neighboring properties.
- F. The accessory caretaker dwelling shall comply with all setback and height limitations and requirements for the zoning district.

Section 3.12 Requirements for Dwellings

Single-family, two-family and multiple-family dwellings shall comply with the following standards:

- A. Dwellings shall comply with the requirements of Section 5.01, C, which includes the minimum square footage requirements of this Ordinance.
- B. Dwellings shall have a minimum width across any front, side or rear elevation of 24 feet and shall comply in all respects with the township building code including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the township building code, then and in that event such federal or state standard or regulation shall apply.
- C. Dwellings shall be firmly attached to a permanent foundation constructed on the site in accordance with the township building code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a manufactured home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Manufactured Housing Commission, and shall have a perimeter wall as required above.
- D. In the event that a dwelling is a manufactured home as defined herein, the manufactured home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism under carriage or chassis.
- E. Dwellings shall be connected to a public sewer and water supply or to such private facilities approved by the local health department.

- F. Dwellings shall contain a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.
- G. Dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof over-hang of not less than six inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; have not less than two exterior doors with the second one being in either the rear or side of the dwelling; and contains steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same. In addition, the pitch of the main roof of the dwelling unit shall not be less than three (3) feet of rise for each twelve (12) feet of horizontal run.
- H. The compatibility of design and appearance of dwellings shall be determined in the first instance by the Township Zoning Administrator upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the Zoning Board of Appeals. Any determination of compatibility shall be based upon the standards set forth in this Section as well as the character, design and appearance of one or more residential dwellings located outside of manufactured housing communities within 2,000 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20% of the lots situated within said area; or, where said area is not so developed, by the character, design and appearance of one or more residential dwellings located outside of manufactured housing communities throughout the township. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
- I. Dwellings shall not contain additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
- J. Dwellings shall comply with all pertinent building and fire codes. In the case of a manufactured home, all construction and all plumbing, electrical apparatus and insulation within and connected to said manufactured home shall comply with all County and state regulations.
- K. The foregoing standards shall not apply to a manufactured home located in a licensed manufactured housing community except to the extent required by state or federal law or otherwise specifically required by Township ordinance pertaining to such use.
- L. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable township building code provisions and requirements.

Section 3.13 Floor Area Calculation

- A. Residential Buildings. For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of a building shall be measured from the exterior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, or space used for off-street parking, breezeways, and enclosed and unenclosed porches, elevators, or stair bulkheads, common hall areas in multiple-family buildings, and accessory structures.
- B. Commercial Buildings. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, elevators or stair bulkheads or for utilities or sanitary facilities, shall be excluded from this computation of usable floor area. Measurement of

usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the exterior faces of the exterior walls.

Section 3.14 Performance Standards

- A. It shall be unlawful to conduct or permit any activity or operation or use of land, building, or equipment that produces irritants to the sensory perceptions greater than the measures herein established.
1. Machinery shall be so mounted and operated as to prevent transmission of ground vibration perceptible at a residential lot line. Vibration from sound or noise at any lot line shall not be so intrusive as to interfere with normal daily activities in adjoining land uses.
 2. The emission of noxious, odorous matter in such quantities as to be readily detectable at a point along any lot lines, so as to produce a public nuisance or hazard beyond lot lines, is prohibited.
 3. The escape or emission of any gas, which is injurious or destructive or explosive, shall be unlawful and shall be summarily abated, as directed.
 4. No garbage, filth, refuse, or other obnoxious matter shall be kept in open containers, piled, or laid on the open ground; and all containers shall be stored in such a way so as not to be accessible to animals.
 5. In commercial and industrial districts, outdoor storage of materials and equipment must be conducted in side or rear yards and screened by a fence of adequate opacity and height to obscure view of the storage area, subject to the provisions of Section 3.17.

Section 3.15 Keeping of Animals

The keeping of customary household pets and other animals shall be permitted only in accord with the Hagar Township Keeping of Animals Ordinance.

Section 3.16 Swimming Pools

- A. It shall be unlawful for any person or persons to install, place or maintain an above or below ground swimming pool with a surface in excess of 200 sq. ft. and a depth of 30 inches or more upon any lot or parcel of land in Hagar Township without first securing a Certificate of Approval therefor from the Township Zoning Administrator.

In granting such certificate the Building Inspector shall consider, among other things, the availability of water and adequate drainage. No certificates for such use shall be granted unless the plans provide for the construction of a suitable fence or enclosure around the pool of at least four (4) feet in height with a self closing gate or gates that may be locked. The construction of the fence or enclosure shall be a prerequisite to the use of any such swimming pool. The purpose of this provision is to provide for the safety and protection of small children.

- B. The location of a swimming pool on any lot or parcel of land must comply with the yard requirements of the respective district in which it is situated, and must not be located within the front yard.
- C. After determination by the Zoning Administrator that all applicable requirements of this Ordinance and the Township Building Code, including provisions regarding plans and permits, have been met, the Zoning Administrator may issue the necessary permit for the construction, installation, enlargement or alteration of a swimming pool.

Section 3.17 Fences

- A. Construction of a fence shall require issuance of a zoning permit issued by the Zoning Administrator prior to construction or erection of the fence.
- B. Fences shall be constructed to present the finished outside fence appearance to adjacent property and public right-of-ways by either:
 - 1. Symmetrical construction having identical inside and outside face appearance including main anchor posts and frame members.
 - 2. Offset construction with main anchor posts and horizontal and vertical frame members visible on the inside face only and vertical and horizontal face members or materials mounted on the outside surface of the frame and anchor post members.
- C. Fences shall not exceed 4 feet in height in the front yard and 6 feet in height in the side or rear yard; provided that all fences may be up to 8 feet in height in industrial districts.
- D. Fences in front yards shall not be more than 50% opaque.
- E. The alteration of the natural grade of the land to increase the functional height of a fence shall be prohibited; with the Zoning Administrator having authority in determination of applicable grade.
- F. Barbed wire, electrified wire or any form of single strand wire fence or barrier shall be prohibited except for on farm properties in the AG-R District, and on industrial properties in the I District with a minimum height of 6 feet.

Section 3.18 Outdoor Trash Receptacles

- A. Any new or altered use (except agricultural and farm operations) which requires site plan review pursuant to Section 18.02 and has an outdoor trash storage area shall comply with the following requirements:
 - 1. Any outdoor trash storage area shall be limited to normal refuse which is collected on a regular basis and shall be maintained in a neat, orderly and sanitary condition. This maintenance shall be the responsibility of the owner of the premises on which the containers are placed.
 - 2. A decorative masonry wall or wooden privacy fence of 6 feet in height or other approved adequate height to fully screen the receptacle shall enclose 3 sides of the storage area. Post bollards and/or other protective devices shall be installed at the opening and to the rear of any storage area to prevent damage to the screening walls. The surface under any such storage area shall be constructed of concrete.
 - 3. In no instance shall any such refuse be visible above the required enclosure.
 - 4. Adequate vehicular access shall be provided to such containers for truck pickup either via a public alley or vehicular access aisle which does not conflict with the use of off-street parking areas or entrances to or exits from principal buildings nearby.
 - 5. Any such storage shall be located in a rear yard or be so located and arranged as to minimize its visibility from adjacent streets and uses. The Planning Commission or Zoning Administrator may require an obscuring or screening gate when the visibility of such a storage area, from a public street, public right-of-way or adjacent use, is deemed to render an adverse influence. In no instance shall any such area be located in a front yard.

Section 3.19 Essential Services

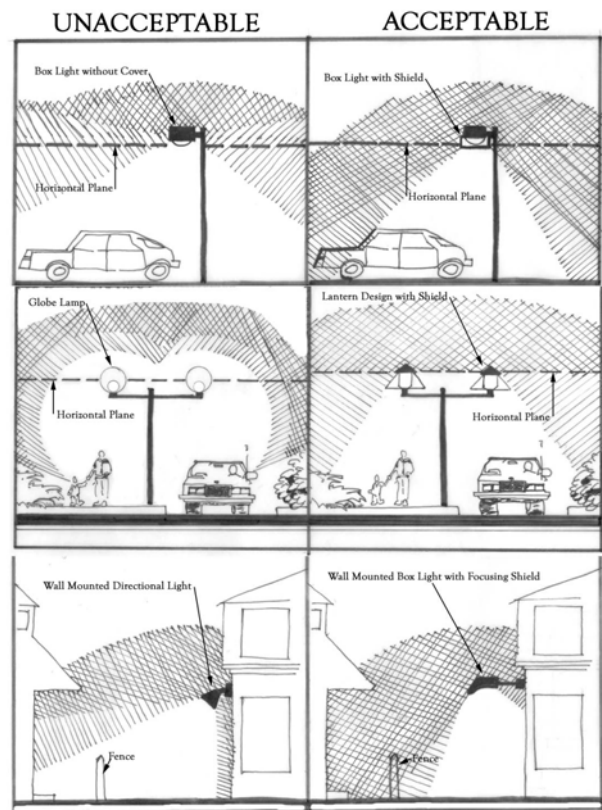
Essential services, as defined herein, may be permitted in any district. Essential services which are not expressly exempted from local government review by the Public Service Commission shall be reviewed by the Planning Commission pursuant to Article XVIII. For a proposed essential service facility to be approved by the Planning Commission, the Planning Commission shall find that the facility is designed with sufficient landscape screening to ensure that the use is suitably buffered and harmonious with the surrounding neighborhood or vicinity in terms of aesthetics, architecture or other elements.

Section 3.20 Outdoor Illumination

A. The purpose and intent of this Section is to maintain the rural character of the Township by promoting the sensible, energy-efficient use of exterior lighting that limits unnecessary light from being directed skyward or onto neighboring properties or roadways. This Section is intended to ensure that direct or directly reflected light is confined to each property to prevent light trespass and to avoid glare.

B. Outdoor illumination on non-residential property shall be designed, installed and maintained in accord with the following:

1. All lighting shall be fully-shielded and aimed downwards to not create glare onto neighboring properties or public rights-of-way. Lighting fixtures shall have 100% cut off above the horizontal plane at the lowest part of the point light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane.
2. No elevated exterior light fixture, including light poles, canopy lights, wall-mounted lights, soffit lights and similar fixtures shall exceed 20 feet in height above grade. The height of light fixtures required for doors on decks above grade can be measured from the walking surface (i.e. deck) they illuminate. Such elevated light fixtures shall be set back from the lot line one foot per every foot of height.
3. There shall be no lighting of a blinking, flashing or fluttering nature, including changes in light intensity, brightness or color. Search lights, laser source lights or any similar high-intensity light shall not be permitted except in emergencies as directed by emergency personnel or night road repairs.
4. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
5. Lighting used for agricultural production purposes, up-lit flags and decorative lighting intended and used to illuminate church steeples shall be exempt from the provisions of this Section.



6. Seasonal holiday lighting, such as for Christmas, is allowed providing it does not create objectionable glare.
7. The Zoning Administrator, Planning Commission or Township Board may require that outdoor light fixtures be turned off after normal business hours to prevent or reduce glare.
8. Sign illumination shall comply with Section 15.03, B.

Section 3.21 Vehicle Storage

- A. The storage or parking of trucks of more than one ton capacity, commercial vehicles, recreational vehicles of any kind, front-end loaders, trailers and similar vehicles and equipment in the R-1, R-2, R-3 and R-4 districts or on a residentially-used property shall comply with the standards of this section.
 1. Trucks of more than one ton capacity, commercial vehicles, recreational vehicles of any kind, front-end loaders, trailers and similar vehicles and equipment of any kind or type without current license plates shall not be parked or stored other than in completely enclosed buildings. It shall be illegal to garage or park more than one commercial vehicle larger than a regularly manufactured pickup or panel truck of one ton capacity per lot; said commercial vehicle must be operated by a member of the family residing on said lot or parcel.
 2. Storage or parking of trucks of more than one ton capacity, commercial vehicles, recreational vehicles of any kind, front-end loaders, trailers and similar vehicles and equipment is permitted within a driveway, the rear yard or in one side yard, no closer than 3 feet from a side lot line or 5 feet from a rear lot line and provided that such storage or parking does not prevent clear access between the front and rear yards of the parcel for a person on foot.
 3. Parking or storage of trucks of more than one ton capacity, commercial vehicles, recreational vehicles of any kind, front-end loaders, trailers and similar vehicles and equipment on any roadway or within a road right-of-way is prohibited.

Section 3.22 Open Space Preservation Option

- A. Purpose and Intent. The intent of this Section is to encourage the long-term preservation of open space, agricultural land, other natural features, and the rural character of Hagar Township in accordance with Section 506 of the Michigan Zoning Enabling Act, Act 110 of 2006, as amended. An open space preservation development shall result in a recognizable and substantial benefit to the residents of the development and to the Township. The benefits can be provided through site design elements in excess of the requirements of this Chapter, such as high quality architectural design, extensive landscaping, provision of transition areas from adjacent land uses, unique site design features, unified access, preservation of woodlands and open space, particularly along major thoroughfares, and buffering development from lakes, rivers, streams and wetlands.
- B. Eligibility Criteria. This Section shall be applicable to properties within the AG-R District. The minimum project size shall be 10 acres. The provisions in this Section shall supplement the existing regulations applicable within the AG-R District in the event an owner of property elects to submit for development approval under the open space preservation option provided in this Section. Property meeting the eligibility requirements of this Section may be developed, at the owner's option, with the same number of dwelling units on a portion of the land as specified herein that, as determined by the approving body, could have otherwise been developed on the

same land under current ordinances, laws and rules, subject to and in accordance with the regulations of this Section.

- C. Application and Review Requirements. An open space preservation development shall be subject to the application and procedural requirements of a preliminary plat if the land is proposed to be developed as a subdivision under the Land Division Act, a condominium plan pursuant to the Condominium Act if the land is proposed to be developed as a condominium project, and/or otherwise incorporated into a site plan pursuant to Article XVIII in accordance with the requirements of this Ordinance. Such property shall be subject to all applicable requirements of the underlying AG-R District except as modified by this Section. In addition to all other submittals and information required under this Ordinance, all open space preservation option plans submitted to the Township shall include a resource inventory that illustrates floodplains, wetlands, and bodies of water; and an analysis of on-site soils and topography to identify limitations to development.
- D. Density Calculation. The density of dwelling units shall not exceed the density customarily developable in the AG-R District, developed with a conventional layout and with all applicable laws and ordinances being observed. A parallel plan shall be submitted to the reviewing authority in order to establish the maximum permitted density. The parallel plan shall identify how a parcel could be developed under the conventional standards of the AG-R District in which the property is situated, and the requirements of all other applicable State and Township regulations and standards. The parallel plan shall provide lots with building envelopes of sufficient size, taking into consideration sanitary sewage disposal capacity, topography, easements or encumbrances, drainage retention/detention areas, along with all necessary roads and road-related improvements, without impacting natural areas and features required to be preserved under applicable law and ordinance. All unbuildable areas and areas with limitations to development must be accurately identified on the parallel plan, including, but not limited to, wetlands, watercourses, drains, floodplains, steep slopes, woodlands and similar features. It is not the intent of this provision to generally require detailed engineering in the preparation of this plan; however, it must be a realistic plan of development, taking into consideration the actual assets and constraints of the property. The reviewing authority shall make the determination that a parallel plan is acceptable once it meets all applicable Township Ordinance requirements and, based on the parallel plan, determine the number of units permitted under the open space preservation option provided in this Section.
- E. Design Requirements. The following design requirements shall apply to a proposed open space preservation development under this Section.
 - 1. A minimum of 50% of the gross site area (not including existing road right-of-way) shall be preserved as permanent open space in an undeveloped state.
 - 2. Permanent open space shall include the site's most significant natural, environmental, agricultural and/or cultural features including, but not limited to, the following:
 - a) Wetlands, floodplains, dunes and beaches, and natural watercourses;
 - b) Woodlands;
 - c) Recreational pathways and other permitted recreational facilities, but not including a golf course;
 - d) Buffers from major thoroughfares and more intense land uses; and
 - e) Similar features acceptable to the approving body.

3. The applicant for an open space preservation development shall be entitled to an approval under this Section provided the following aspects of the proposed development plan shall be reviewed by the approving body:
 - a) The area and width of the resulting individual lots and building setback requirements under the open space preservation option shall be reasonable and rationally related to the type of development proposed and shall comply with the standards, requirements and intent of the AG-R District to the maximum extent feasible. In no event shall a lot size be reduced more than fifty percent (50%) of the required lot size, and lot width and setback may be reduced no greater than thirty-three percent (33%) of the required lot width and setback in the district. Factors to be considered in determining the reasonableness of the area, width and setback requirements shall include the amount of open space, the density as determined by the approving body under the parallel plan, and the required setbacks, minimum lot width, and maximum lot coverage for the particular zoning district. Final area, width and setback requirements under the open space preservation option shall be approved by the approving authority in the manner set forth above.
 - b) Lot layout and configuration shall result in lots or units feasible for development and use of residences, and in the maintenance of a reasonable buffer between an open space development hereunder and adjacent public thoroughfares and other land which is developed, or may be developed, for non-cluster residential development. Each lot or unit shall be depicted on the plan with a proposed building envelope in which a proposed residence may be constructed and used, including all likely improvement, without the necessity of the granting of a variance by the Zoning Board of Appeals.
 4. Open space areas shall be accessible to all lots in the development, either directly from the internal road network or, if approved in the discretion of the approving body, directly from another manner of access providing perpetually existing and maintained pedestrian accessibility to all lots.
 5. Preserved open space shall be connected with adjacent open space, public land, and existing or planned bike paths, where feasible, as determined by the approving body.
 6. Approval of an open space preservation option development does not constitute a change in the zoning of the property, and except as specifically provided in this Section, all other regulations applicable within the AG-R District shall apply.
 7. Nothing in this Section shall allow the construction of multi-family residential units in a single-family residential district.
 8. Nothing in this Section shall allow a development to result in the creation of a nuisance, danger or hazard to the health, safety and welfare of any person or property.
- F. Open Space Maintenance. All open space shall remain perpetually in an undeveloped state by means of a conservation easement to be recorded with the Berrien County Register of Deeds. All such conservation easements shall clarify ownership, access/use rights, and perpetual maintenance, and shall be approved by the approving body prior to final approval of the development, and shall be received and approved as to substance and form by the Township attorney prior to acceptance by the approving body. Nothing in this Section shall be construed to require the property owner to convey fee title ownership of the open space to the public.

ARTICLE IV IMPLEMENTATION OF ZONING DISTRICTS

Section 4.01 Establishment of Zoning Districts and Official Zoning Map

- A. The Township is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.
- B. The Official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk, and shall bear the seal of the Township under the following words: "This is to certify this is the Official Zoning Map referred to in the Zoning Ordinance of the Township of Hagar, Berrien County, Michigan, adopted on June 11, 2012."
- C. No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance.
- D. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the Township, shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the Township.

Section 4.02 Replacement of Official Zoning Map

- A. In the event the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Township Board may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified as indicated in Section 4.01, B.
- B. Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

Section 4.03 Interpretation of District Boundaries

- A. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following standards shall apply:
 - 1. Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed as following such center lines;
 - 2. Boundaries indicated as approximately following property, parcel or lot lines shall be construed as following such lines;
 - 3. Boundaries indicated as approximately following municipal boundaries shall be construed as following such municipal boundaries;
 - 4. Boundaries indicated as following Township section lines shall be construed as following such section lines;

5. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
6. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines;
7. Boundaries indicated as parallel to or extensions of features indicated in paragraphs 1 through 6 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
8. Where physical features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by paragraphs 1 through 7 above, the Board of Appeals shall interpret the district boundaries;
9. Where a district boundary line divides a lot which was in single ownership at the time of passage of this ordinance, the Board of Appeals may permit, as a Special Exception, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

Section 4.04 Application of District Regulations

- A. The regulations set forth by this ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land within a zoning district, and particularly, except as hereinafter provided:
 1. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
 2. No building or other structure shall hereafter be erected or altered to:
 - a) exceed the height or bulk;
 - b) accommodate or house a greater number of families;
 - c) occupy a greater percentage of lot area; or
 - d) have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or be erected or altered in any other manner contrary to the provisions of this ordinance.
 3. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.
 4. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

**ARTICLE IX
R-3, MULTI-FAMILY RESIDENTIAL**

Section 9.01 Purpose and Intent

The purpose of the R-3 District is to generally accommodate limited areas of higher-density residential development, consisting of single-, two-, and multiple-family dwellings formed into walkable communities. The intent is to provide for a suitable residential environment for families typically with children, but a relatively higher density and a diversification of the type of dwellings permitted will result in residential communities balanced with a variety of housing options, designed to complement the Township’s rural character.

<p>Section 9.02 Permitted Uses</p> <ul style="list-style-type: none">▪ Accessory uses, buildings and structures▪ Family day care home▪ Single-family dwelling	<p>Section 9.03 Special Land Uses</p> <ul style="list-style-type: none">▪ Community center▪ Group day care home▪ Home-based business▪ Multiple-family dwelling▪ Park▪ Planned unit development▪ Recreation facility▪ Religious institution▪ Two-family dwelling
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Section 9.04 District Requirements

- A. There shall be a lot area of at least 21,780 square feet per dwelling unit, and a lot width of at least 150 feet.
- B. No building shall exceed a height of 35 feet or 2½ stories, whichever is less.
- C. There shall be a front yard setback of at least 35 feet.
- D. There shall be two side yards, and each side yard setback shall be at least 10 feet.
- E. There shall be a rear yard setback of at least 25 feet.

ARTICLE V USE AND DIMENSIONAL STANDARDS

Section 5.01 Uses and Dimensional Standards

Regulations affecting the use of buildings and land, and the bulk arrangement of buildings, materials and equipment occupying such land for each of the districts are hereby established as set forth in this ordinance.

- A. The List of Permitted and Special Land Uses presents the uses that are permitted in each zoning district in the Township of Hagar. It is provided for expeditious reference. However, it should not be substituted for a precise reference to the specific language of this ordinance. In the event of a discrepancy between the table and the text of the Ordinance, the text shall prevail. Moreover, all uses, buildings and structures shall conform to the other requirements of this Ordinance.

List of Permitted and Special Land Uses – Hagar Township Zoning Ordinance								
		P = Permitted Use			SL = Special Land Use		AP = Accessory Permitted Use	
Uses	AG-R	R-1	R-2	R-3	RE	R-4	C-1	I
	Agricultural Residential	LK MI Beach Residential	Single-Family Residential	Multi-Family Residential	Resort & Recreation	Manufactured Housing Community	Commercial	Industrial
Accessory Caretaker Dwelling					AP			AP
Accessory Uses, Buildings, and Structures	AP	AP	AP	AP	AP	AP	AP	AP
Agri-Tourism Establishment	SL				SL		SL	
Airplane Landing Field	SL							
Animal Hospital	SL						SL	
Assisted Living Facility							SL	
Automobile Repair Establishment							SL	
Automobile Sales or Rental Establishment							SL	
Automobile Service Establishment							SL	
Banquet Hall							SL	
Bed and Breakfast	SL		SL					
Boat Livery	SL				SL			
Campground					SL			
Car Wash							SL	
Cemetery	SL							
Commercial Recreation Establishment							SL	
Commercial Riding Stable	SL							

List of Permitted and Special Land Uses – Hagar Township Zoning Ordinance

P = Permitted Use SL = Special Land Use AP = Accessory Permitted Use

Uses	AG-R	R-1	R-2	R-3	RE	R-4	C-1	I
	Agricultural Residential	LK MI Beach Residential	Single-Family Residential	Multi-Family Residential	Resort & Recreation	Manufactured Housing Community	Commercial	Industrial
Community Center	SL	SL	SL	SL	SL	SL	SL	
Contractor's Office and Yard							P	P
Day Care Center							SL	
Drive-Through Facility							SL	
Dry Cleaning Plant								SL
Family Day Care Home	P	P	P	P				
Farm	P							
Financial Institution							P	
Funeral Home							P	
Gas Station							SL	
Golf Course/Country Club	SL				SL		SL	
Golf Driving Range	SL				SL		SL	
Greenhouse and Nursery, 5 acres or less under roof	P						P	
Greenhouse and Nursery, over 5 acres under roof	SL						SL	
Group Camp Facility					SL			
Group Day Care Home	SL	SL	SL	SL			SL	
Home-Based Business	SL	SL	SL	SL				
Hospital	SL	SL	SL				SL	
Hotel					SL		SL	
Junkyard								SL
Kennel	SL						SL	
Laundry and Dry Cleaning Establishment							P	
Library	P	P	P					
Manufactured Housing Community						P		
Manufacturing								P
Medical Clinic							P	
Mining					SL			

List of Permitted and Special Land Uses – Hagar Township Zoning Ordinance

P = Permitted Use SL = Special Land Use AP = Accessory Permitted Use

Uses	AG-R	R-1	R-2	R-3	RE	R-4	C-1	I
	Agricultural Residential	LK MI Beach Residential	Single-Family Residential	Multi-Family Residential	Resort & Recreation	Manufactured Housing Community	Commercial	Industrial
Mini-Storage Facility								SL
Motel					SL		SL	
Multiple-Family Dwelling				SL				
Museum	SL	SL	SL					
Nightclub							SL	
Nursing or Convalescent Home		SL	SL				P	
Park	SL	SL	SL	SL	SL	SL	SL	
Personal Service Establishment							P	
Planned Unit Development	SL		SL	SL			SL	SL
Private Club or Organization							P	
Professional Office							P	P
Professional Services Establishment							P	
Recreation Facility	SL	SL	SL	SL	SL			
Religious Institution	SL	SL	SL	SL			SL	
Research and Development								P
Resort					SL		SL	
Restaurant					SL		P	
Retail Establishment							P	
Roadside Stand	AP							
School	SL	SL	SL					
Seasonal Farm Labor Housing	SL							
Sexually Oriented Business								SL
Single-Family Dwelling	P	P	P	P				
Temporary Outdoor Sales							SL	
Theater							SL	
Two-Family Dwelling			SL	SL				
Warehouse							SL	P
Wind Energy Conversion System, Large	SL							

List of Permitted and Special Land Uses – Hagar Township Zoning Ordinance								
P = Permitted Use			SL = Special Land Use			AP = Accessory Permitted Use		
Uses	AG-R	R-1	R-2	R-3	RE	R-4	C-1	I
	Agricultural Residential	LK MI Beach Residential	Single-Family Residential	Multi-Family Residential	Resort & Recreation	Manufactured Housing Community	Commercial	Industrial
Wind Energy Conversion System, Small	SL							

B. The Table of Dimensional Standards provides an overview of the dimensional requirements of this Zoning Ordinance. It is provided for expeditious reference. However, it should not be substituted for a precise reference to the specific language of this ordinance. In the event of a discrepancy between the table and the text of the Ordinance, the text shall prevail. Moreover, all uses, buildings and structures shall conform to the other requirements of this Ordinance.

Table of Dimensional Standards – Hagar Township Zoning Ordinance								
District		Minimum Yard Setback in Feet			Maximum Building Height		Minimum Lot Size	
		Front Yard	Side Yard	Rear Yard	In Feet	In Stories	Square Feet	Lot Width
AG-R	Agricultural Residential	35	10	25	35	2 1/2	1 acre	150'
R-1	Lake Michigan Beach Residential	20	10	25	30	2	10,000	100'
R-2	Single-Family Residential	35	10	25	35	2 1/2	15,000	100'
R-3	Multi-Family Residential	35	10	25	35	2 1/2	21,780 per dwelling unit	150'
RE	Resort & Recreation	35	10	25	35	2 1/2	21,780	150'
R-4	Manufactured Housing Community	See Article XII						
C-1	Commercial	40	25	25	35	2	--	--
I	Industrial	165	10	50	35	2	--	--

(a) See Article XIV on High Risk Erosion regulations pertaining to the Sensitive Area Overlay.

(b) See Section 3.09 regarding Lake Front Lots.

(c) See Section 19.43 on Planned Unit Development.

C. The following table summarizes the minimum required size of dwellings in the Township:

Table of Minimum Required Dwelling Floor Area – Hagar Township Zoning Ordinance			
Type of Building	Minimum Required Floor Area (square feet)	Minimum Required Total Floor Area (square feet)	Minimum Required Additional Floor Area for Storage and/or Utility Space (square feet)
SINGLE-FAMILY DWELLING			
1 story in height	864	864	--
1 1/2 stories in height	768	1,000	--
2 stories in height	720	1,440	--
TWO-FAMILY DWELLING			
Per dwelling unit	--	864	--
MULTI-FAMILY DWELLING			
Per efficiency dwelling unit	--	550	100
Per one-bedroom dwelling unit	--	650	100
Per two or more bedroom dwelling unit	--	728	100

**ARTICLE VI
AG-R, AGRICULTURAL RESIDENTIAL**

Section 6.01 Purpose and Intent

The purpose and intent of the AG-R District is to conserve and enhance the low-density, rural character of the Township and to preserve agricultural productivity by allowing for substantial areas of land to support the economies of scale necessary for viable farmland. By conserving such rural character, the township and other public agencies will realize economies in public expenditures by minimizing scattered demand for urban types and levels of services, utilities and facilities in otherwise predominantly rural areas; protect a vital economic activity and encourage and conserve portions of the countryside in an open and natural state.

<p>Section 6.02 Permitted Uses</p> <ul style="list-style-type: none"> ▪ Accessory uses, buildings and structures ▪ Family day care home ▪ Farm ▪ Greenhouse and nursery, 5 acres or less under roof ▪ Library ▪ Roadside stand ▪ Single-family dwelling 	<p>Section 6.03 Special Land Uses</p> <ul style="list-style-type: none"> ▪ Agri-tourism establishment ▪ Airplane landing field ▪ Animal hospital ▪ Bed and breakfast ▪ Boat livery ▪ Cemetery ▪ Commercial riding stable ▪ Community center ▪ Golf course / country club ▪ Golf driving range ▪ Greenhouse and nursery, over 5 acres under roof ▪ Group day care home ▪ Home-based business ▪ Hospital ▪ Kennel ▪ Museum ▪ Park ▪ Planned unit development ▪ Recreation facility ▪ Religious institution ▪ School ▪ Seasonal farm labor housing ▪ Wind energy conversion system, large ▪ Wind energy conversion system, small
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Section 6.04 District Requirements

- A. There shall be a lot area of at least one acre and a lot width of at least 150 feet.
- B. No building shall exceed a height of 35 feet or 2½ stories, whichever is less.
- C. There shall be a front yard setback of at least 35 feet.
- D. There shall be two side yards, and each side yard setback shall be at least 10 feet.
- E. There shall be a rear yard setback of at least 25 feet.

**ARTICLE VII
R-1, LAKE MICHIGAN BEACH RESIDENTIAL**

Section 7.01 Purpose and Intent

The R-1 District is specifically intended for the Lake Michigan Beach area as addressed in the Hagar Township Development Plan and the M-63 and Lakeshore Sub Area Plan. To this end, this District is intended to encourage a residential environment for families, with certain other compatible uses such as schools, parks, and playgrounds. Development will be medium-density, respecting the lakeshore’s sensitive natural resources and limitations of the steep slopes and unique soils. The R-1 District is meant to foster single-family residential neighborhoods in a walkable setting within the existing Lake Michigan Beach plat.

The Lake Michigan Beach plat is characterized by small lots which individually do not meet the purpose and intent of the ordinance or minimum dimensional requirements for the R-1 District. Historically, the combination of five consecutive lots with contiguous frontage on one street has been required by the Township to meet the minimum lot width requirement of 100 feet and the minimum lot size requirement of 10,000 square feet. This is to ensure adequate lot area to accommodate well and private septic systems, to preclude unnecessary overcrowding of population and to uphold the established built pattern of the neighborhood. The purpose and intent of the R-1 District is to establish attractive residential areas of lasting value.

<p>Section 7.02 Permitted Uses</p> <ul style="list-style-type: none">▪ Accessory uses, buildings and structures▪ Family day care home▪ Library▪ Single-family dwelling	<p>Section 7.03 Special Land Uses</p> <ul style="list-style-type: none">▪ Community center▪ Group day care home▪ Home-based business▪ Hospital▪ Museum▪ Nursing or convalescent home▪ Park▪ Recreation facility▪ Religious institution▪ School
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Section 7.04 District Requirements

- A. There shall be a lot area of at least 10,000 square feet and a lot width of at least 100 feet.
- B. No building shall exceed a height of 30 feet or 2 stories, whichever is less.
- C. There shall be a front yard setback of at least 20 feet.
- D. There shall be two side yards, and each side yard setback shall be at least 10 feet.
- E. There shall be a rear yard setback of at least 25 feet.

**ARTICLE VIII
R-2, SINGLE-FAMILY RESIDENTIAL**

Section 8.01 Purpose and Intent

The purpose and intent of the R-2 District is to provide for a suitable residential environment for families typically with children. To this end, uses are basically limited to single-family dwellings together with certain other uses such as schools, parks and playgrounds which provide a neighborhood environment. The intent of the R-2 District is to foster suburban-scale residential neighborhoods planned in an orderly and sequential manner, with streets interconnected to enhance walkability. In keeping with the intent, development is regulated to a moderate density. Commercial and other uses tending to be incompatible with the intent of this district are prohibited.

<p>Section 8.02 Permitted Uses</p> <ul style="list-style-type: none">▪ Accessory uses, buildings and structures▪ Family day care home▪ Library▪ Single-family dwelling	<p>Section 8.03 Special Land Uses</p> <ul style="list-style-type: none">▪ Bed and breakfast▪ Community center▪ Group day care home▪ Home-based business▪ Hospital▪ Museum▪ Nursing or convalescent home▪ Park▪ Planned unit development▪ Recreation facility▪ Religious institution▪ School▪ Two-family dwelling
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Section 8.04 District Requirements

- A. There shall be a lot area of at least 15,000 square feet and a lot width of at least 100 feet.
- B. No building shall exceed a height of 35 feet or 2½ stories, whichever is less.
- C. There shall be a front yard setback of at least 35 feet.
- D. There shall be two side yards, and each side yard setback shall be at least 10 feet.
- E. There shall be a rear yard setback of at least 25 feet.

ARTICLE X RE, RESORT & RECREATION

Section 10.01 Purpose and Intent

The purpose of the RE District is to accommodate the seasonal influx of visitors to the Township by permitting limited tourism-related uses that complement the Township's rural character. It is the intent of this district to preserve the quiet neighborhood character of residential areas and to maintain them free from commercial activities which are not typically compatible within a residential neighborhood. The requirements of this district are established to allow development to be located in those areas where necessary public services are provided. Additionally, the regulations of the RE District are intended to conserve open space and natural amenities, such as lakes, streams and the shorelines thereof, pronounced topography, woodlands, certain wetlands, floodplains and other natural features; to allow and regulate public and private use of such areas for the recreation and enjoyment of persons; and to regulate the use, improvement and development of such lands so as to safeguard the natural amenities which contribute to the enjoyment of the land.

<p>Section 10.02 Permitted Uses</p> <ul style="list-style-type: none">▪ Accessory caretaker dwelling▪ Accessory uses, buildings and structures	<p>Section 10.03 Special Land Uses</p> <ul style="list-style-type: none">▪ Agri-tourism establishment▪ Boat Livery▪ Campground▪ Community center▪ Golf course / country club▪ Golf driving range▪ Group camp facility▪ Hotel▪ Mining▪ Motel▪ Park▪ Recreation facility▪ Resort▪ Restaurant
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Section 10.04 District Requirements

- A. There shall be a lot area of at least 21,780 square feet, and a lot width of at least 150 feet.
- B. No building shall exceed a height of 35 feet or 2½ stories, whichever is less.
- C. There shall be a front yard setback of at least 35 feet.
- D. There shall be two side yards, and each side yard setback shall be at least 10 feet.
- E. There shall be a rear yard setback of at least 25 feet.

ARTICLE XI
R-4, MANUFACTURED HOUSING COMMUNITY

Section 11.01 Purpose and Intent

The purpose of the R-4 District is to make provisions for manufactured homes in state-licensed manufactured housing communities that provide housing options in an appropriate, safe and attractive manner. It is the intent of this ordinance that manufactured housing communities be established and maintained in full compliance with all applicable requirements of the State Manufactured Home Park Act, Act 243, P.A. 1959, as amended, the provisions of the Manufactured Home Commission Act, Act 419 P.A. 1976, as amended, the Michigan Public Act 96 of 1987, as amended, the Michigan Manufactured Housing Commission Rules, the Hagar Township Master Plan and M-63 and Lakeshore Sub Area Plan, and the standards and conditions and all other provisions as herein established.

<p>Section 11.02 Permitted Uses</p> <ul style="list-style-type: none">▪ Accessory uses, buildings and structures▪ Manufactured housing community	<p>Section 11.03 Special Land Uses</p> <ul style="list-style-type: none">▪ Community center▪ Park
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Section 11.04 Site Design Standards

The requirements of the Manufactured Housing Commission shall govern the layout and design of manufactured housing in this district; provided however, that a landscaped buffer not less than twenty (20) feet in depth shall be installed along the perimeter of a manufactured housing community to create an aesthetic buffer between the residents within the community and the neighboring land uses. Such landscaped buffer shall consist of a combination of evergreen and deciduous vegetation of sufficient height and concentration to provide an effective visual screen year round.

**ARTICLE XII
C-1, COMMERCIAL**

Section 12.01 Purpose and Intent

The C-1 District is intended to provide for service, retail and commercial businesses to serve the population of Hagar Township. Lands within the C-1 District will be situated at strategic nodes to encourage and enhance walkability. Conventional suburban strip commercial development is discouraged, because of the community’s expressed desire to maintain the residential and rural character of the Township, as discussed in the Township Master Plan and M-63 and Lakeshore Sub Area Plan. The quantity and scale of development will be limited to existing commercial nodes and to uses feasible and compatible in areas not served with public water and sanitary sewer. The character of development will be smaller-scale, with rural design features, limited signage, thoughtful outdoor illumination considerate of night skies, efficient access design, and innovative paving mechanisms to reduce impervious surfaces and runoff.

<p>Section 12.02 Permitted Uses</p> <ul style="list-style-type: none"> ▪ Accessory uses, buildings and structures ▪ Contractor’s office and yard ▪ Financial institution ▪ Funeral home ▪ Greenhouse and nursery, 5 acres or less under roof ▪ Laundry and dry cleaning establishment ▪ Medical clinic ▪ Nursing or convalescent home ▪ Personal service establishment ▪ Private club or organization ▪ Professional office ▪ Professional services establishment ▪ Restaurant ▪ Retail establishment 	<p>Section 12.03 Special Land Uses</p> <ul style="list-style-type: none"> ▪ Agri-tourism establishment ▪ Animal hospital ▪ Assisted living facility ▪ Automobile repair establishment ▪ Automobile sales or rental establishment ▪ Automobile service establishment ▪ Banquet hall ▪ Car wash ▪ Commercial recreation establishment ▪ Community center ▪ Day care center ▪ Drive-through facility ▪ Gas station ▪ Golf course / country club ▪ Golf driving range ▪ Greenhouse and nursery, over 5 acres under roof ▪ Group day care home ▪ Hospital ▪ Hotel ▪ Kennel ▪ Motel ▪ Nightclub ▪ Park ▪ Planned unit development ▪ Religious institution ▪ Resort ▪ Temporary outdoor sales ▪ Theater ▪ Warehouse
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Section 12.04 District Requirements

- A. No building shall exceed a height of 35 feet or 2 stories, whichever is less.
- B. There shall be a front yard setback of at least 40 feet.
- C. There shall be two side yards, and each side yard setback shall be at least 25 feet.
- D. There shall be a rear yard setback of at least 35 feet.

**ARTICLE XIII
I, INDUSTRIAL**

Section 13.01 Purpose and Intent

The intent of the I District is to provide employment opportunities for residents and investment in the community. Development in this district will include low-impact, light industrial activities designed to minimize off-site impacts. Extensive landscape screening will perpetuate the Township’s pastoral character and will, together with sufficient property maintenance, prevent an unkempt appearance. Industrial uses will not encroach into areas designated for other uses.

<p>Section 13.02 Permitted Uses</p> <ul style="list-style-type: none">▪ Accessory caretaker dwelling▪ Accessory uses, buildings and structures▪ Contractor’s office and yard▪ Manufacturing▪ Professional office▪ Research and development▪ Warehouse	<p>Section 13.03 Special Land Uses</p> <ul style="list-style-type: none">▪ Dry cleaning plant▪ Junkyard▪ Mini-storage facility▪ Planned unit development▪ Sexually oriented business
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Section 13.04 District Requirements

- A. No building shall exceed a height of 35 feet or 2 stories, whichever is less.
- B. There shall be a front yard setback of at least 165 feet.
- C. There shall be two side yards, and each side yard setback shall be at least 10 feet; provided, no building, sign or storage facility on an industrial property shall be closer than 50 feet to a lot zoned AG-R, R-1, R-2, or R-3.
- D. There shall be a rear yard setback of at least 50 feet.

ARTICLE XIV SENSITIVE AREA OVERLAY AND FLOODPLAIN OVERLAY

Section 14.01 Purpose and Intent

The purpose and intent of the Sensitive Area Overlay and the Floodplain Overlay is to protect natural resources and to protect against destruction to structures.

Specifically, the Sensitive Area Overlay is intended to conserve natural resources and features along the Lake Michigan shoreline, where elements of environmental significance are present; and to ensure that property owners coordinate with, and meet the requirements of, the Michigan Department of Environmental Quality (MDEQ). The Sensitive Area Overlay is further designed to protect water quality and to prevent water pollution and damage to structures by controlling erosion and by maintaining native vegetation and wildlife habitat.

In addition, the Floodplain Overlay is specifically intended to protect against flood damage or destruction to structures which might otherwise be constructed in flood hazard areas.

Section 14.02 Sensitive Area Overlay Requirements

- A. Uses permitted in the underlying zoning district are permitted in the Sensitive Area Overlay district and are subject to the conditions hereafter imposed. Any use located in a Critical Dune Area, as designated by Part 353 of PA 451 of 1994, as amended, or located in a High Risk Erosion Area, as designated by Part 323 of PA 451 of 1994, as amended, shall be reviewed and approved by the MDEQ prior to issuance of a building permit or zoning compliance permit and all applicable conditions shall be met.
- B. All new construction above and below ground not regulated by the MDEQ shall comply with the following minimum required setbacks:
 - 1. Low dune areas: 90 feet from the seaward edge of the foredune.
 - 2. High dune areas: 90 feet from the seaward edge of the foredune area, plus 1-foot for each foot of elevation above 60 feet. Where such setback distance is less than the distance to the top of the inland dune facing the lake, the minimum distance shall be to the top of such inland dune. Construction shall be prohibited on the seaward slope of the dune face or in the foredune area.
 - 3. Bluff areas: 90 feet from the top of the bluff (or the seaward edge of the foredune if one exists). Elevation shall be measured from the top of the bluff above the mean high water mark.
 - 4. Platted areas: In platted areas, the above setbacks may be reduced by the Board of Appeals depending upon the particular terrain of the area and the setback of existing neighboring properties. In no case shall the setback be less than 75 feet from seaward edge of the dune area.
- C. Outside of MDEQ-regulated areas, no sand or soil shall be removed or relocated within the required minimum setback area and no bluff or primary dune shall be cut down in elevation within the required minimum setback area.
- D. Vegetation removal in an established Critical Dune Area or a High-Risk Erosion Area shall comply with MDEQ requirements.

- E. Site plan review shall be required in accord with Article XVIII, for any uses in the Sensitive Area Overlay district. In addition to the site plan requirements of Section 18.03, the following information shall be provided:
 - 1. Illustration of proposed or existing location of utility lines, easements and/or rights-of-way.
 - 2. Verification that the County Health Department and other state and federal permits, as appropriate, have been applied for or obtained for the property.
 - 3. Details related to any proposed irrigation systems for landscape materials.

Section 14.03 Floodplain Overlay Requirements

- A. The boundaries of the overlay district shall be the 100-year floodplain as established by the Federal Emergency Management Agency (FEMA).
- B. Uses permitted in the underlying zoning district are permitted in the Floodplain Overlay district and are subject to the conditions hereafter imposed; provided that the elevation of the lowest habitable floor, including basements, shall be at least 1 foot above the base flood elevation as designated by FEMA.
- C. In the area below the 100-year floodplain, land may be used to supply open space or lot area requirements of a lot partially located above or outside of the 100-year floodplain. No building or structure shall be located below the 100-year floodplain. In the AG-R, Agricultural Residential district, land below the 100-year floodplain may also be used for agricultural purposes otherwise permitted by the regulations.
- D. In the area below the 100-year floodplain, dumping or backfilling with any material in any manner is prohibited unless, through compensating excavation and shaping of the flood plain, the flow and impoundment capacity of the floodplain will be maintained or improved and all applicable State and federal requirements are met.

ARTICLE XIX SPECIAL LAND USES

Section 19.01 Purpose and Intent

It is the intent of this Article to set forth the general procedures and review standards applicable to all special land uses and name, describe, and list additional specific requirements and conditions applicable to each special land use specified in the respective zoning districts. Because of the nature of the use, a special land use requires special consideration in relation to the welfare of adjacent properties and to the community as a whole.

Section 19.02 Application Procedure

- A. Submission of Application. A special land use application shall be submitted to the Zoning Administrator. Each application shall be accompanied by the payment of a fee established by the Township Board. An application, which is incomplete or otherwise not in compliance with this Ordinance, shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees and escrow payments paid in full.
- B. Required Information. A special land use application shall include sufficient copies of all required information as determined by the Zoning Administrator, including an application form, a site plan with all information as required in Section 18.03 of this Ordinance, and a written statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in this Article and other standards imposed by this Ordinance affecting the special land use under consideration.
- C. Review Procedures. An application for special land use approval shall be processed as follows:
 1. The complete application, including a site plan, must be received at least thirty (30) days prior to the next regular Planning Commission meeting in order to appear on the agenda. Upon receipt, the application package shall be reviewed by the Zoning Administrator to determine completeness. If the Zoning Administrator determines that the application is complete, the application shall be placed on the agenda of the next regular Planning Commission meeting. If the Zoning Administrator determines the application to be incomplete, the application shall be returned to the applicant.
 2. Once the special land use application has been reviewed by the Planning Commission, the Planning Commission shall set the date for the public hearing. Notice of the public hearing shall be provided pursuant to the procedures set forth in Section 21.03.
 3. After the public hearing, the Planning Commission shall review the application, any information supplied at or in connection with the public hearing, and any reports of Township personnel, planning or engineering or other consultants and shall reach a decision to approve, approve with conditions, or deny the application. Such decision shall be reached within a reasonable period of time following the public hearing on the application. The Planning Commission's decision shall be incorporated in a motion containing conclusions and findings reached relative to the proposed special land use which motion shall provide the basis for the decision and any conditions in connection with the decision.
 4. In arriving at its decision, the Planning Commission shall refer to and be guided by those standards and conditions set forth in this Article. If the facts regarding the special land use do not establish by a preponderance of the evidence that the standards, conditions and requirements set forth in this Article can and will be met, the application shall be denied. The

conditions and regulations set forth in Section 19.03 and thereafter in this Article shall apply as applicable; as well as Sections 18.05 and 18.06, pertaining to site plan review and conditions of approval.

- D. Issuance of a Special land Use Permit. Upon approval by the Planning Commission, the Zoning Administrator shall issue the special land use permit, which shall identify any and all conditions, terms, and restrictions applicable to the approved special land use. The special land use permit shall become effective upon issuance, provided the following are met:
1. The Zoning Administrator shall not issue a special land use permit until the special land use is approved and any conditions pertaining to such approval are met.
 2. Until a building permit or zoning permit, as applicable, has been granted pursuant to the special land use permit, there shall be no construction or excavation of said land, nor shall there be any use of the land in anticipation of the special land use unless such use is incorporated in the conditions of approval adopted by the Planning Commission.
 3. Land subject to a special land use permit may not be used or occupied for such special land use until after an occupancy certificate has been issued pursuant to the Township's Building Code, or the approval of the Zoning Administrator has been granted for uses not subject to the requirements for a certificate of occupancy.
- E. Amendments. Amendments to a special land use permit shall be handled in the same manner as the initial special land use permit application. Minor, non-substantive changes to a site plan in accordance with Section 18.10 may be made to an existing special land use permit with the approval of the Zoning Administrator.
- F. Transfers. A special land use permit, with any and all associated benefits, conditions and required security may be transferred to a new owner upon the sale or transfer of the property in question. The original owner, upon transferring the special land use permit, shall advise the Zoning Administrator of said transfer in order to insure the continued validity of the permit, compliance with any performance guarantees in accord with Section 21.12, and other conditions. Following completion of construction and commencement of the special land use, the special land use permit shall run with the land, subject to subsection H, pertaining to abandonment.
- G. Expiration. A special land use permit shall be valid for as long as the approved use continues in accordance with the terms and conditions of the approved permit. The special land use permit will expire on the occurrence of one or more of the following conditions:
1. If replaced or superseded by a subsequent permitted use or special land use permit.
 2. If the applicant or current owner of the property requests the rescinding of the special land use permit.
 3. If a condition of approval included a stipulation that the special land use permit shall expire by a certain date.
 4. If the special land use is abandoned in accordance with subsection H.
 5. If a zoning compliance permit has not been obtained or if on-site development has not commenced within one (1) year.
- H. Abandonment. Any permitted special land use shall be considered abandoned and such use shall not be resumed thereafter if any of the following conditions apply:
1. When the owner declares or otherwise makes evident his intent to discontinue such use.

2. When the use has been replaced by a different use permitted in the underlying zoning district.
 3. The cessation of the permitted special land use for a period of twelve (12) consecutive months shall result in a rebuttable presumption of the owner's and any lawful occupant's intent to permanently discontinue and abandon the special land use. At any time after said twelve (12) consecutive month period, the Zoning Administrator may notify the owner and any occupants in writing of said presumption and such writing shall provide the owner and any occupants at least thirty (30) days to rebut the presumption in a writing addressed and delivered to the Zoning Administrator by certified mail with a return receipt. If the owner and occupants fail to provide written evidence rebutting the presumption within said thirty (30) day period, the owner's and occupant's intent to discontinue and abandon the special land use shall thereby be established. The notice from the Zoning Administrator shall be sent by certified mail, with a return receipt, to the owner and any occupants at the mailing address of the owner listed on the Township tax rolls and at the street address of the property in question if a building with an address exists at said location.
- I. Violations. Any violation of the terms, conditions or limitations of a special land use permit shall be cause for revocation or suspension of the permit. The Planning Commission may either revoke or suspend, pending correction of the violation, any special land use permit. The act to revoke or suspend the permit shall occur after giving notice to the permit holder, specifying the alleged violation(s) and disclosing when a hearing will be held on the matter. The notice shall be delivered by registered mail. Any interested party may appear in person or by attorney at the hearing. The act to revoke or suspend the permit shall occur after or at the hearing on the matter. Before revoking or suspending the permit, the Planning Commission shall make a finding that a material violation of the special land use permit exists. The permit holder shall be given reasonable opportunity to correct the violation(s).
 - J. Reapplication. No application for a special land use which has been denied, in whole or in part, by the Planning Commission, may be resubmitted for a period of 12 months from the date of the denial, except for when the new application is substantially different. A new application may be submitted if the Zoning Administrator finds that the new plan is substantially different.

Section 19.03 General Special land Use Review Standards

- A. Review Standards. Before acting on a special land use permit application, the Planning Commission shall employ and be guided by standards which shall be consistent with and promote the intent and purpose of this Ordinance, and ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the special land use. The Planning Commission shall review each application and take action to approve a special land use application only if it finds that such special land use meets each of the following standards, together with any and all special land use standards reflected for the zoning district, any and all applicable specific review standards found in this Article and all other generally applicable requirements of this Ordinance. To approve an application, the Planning Commission shall find adequate evidence that each use at its proposed location will be consistent with the public health, safety, and welfare of the Township and shall comply with the following standards:
 1. The proposed special land use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and/or vicinity and applicable regulations of the zoning district in which it is to be located.

2. The proposed special land use shall be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic.
3. The location, size, intensity, site layout, physical and structural elements, and periods of operation of the proposed special land use shall be designed and established in a manner that eliminates any possible nuisance emanating there from which might be noxious to the occupants of any other nearby permitted uses, whether by reason of traffic, dust, noise, odors, glare, fumes, vibration, smoke or lights.
4. The proposed special land use shall be such that the proposed location and height of buildings or structures and the location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land.
5. The proposed special land use shall relate harmoniously with the physical and economic aspects of adjacent land uses with regards to convenience of access by prospective patrons, continuity of development, and need for particular service and facilities in specific areas of the Township.
6. The proposed special land use is so designed, located, planned and to be operated so that the public health, safety and welfare will be protected.
7. The proposed special land use shall not cause substantial injury to other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the zoning district.

Section 19.04 Accessory Buildings without a Principal Building on the Lot

- A. Accessory buildings may be permitted on a lot without a principal building in the AG-R, Agricultural Residential District subject to the special land use provisions of this Article and subject to the following requirements:
1. The minimum lot size shall be five (5) acres and the land shall be an active farm.
 2. Accessory building use shall be in connection with agricultural activities, such as storage of farm implements and vehicles or storage or processing of crops.
 3. Accessory buildings shall comply with the minimum required setbacks for the AG-R district.
 4. There shall be no limitation as to the number of accessory buildings, or the size of accessory buildings, unless the Planning Commission imposes such restrictions to prevent congestion on the land, preserve open spaces, and to maintain the rural character of the Township.
 5. Where additional accessory buildings are proposed, beyond that approved in the original special land permit, Section 19.02, E shall apply; and a new application may be required.

Section 19.05 Agri-Tourism Establishment

- A. Agri-tourism establishments shall be subject to the following requirements:
1. The parcel or parcels on which the use is located shall be owned and operated by a single proprietor.

2. The business shall not be incompatible with other allowed uses in the vicinity, as determined by the Planning Commission.
3. A hotel, motel, bed and breakfast, or other rental of sleeping rooms shall not be permitted in connection with an agri-tourism establishment.
4. Goods produced on-site may be sold on-site, and food preparation for consumption on the premises may be permitted, provided the Planning Commission determines that such activity would not generate traffic detrimental to the character of the vicinity, and provided the facility shall maintain, at all times, all required state and local licenses and permits.
5. The Township may establish a capacity for meetings, training or educational events which shall be appropriate to the site and facilities in terms of safe capacity in buildings, parking area and sanitation limitations of the site.
6. Accessory buildings shall comply with Section 3.02 and may include, but are not limited to: nature centers; pavilions; picnic facilities; and restroom facilities.
7. Where livestock or poultry feeding operations or similar activities are proposed, animal population numbers shall comply with the Hagar Township Keeping of Animals Ordinance.
8. The use shall not alter the agricultural character of the site, as determined by the Planning Commission.
9. The permit holder shall secure and maintain all required state and local permits.
10. Where off-site activities or tours are proposed, the Planning Commission shall approve travel routes.
11. The Planning Commission may establish hours of operation for agri-tourism establishments, or specific elements thereof, consistent with the character of the land uses in the vicinity.

Section 19.06 Airplane Landing Field

- A. Airplane landing fields shall be subject to the following requirements:
1. The use shall not adversely affect existing or future development in the Township.
 2. The safety of the citizens of Hagar Township and surrounding communities shall not be adversely affected.
 3. Not more than two (2) airplanes, at least one of which is owned by the owner of the premises, shall use the landing strip.
 4. Lighting of the site shall comply with Section 3.20 to the extent possible and the Planning Commission reserves the right to restrict lighting on the premises to protect night skies and neighboring properties.
 5. The glide ratio beyond the end of the runway shall not be less than 20:1; meaning that the takeoff and landing pattern shall be at least 1-foot vertical for every 20 feet in length, to protect any existing or future residential uses in the vicinity. Runway length shall be determined by reference to published performance data for the proposed aircraft, plus a reasonable margin of safety.
 6. The runway area shall be at least 40 feet wide if paved or 50 feet wide if non-paved. At least 25 feet of cleared area is required on either side of the runway if the runway is non-paved; and at least 30 feet of cleared area is required on either side of the runway if it is paved.

7. The owner shall agree in writing to move, relocate, abandon or adjust such landing field if any of the above provisions cannot be met in the future.

Section 19.07 Animal Hospital

- A. Animal hospitals shall be subject to the following requirements:
1. Animal wastes, biohazard materials or byproducts shall be disposed of as required by the Berrien County Health Department, the Michigan Department of Public Health, or other duly appointed authority. All other wastes shall be contained in leak-proof and odor proof containers removed not less frequently than twice per week. No animal wastes, biohazard materials or byproducts shall be buried or incinerated on site.
 2. The operator of the animal hospital shall maintain at all times, all required State and local licenses and permits for the operation of the animal hospital. Any failure on the part of the operator to maintain proper licensing shall be grounds for the revocation of a special land use permit for an animal hospital.
 3. Said use shall be located on a parcel not less than one-half (1/2) acre in size, provided all operations and the housing of animals are contained in one or more completely enclosed buildings.
 4. Buildings where animals are kept, indoor or outdoor dog runs, and exercise areas shall not be located nearer than one hundred (100) feet to any adjacent dwelling and shall be set back at least seventy-five (75) feet from any property in the R-1, R-2, R-3, RE and R-4 districts.
 5. Dog runs and exercise areas shall not be located in any front yard or required side or rear yard setback area.
 6. All principal use activities, other than outdoor dog runs or exercise areas, shall be conducted within a totally enclosed building.

Section 19.08 Assisted Living Facility

- A. Assisted living facilities shall be subject to the following requirements:
1. The use shall be established and maintained in accordance with any and all applicable local, State and federal laws.
 2. Section 5.01, C notwithstanding, each individual dwelling unit shall consist of at least four hundred fifty (450) square feet of floor area.
 3. An assisted living facility shall not be located within fifteen hundred (1,500) feet of any other assisted living facility.
 4. Impervious surfaces shall not cover more than fifty percent (50%) of the site.
 5. The owner shall file a covenant with the Township, to be reviewed as to form by the Township Attorney and approved by the Planning Commission. The owner shall covenant on behalf of himself, his heirs, personal representatives, successors and assigns that occupancy of the development shall be limited generally to adults over the age of sixty (60). The covenant shall be executed and recorded with the County Register of Deeds, prior to issuance of a building permit.
 6. Site layout and configuration and all buildings associated with assisted living facilities shall comply with the dimensional requirements of the C-1, Commercial District.

Section 19.09 Automobile Repair Establishment

- A. Automobile repair establishments shall be subject to the following requirements:
1. Not more than four (4) dismantled, wrecked or inoperable vehicles of any kind shall be parked or stored where visible from any adjoining property or right-of-way. Regardless of any screening, no dismantled, wrecked or inoperable vehicle or vehicle parts may be stored outdoors for longer than ninety (90) days. The Planning Commission may require an opaque fence up to six (6) feet in height and/or an evergreen landscape buffer not less than six (6) feet in height at time of planting to screen any vehicles from neighboring uses or passers-by.
 2. No buildings associated with an automobile repair establishment shall be erected within fifty (50) feet of any residential zoning district.
 3. All equipment including hydraulic hoists, pits, and lubrication and repair facilities shall be entirely enclosed within a building.
 4. All repair and maintenance activities shall be performed entirely within an enclosed building.
 5. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.
 6. The premises shall not be used for the sale of vehicles, unless approved for such use as part of site plan review and subject to the requirements of Section 19.10.

Section 19.10 Automobile Sales or Rental Establishment

- A. Automobile sales or rental establishments shall be subject to the following requirements:
1. The conduct of all secondary supporting or accessory uses shall be within a fully-enclosed building. If the automobile sales or rental establishment includes an accessory automobile repair or service establishment use, storage areas for vehicles awaiting repair or service shall be limited to side and rear yards and shall be screened from view from adjacent road rights-of-way and properties.
 2. All permanent storage of material, merchandise and equipment other than liquid fuel and automobiles for sale or for rental shall be within a building, except as otherwise permitted in this section.
 3. No buildings associated with automobile sales or rental establishment shall be erected within fifty (50) feet of any residential zoning district.
 4. Impervious surfaces shall not cover more than seventy percent (70%) of the site.
 5. Storage areas for vehicles awaiting sale or rental shall be maintained in a neat and attractive manner, and shall comply with the general setback requirements applying to the C-1, Commercial District.
 6. Lighting of the site shall comply with Section 3.20 and the Planning Commission reserves the right to restrict lighting on the premises to protect night skies.

Section 19.11 Automobile Service Establishment

- A. Automobile service establishments shall be subject to the following requirements:
1. The conduct of the automobile service establishment, including storage of materials and equipment and servicing of vehicles, shall take place within a fully-enclosed building.

2. The storage of automobiles for a period in excess of twenty-four (24) hours, unless the vehicle is enclosed within the building, is prohibited.
3. The premises shall not be used for the sale of vehicles.
4. All interior or exterior drains shall be equipped with separator systems that comply with federal and state regulations.
5. No buildings associated with an automobile service establishment shall be erected within fifty (50) feet of any residential zoning district.

Section 19.12 Banquet Hall

- A. Banquet halls shall be subject to the following requirements:
1. The use shall not be incompatible with other existing or permitted uses in the vicinity.
 2. The establishment shall maintain all applicable permits.
 3. The use shall have direct access to a public, paved road.
 4. The Planning Commission may limit the hours of operation of the facility to protect the character of the vicinity and surrounding uses.
 5. The applicant shall demonstrate that large, periodic influxes in the number of patrons or guests in excess of that contemplated at the time of application shall not occur except upon approval of an amended special land use application. All parking facilities shall be located on the property and shall not be allowed to spill over into any right-of-way or road.
 6. A traffic study may be required by the Planning Commission.

Section 19.13 Bed and Breakfast

- A. Bed and breakfasts shall be subject to the following requirements:
1. The use shall not be incompatible with other existing or permitted uses in the vicinity.
 2. The impact of the bed and breakfast shall be no greater than that of a private home with houseguests and the bed and breakfast shall not alter the residential character of the building. Special land use approval shall not be granted if the essential character of the lot or structure in terms of traffic generation or appearance will be changed substantially.
 3. The bed and breakfast shall be a single-family dwelling, the principal dwelling unit on the property and shall be owner-occupied at all times.
 4. A bed and breakfast shall maintain a smoke detector in proper working order in every sleeping room and a fire extinguisher in proper working order on every floor in the immediate vicinity of the sleeping rooms.
 5. The establishment shall have at least two (2) exits to the outdoors.
 6. The rental sleeping rooms shall have a minimum size of one hundred-twenty (120) square feet for one (1) or two (2) occupants with an additional fifty (50) square feet for each additional occupant to a maximum of four (4) occupants per room.
 7. A site plan shall include a floor plan layout of the proposed structure that shows the specific layout of the proposed facility.

8. The permit holder shall secure and maintain all required State and local permits. Any food preparation areas shall be licensed and approved by the Health Department, as applicable.
9. No conference/meeting room facilities will be permitted.
10. The bed and breakfast shall employ no more than three (3) persons in addition to the owners and their immediate family, including spouses, siblings and children.
11. Any dumpsters on site shall comply with Section 3.18.

Section 19.14 Boat Livery

- A. Boat liveries shall be subject to the following requirements:
1. Boat liveries shall maintain, at all times, all required state and local licenses and permits, and any failure on the part of the operator to maintain proper licensing shall be grounds for the revocation of a special land use permit.
 2. Where a boat livery is located on a body of water, vehicular ingress and egress from the water body to the boat livery shall not interfere with the normal and customary use of neighboring property.
 3. All boat liveries shall be similar in architectural design, scale and character to adjacent structures in the vicinity, and shall be constructed of durable materials, such as brick, stone, wood, or similar material approved by the Planning Commission.
 4. Storage of boats and/or trailers may only be incorporated in a special land use approval where the Planning Commission is satisfied that such storage will be effectively and attractively screened from view from adjoining properties and rights-of-way and meets the height and setback standards of the zoning district.
 5. If boat storage is provided, all boat storage shall be contained within a fully enclosed building, or outside within a rear or side yard only. Boats for sale may be displayed without regard to season, but not within any minimum required setback.
 6. Lighting of the site shall comply with Section 3.20 and the Planning Commission reserves the right to restrict lighting on the premises to protect night skies.
 7. The use shall have direct access to a public, paved road.

Section 19.15 Campground

- A. Campgrounds shall be subject to the following requirements:
1. All campgrounds must meet State and County requirements for commercial or institutional campgrounds, as applicable. Any required State permit for the campground or for uses within the campground shall be obtained and shall be kept fully in force. A copy of any required permit shall be promptly submitted to the Township upon issuance.
 2. All showers, sinks, toilets and other restroom facilities installed and used in the campground shall be maintained free from obstructions, leaks and defects, and shall at all times be in a clean, sanitary and operable condition.
 3. The storm water drainage system serving the campground, and the discharge of water from any component of the storm water drainage system, shall be designed, engineered and constructed so as to have no adverse effect upon the campground or upon adjacent or nearby lands or surface waters by reason of flooding, erosion, pollution or otherwise.

4. All aspects and facilities of the campground shall comply with the lighting requirements of Section 3.20.
5. There shall be no continuous nighttime lighting of outdoor recreation facilities and there shall be no sporting events or music performance events held at the campground that are permitted to be attended by the general public. The use of the campground recreational and/or meeting facilities shall be limited to those persons staying at the campground.
6. There shall be adequate trash receptacles and trash dumpsters placed at various locations throughout the campground. All litter and refuse shall be promptly picked up and placed in such receptacles or dumpsters. A licensed refuse carrier shall be employed to empty the trash receptacles and dumpsters and to remove solid waste from the campground on at least a weekly basis when the campground is in regular use.
7. Adequate off-street parking spaces and internal maneuvering lanes shall be provided to accommodate campground users and guests during periods in which the campground is at peak capacity.
8. A campground shall be designed and constructed, as determined by local emergency service personnel or a State entity having authority on the matter, under applicable fire codes, to ensure safe and adequate fire protection for the campground facilities and the users and occupants thereof.
9. No business or commercial uses shall take place within a campground, except for an accessory convenience-goods store, laundry facility or similar facility clearly oriented to users of the campground that may be approved by the Planning Commission as a part of the special land use, and as regulated thereby.
10. The outdoor use of an amplified sound system is prohibited.
11. There shall be no events held at the campground where the number of persons in attendance exceeds the maximum capacity of the campground, including campground staff and employees.

Section 19.16 Car Wash

- A. Car washes shall be subject to the following requirements:
 1. All such facilities shall be subject to Township Engineer review and approval with regard to water source, sewer system, and stormwater drainage. Adequate drainage shall be provided to prevent flooding, freezing of runoff, and environmental damage.
 2. All washing activities shall be carried out within a building, however drying and waxing activities associated with manual and coin operated automobile washes may occur outdoors.
 3. No vacuum equipment shall be located closer than one hundred (100) feet from any property line which abuts a property zoned or used for residential purposes.
 4. Manual and coin automobile washes shall provide adequate space for drying and waxing vehicles.
 5. The applicant shall demonstrate to the satisfaction of the Planning Commission that vehicle stacking areas for a drive-through facility are adequate to handle the highest volume likely at the facility without encroaching on the public right-of-way or the drive aisles, parking or pedestrian areas on site.
 6. The applicant shall demonstrate that no litter and debris will travel off-site.

7. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.

Section 19.17 Cemetery

- A. Cemeteries shall be subject to the following requirements:
 1. Cemeteries shall be established in compliance with Public Act 368 of 1978, as amended, Public Act 88 of 1875, as amended, and other applicable State laws.
 2. A proposed cemetery that provides a chapel or other enclosure for graveside, interment and committal services shall be appropriately designed to accommodate occasional gatherings, including necessary restroom facilities and utility infrastructure.
 3. A landscape buffer of at least ten (10) feet shall be provided where a cemetery abuts land zoned R-1, R-2, R-3, RE, or R-4.
 4. The use shall be so arranged that adequate assembly area is provided off-street for vehicles to be used in a funeral procession. This assembly area shall be provided in addition to any required off-street parking area.
 5. Points of ingress and egress for the site shall be designed so as to minimize possible conflicts between traffic on adjacent major thoroughfares and funeral processions or visitors entering or leaving the site.
 6. No building shall be located closer than fifty (50) feet from a property line that abuts any residentially used or zoned property.

Section 19.18 Commercial Recreation Establishment

- A. Commercial recreation establishments shall be subject to the following requirements:
 1. Facilities that include outdoor activity (i.e., miniature golf) must employ effective physical barriers and isolation distances to ensure that on-site activities shall not be perceptible beyond the lot line, as determined by the Planning Commission.
 2. A traffic study may be required by the Planning Commission.
 3. The use shall have direct access to a public, paved road.
 4. Outdoor lighting shall be the minimum required for safe use of the facility and be directed away from neighboring properties and public rights-of-way. Limitations on lighting may be imposed by the Planning Commission.
 5. The Planning Commission may limit the hours of operation of the facility to protect the character of the vicinity and surrounding uses.
 6. The applicant shall demonstrate that large, periodic influxes in the number of patrons and/or spectators shall not occur except upon approval of an amended special land use application. All parking facilities shall be located on the property and shall not be allowed to spill over into any right-of-way or road.

Section 19.19 Commercial Riding Stable

- A. Commercial riding stables shall be subject to the following requirements:
 1. The minimum lot area for a commercial riding stable is five (5) acres.

2. Buildings for the housing of animals shall not be located within seventy-five (75) feet of any property line or road right-of-way.
3. Areas for riding trails or riding purposes shall be located on the same premises, unless the owner has written permission to use adjacent lands for said purpose. Access to riding areas shall not necessitate the riding or leading of animals upon or across a public road.
4. The premises shall include storage adequate for the disposal of manure and refuse, have proper insect control methods and be suitably fenced.
5. The Hagar Township Keeping of Animals Ordinance shall be complied with; provided, that this Section shall control and provided that the Planning Commission may stipulate limits on the number of animals that can be on the site.

Section 19.20 Community Center

- A. Community centers shall be subject to the following requirements:
1. A community center shall not be approved unless the Planning Commission finds that it will be compatible with the surrounding neighborhood.
 2. The Planning Commission may limit the hours of operation of the facility to protect the character of the vicinity and surrounding uses.
 3. The applicant shall demonstrate measures to prevent blowing trash and excessive noise.
 4. The applicant shall demonstrate measures to mitigate any potential adverse effects from events held at the facility.

Section 19.21 Day Care Center

- A. Day care centers shall be subject to the following requirements:
1. All required State and local licensing shall be maintained at all times.
 2. All outdoor areas used for care and play area shall have appropriate fencing for the safety of the children. Such fence shall consist of a 6-foot high opaque fence along the area adjoining a residence, and a 4-foot to 6-foot high fence in the rear yard and in the side yard up to the front building line. Play areas abutting a public right-of-way shall be prohibited.
 3. Such facilities shall be located at least 1,500 feet from any one of the following:
 - a. A licensed or pre-existing operating group day care home or day care center.
 - b. A nursing or convalescent home.
 - c. A facility offering substance abuse treatment and rehabilitation service to 7 or more people.
 - d. A community correction center, resident home, halfway house, or similar facility under jurisdiction of the County Sheriff or the Department of Corrections.
 4. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
 5. The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10:00 PM and 6:00 AM.
 6. Day care centers shall front on and be accessed from a paved public road.

Section 19.22 Drive-Through Facility

- A. Drive-through facilities shall be subject to the following requirements:
1. All automobile queuing for a drive-through window shall be separated from other off-site and on-site traffic patterns.
 2. Pedestrian areas shall be clearly marked and said markings shall be maintained.
 3. The drive-through lane(s) shall be designed to accommodate a full-size passenger vehicle pulling a typical recreation-vehicle trailer.
 4. The applicant shall demonstrate to the satisfaction of the Planning Commission that vehicle stacking areas for the drive-through facility are adequate to handle the highest volume likely at the facility without encroaching on the public right-of-way or the drive aisles, parking or pedestrian areas on site.
 5. Any commercial establishment with a drive-through facility which adjoins a property zoned or used for residential purposes shall be effectively screened from view from such property.
 6. The proposed site shall front upon a paved public road. All ingress and egress shall be from said road.
 7. Any outdoor speakers for the drive-through facility shall be located in a way that minimizes sound transmission toward adjacent property.
 8. The site shall be configured in such a way that does not undermine the Township's rural character or locate large areas of unscreened pavement within the front yard.
 9. A stand-alone automated bank teller machine shall comply with these requirements.
 10. Drive-through restaurants may utilize an illuminated menu board not to exceed sixteen (16) square feet in sign area.

Section 19.23 Dry Cleaning Plant

- A. Dry cleaning plants shall be subject to the following requirements:
1. Pursuant to local and State law, all storage tanks or other facilities used to store hazardous, toxic, odorous, explosive or flammable substances shall be equipped with appropriate containment structures or equipment; to prevent any migration of such substances into the groundwater or surface waters of the Township; and to prevent said substances from being perceptible outside such containment.
 2. The Planning Commission reserves the right to require buffering, screening, setbacks and other elements that are greater than those otherwise required by this Ordinance in keeping with the spirit and intent of this ordinance to protect the public health, safety and welfare.
 3. The applicant shall demonstrate and disclose the following:
 - a. Potential environmental impacts on air, surface water, ground water, soils, and natural features. These potential impacts shall be minimized or fully mitigated.
 - b. Potential impacts on the health of residents of the Township of Hagar and surrounding communities and on plant and wildlife communities in the vicinity. The Planning Commission shall not approve the use if potential impacts are significant.

- c. The potential chemical constituents of all emissions to the air, groundwater and surface waters shall be disclosed. Impacts of these emissions shall be negligible.
4. Dry cleaning plants with drive-through service shall comply with Section 19.22.

Section 19.24 Gas Station

- A. Gas stations shall be subject to the following requirements:
 1. The minimum lot size for a gas station shall be twelve thousand (12,000) square feet.
 2. The Planning Commission may establish hours of operation for gas stations to protect the character of the land uses in the vicinity.
 3. The applicant shall demonstrate to the Planning Commission proper design and licensing measures as required by State and federal statutory and regulatory authority.
 4. All buildings, pump islands and other facilities shall be located in conformance with the yard and setback requirements of the zoning district.
 5. Dismantled, wrecked, or immobile vehicles stored shall be completely screened from any adjoining parcel or right-of-way.
 6. No vehicles shall be parked on site for the purpose of selling or renting such vehicles.
 7. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding uses.
 8. Any hazardous materials proposed to be stored, used or handled on site shall be disclosed by the applicant and all such storage, use and handling shall be conducted in accordance with any applicable State or federal requirements.
 9. Curb cuts for access to a gas station shall not be permitted at such locations that will tend to create traffic hazards; and entrances shall be located at least fifty (50) feet from road intersections.
 10. Any accessory automobile service establishment shall comply with Section 19.11 and any accessory car wash shall comply with Section 19.15. Where an accessory automobile service establishment or car wash is a part of a gas station use, the minimum lot size shall be fifteen thousand (15,000) square feet.

Section 19.25 Golf Course/Country Club

- A. Golf course/country clubs shall be subject to the following requirements:
 1. The design and layout of a golf course/country club shall be configured to prevent stray golf shots from traveling off the site and onto rights-of-way, neighboring properties or lands within the golf course development designed for uses other than the playing of golf, to the greatest extent possible.
 2. Any buildings and accessory buildings associated with the golf course/country club shall conform to setback and dimensional requirements of the zoning district in which it is located.
 3. A new golf course development shall include stormwater management facilities satisfactory to the Township Engineer and/or the Michigan Department of Environmental Quality intended to prevent the runoff of stormwater carrying excess concentrations of fertilizer or nutrients from entering natural streams or Lake Michigan.

4. The applicant shall demonstrate that adequate off-street, on-site parking exists for golfers as well as for any banquets, weddings, golf tournaments, conferences, etc.

Section 19.26 Golf Driving Range

- A. Golf driving ranges shall be subject to the following requirements:
 1. Effective physical barriers and isolation distances are required to ensure that on-site activities shall not be perceptible beyond the lot line, as determined by the Planning Commission.
 2. A traffic study may be required by the Planning Commission.
 3. The use shall have direct access to a public, paved road
 4. Outdoor lighting shall be the minimum required for safe use of the facility and be directed away from neighboring properties and public rights-of-way. Limitations on lighting may be imposed by the Planning Commission.
 5. The Planning Commission may limit the hours of operation of the facility to protect the character of the vicinity and surrounding uses.
 6. The applicant shall demonstrate that large, periodic influxes in the number of patrons and/or spectators shall not occur except upon approval of an amended special land use application. All parking facilities shall be located on the property and shall not be allowed to spill over into any right-of-way or road.

Section 19.27 Greenhouse and Nursery, with over 5 acres under roof

- A. Greenhouses and nurseries with over five (5) acres under roof in an enclosed or partially enclosed structure shall be subject to the following requirements:
 1. The Planning Commission may limit outdoor lighting and the hours of operation of the facility to protect the character of the vicinity and surrounding uses.
 2. The use shall be compatible with surrounding uses. The Planning Commission may require that activities on the site which may be adverse to any neighboring residential uses be buffered from said residential uses by the use of increased setbacks or landscape screening.
 3. The applicant shall disclose any proposed truck route, if applicable. The Planning Commission may stipulate that any trucks connected to the greenhouse and nursery operation use specific roadways, to protect residential streets from potentially obnoxious traffic patterns.

Section 19.28 Group Camp Facility

- A. Group camp facilities shall be subject to the following requirements:
 1. Campgrounds within a group camp facility shall meet State and County requirements for commercial or institutional campgrounds, as applicable. Any required State permit for the campground or for uses within the campground shall be obtained and shall be kept fully in force. A copy of any required permit shall be promptly submitted to the Township upon issuance.
 2. All showers, sinks, toilets and other restroom facilities installed and used in the campground shall be maintained free from obstructions, leaks and defects, and shall at all times be in a clean, sanitary and operable condition.

3. The storm water drainage system serving the group camp facility, and the discharge of water from any component of the storm water drainage system, shall be designed, engineered and constructed so as to have no adverse effect upon the campground or upon adjacent or nearby lands or surface waters by reason of flooding, erosion, pollution or otherwise.
4. All aspects and facilities of the group camp facility shall comply with the lighting requirements of Section 3.20.
5. There shall be adequate trash receptacles and trash dumpsters placed at various locations throughout the group camp facility. All litter and refuse shall be promptly picked up and placed in such receptacles or dumpsters. A licensed refuse carrier shall be employed to empty the trash receptacles and dumpsters and to remove solid waste from the group camp facility on at least a weekly basis when the facility is in regular use.
6. Adequate off-street parking spaces and internal maneuvering lanes shall be provided on-site to accommodate facility users and guests during periods in which the group camp facility is at peak capacity.
7. A campground shall be designed and constructed, as determined by local emergency service personnel or a State entity having authority on the matter, under applicable fire codes, to ensure safe and adequate fire protection for the campground facilities and the users and occupants thereof.
8. Any accessory business or commercial uses, such as incidental food service, shall be fully licensed, as applicable.
9. There shall be no events held at the group camp facility where the number of persons in attendance exceeds the maximum capacity of the facility.

Section 19.29 Group Day Care Home

- A. Group day care homes shall be subject to the following requirements:
 1. All required State and local licensing shall be maintained at all times.
 2. All outdoor areas used for care and play area shall have appropriate fencing for the safety of the children. Such fence shall consist of a 6-foot high opaque fence along the area adjoining another residence, and a 4-foot to 6-foot high fence in the rear yard and in the side yard up to the front building line. Play areas abutting a public right-of-way shall be prohibited.
 3. Such facilities shall be located at least 1,500 feet from any one of the following:
 - a. A licensed or pre-existing operating group day care home or day care center.
 - b. A nursing or convalescent home.
 - c. A facility offering substance abuse treatment and rehabilitation service to 7 or more people.
 - d. A community correction center, resident home, halfway house or similar facility under jurisdiction of the Department of Corrections.
 4. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
 5. The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10:00 PM and 6:00 AM.

Section 19.30 Home-Based Business

- A. Intent and Purpose. This Section includes special regulations that apply to ensure that home-based businesses will not be a detriment to the character and livability of the surrounding neighborhood. The intent of the regulations is to establish standards for all home-based businesses rather than to limit the permitted uses to a specific list. The regulations are intended to ensure that the home-based business remains subordinate to the residential use, and that the residential viability of the dwelling is maintained. The regulations recognize that many types of employment opportunities can be realized in a home with little or no effect on the surrounding neighborhood.
- B. Requirements. A home-based business shall be permitted in the AG-R, R-1, R-2 and R-3 Districts, subject to the following conditions:
1. The home-based business must be conducted entirely within a residential dwelling and must not be evident in any way from the street or from any neighboring premises.
 2. The home-based business must not change the character of the building in which it is conducted and must not constitute, create or increase a nuisance.
 3. The home-based business must be carried on only by the inhabitants of the building plus not more than one non-resident employee.
 4. The home-based business must employ only mechanical equipment which is similar in power and type used for household purposes and hobbies.
 5. The home-based business must not generate noise, vibrations, smoke, dust, odor, heat, or glare which are detectable beyond the property lines. Furthermore, the home-based business shall not create an electrical interference with the transmission of television, cellular, wireless service, or radio in the area which exceeds that which is normally produced by a residential dwelling unit in the district.
 6. The home-based business must provide sufficient solid waste receptacles sufficiently screened and maintain the property free of debris.
 7. The home-based business must not devote more than twenty-five (25) percent of the principal building to such home-based business; the conduct of a home-based business shall not be carried out within an accessory building.
 8. The home-based business shall not require parking spaces in excess two (2) spaces, located in the driveway.
 9. The home-based business must not generate vehicle trips in excess of six (6) round-trips per day, and only between the hours of 8:00 AM and 9:00 PM.
 10. On-site sale of merchandise shall be by appointment only.
 11. For the purposes of this section, multiple home-based businesses or combined home-based businesses shall be regarded as, and comply with the requirements of, a single home-based business, in terms of the number of employees, hours of operation, signage and other impacts on the vicinity.
 12. Signage for a home-based business shall be limited to one (1) non-illuminated sign of color and style compatible with the residence mounted to the residence or to a pole immediately adjacent to the entrance of the residence with an area not to exceed two (2) square feet and with a sign height not to exceed four (4) feet.
- C. Prohibited uses. Under no circumstances shall the following be considered a home-based business:

1. Warehousing and rental of storage space for gain
2. Junkyards
3. Sexually Oriented Businesses
4. Bed and Breakfasts

Section 19.31 Hospital

- A. Hospitals shall be subject to the following requirements:
1. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding uses.
 2. Any hazardous materials proposed to be stored, used or handled on site shall be disclosed by the applicant and all such storage, use and handling shall be conducted in accordance with any applicable State or federal requirements.
 3. Maximum building height may exceed the maximum permitted building height for the district, provided a minimum setback equal to the height of the building shall be provided on all sides of the development, except that no structure shall exceed a maximum height of sixty (60) feet.
 4. Helicopter landing pads may be permitted as accessory uses.

Section 19.32 Hotel

- A. Hotels shall be subject to the following requirements:
1. The property shall be suitable for transient lodging facilities with overnight lodgers staying typically not longer than thirty (30) nights.
 2. A hotel that includes auditorium, exhibition or public meeting space shall provide parking to accommodate all uses on the site.
 3. A hotel that includes a restaurant shall be further regulated pursuant to Section 19.47.
 4. The use and the impact of the establishment shall be compatible with other allowed uses in the vicinity in terms of parking, traffic, noise, and odors, and shall not adversely impact the subject neighborhood.
 5. Any failure on the part of the operator to maintain proper licensing shall be grounds for the revocation of a special land use permit for a hotel.
 6. Each sleeping room shall contain not less than two hundred fifty (250) square feet of floor area, and shall contain at least two (2) rooms, including a bathroom.
 7. No more than fifty (50) percent of the total number of units in a hotel shall contain cooking facilities, exclusive of microwave oven, coffee maker and refrigerator of less than three (3) cubic feet capacity.
 8. No guest shall establish permanent residence at a hotel.

Section 19.33 Junkyard

- A. Junkyards shall be subject to the following requirements:
1. The Planning Commission may establish hours of operation for junkyards to protect the character of the land uses in the vicinity.

2. The applicant shall demonstrate to the Planning Commission proper design and licensing measures as required by all County, State and federal regulations.
3. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding uses.
4. Any hazardous materials proposed to be stored, used or handled on site shall be disclosed by the applicant and all such storage, use and handling shall be conducted in accordance with any applicable State and federal requirements.
5. All materials stored on site shall be located in the side or rear yards. All materials shall be screened with an eight (8) foot tall opaque fence. Stored materials shall not be stacked higher than eight (8) feet, and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way.
6. No portion of the storage area shall be located within two hundred (200) feet of any residential district or residential lot line.
7. A management office shall be provided on site. An accessory caretaker dwelling may be permitted, subject to Section 3.11.
8. The minimum area for a junkyard facility shall be two (2) acres, and the maximum lot area shall be twenty (20) acres.
9. The Planning Commission may require annual soil spot tests.
10. The following groundwater protection standards shall apply.
 - a. Sites shall be designed to prevent spills and discharges into the surface of the ground, groundwater, lakes, streams, rivers or wetlands.
 - b. All batteries shall be removed from any vehicle, and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the salvage yard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method.
 - c. Secondary containment for aboveground areas where hazardous substances and polluting materials are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
 - d. General purpose floor drains shall be allowed only if they are connected to a public sewer system, an on-site holding tank, or a system authorized through a State groundwater discharge permit.
 - e. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.

Section 19.34 Kennel

- A. Kennels shall be subject to the following requirements:
 1. The minimum lot area shall be one (1) acre for the first four (4) animals, and an additional one-thousand (1,000) square feet for each animal in addition to the first four (4). The

Planning Commission may stipulate the maximum number of animals that may be kept at the facility.

2. Buildings where animals are kept, indoor or outdoor dog runs, and exercise areas shall not be located nearer than one hundred (100) feet to any adjacent dwelling and shall be set back at least seventy-five (75) feet from any property in the R-1, R-2, R-3, RE and R-4 districts.
3. Outdoor dog runs and outdoor exercise areas shall not be located in any front yard or required side or rear setback area.
4. All principal use activities, other than outdoor dog runs or exercise areas, shall be conducted within a totally enclosed building.
5. Animal wastes, biohazard materials or byproducts shall be disposed of as required by the Berrien County Health Department, the Michigan Department of Public Health, or other duly appointed authority. All other wastes shall be contained in leak-proof and odor proof containers removed not less frequently than twice per week. No animal wastes, biohazard materials or byproducts shall be buried or incinerated on site.
6. Activities shall not generate noise levels at any property line that exceed the standards set in the Hagar Township Anti-Noise and Public Nuisance Ordinance.

Section 19.35 Mining

- A. Mining, as defined herein, shall be subject to the requirements of this Section, where such mining activity occupies more than one (1) acre of land area, constitutes an average intensity of use of more than five (5) yards of material per day, and/or creates an area which fills with water other than an agricultural or decorative pond of less than one-half acre.
 1. Additional Site Plan Requirements. In addition to the regular application materials as required for any special land use, an application submittal for a mining use shall be accompanied by the following information:
 - a. Name and address of the owner(s) of land on which mining will take place.
 - b. Name, address and telephone number of person or corporation who will be conducting the actual mining operation.
 - c. Location, size and legal description of the subject property, and total site area to be mined.
 - d. A plan for extraction and reclamation for the total project, which shall include:
 - i. Surface overburden and topsoil stripping and stockpiling plans.
 - ii. Provisions for grading, re-vegetation, and stabilization that will prevent soil erosion, blowing dust, sedimentation problems and public safety concerns.
 - iii. A feasible and detailed plan for the re-use of the reclaimed site, consistent with the zoning district(s) in which the facility is located and consistent with the intent of the Township Master Plan and M-63 and Lakeshore Sub Area Plan.
 - e. Surface water drainage provisions and outlets.
 - f. The location and size of any existing or proposed structures and any proposed vehicle or equipment staging and parking areas.

- g. Approved soil erosion permits. If such permit has not been issued, a copy of the permit application may be appended to the special land use application and any approval shall be conditioned upon issuance of such soil erosion permit.
2. Reclamation. All extraction areas shall be reclaimed progressively as they are worked out. Reclaimed sites shall be reasonably natural and inconspicuous and shall be reasonably lacking in hazard. All slopes and banks remaining above water level and below water level to a depth of six (6) feet shall be graded to angles which do not exceed one (1) foot in elevation for each three (3) feet of horizontal surface and they shall be treated to prevent erosion and any other potential deterioration. No more than five (5) acres of the site shall be open at any time.
 3. Site Development Requirements.
 - a. Setbacks in which no part of the mining operation may take place, except for ingress and egress, shall be as follows:
 - i. Excavation below the existing grade of adjacent roads or property lines shall not take place within thirty-five (35) feet from any adjacent property line or road right-of-way.
 - ii. No machinery will be erected or maintained within one hundred (100) feet of any property line or road right-of-way.
 - b. If fencing or landscaping is deemed a necessary requirement, the Planning Commission shall specify the type, characteristics, and location of the required fencing or landscaping.
 - c. Interior access roads, parking lots, haul roads, loading and unloading areas and stockpiled materials shall be maintained so as to limit the nuisance caused by wind blown dust.
 - d. Hours of operation shall be established by the Planning Commission as part of the special land use approval.
 - e. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of sixty (60) decibels at any property line.
 4. Failure to maintain all required State or federal licenses and/or to develop and maintain a surface mining operation in accord with the terms of the special land use approval may result in the immediate revocation of a special land use permit and any and all other sanctions and/or penalties available to the Township, County, and/or State.
 5. Evidence of Continuing Use. When activities on or the use of the mining area, or any portion thereof, have ceased for more than one (1) year or when, by examination of the premises or other means, the Zoning Administrator determines a manifestation of intent to abandon the mining area, the Zoning Administrator shall give the operator written notice of their intention to declare the mining area or portion thereof abandoned. Within thirty (30) days following receipt of said notice, the operator shall have the opportunity to rebut the Zoning Administrator's evidence and submit other relevant evidence to the contrary. If the Zoning Administrator finds the operator's evidence of continued use satisfactory, it shall not declare abandonment.
 6. Financial Guarantees. A minimum performance guarantee of \$3,000.00 plus a minimum \$2,000.00 per excavated acre shall be filed with the Township Treasurer. The performance guarantee shall be in the form of a letter of credit, a certified check, a cash bond or an insurance policy with the Township named as an insured party. The bond shall be returned when all conditions stipulated in the special land use permit have been met and the special land use permit revoked prior to its release. There shall be no partial release of the bond.

7. Issuance of a Special land Use Permit. Permits for surface mining shall be issued to the operator. If an operator disposes of his interest in a mining area prior to final reclamation by sale, lease, assignment, termination of lease, or otherwise, the Planning Commission may release the operator from the duties imposed upon him by this Ordinance, as to the operation, but only if the successor, operator, or property owner assumes the obligations of the former operator with reference to the reclamation activities. At that time the special land use permit may be transferred.
8. Permit Expiration. If approval for a special land use permit is granted by the Planning Commission, it shall extend a specific period of time not to exceed five (5) years. Those permits granted for a period exceeding one (1) year shall be inspected a minimum of once a year by the Zoning Administrator to insure compliance with the permit and Ordinance.
9. Modification of the Site Plan. The site plan may be modified at any time by mutual consent of the operator and the Planning Commission to adjust to changed conditions, technology, or to correct an oversight. The Planning Commission may require the modification of the site plan when:
 - a. Modification of the plan is necessary so that it will conform to existing laws.
 - b. It is found that the previously approved plan is clearly impractical to implement and maintain.
 - c. The approved plan is obviously not accomplishing the intent of the Ordinance.
10. The Planning Commission may establish hours of operation for mining operations to protect the character of the land uses in the vicinity.

Section 19.36 Mini-Storage Facility

- A. Mini-storage facilities shall be subject to the following requirements:
 1. The minimum required lot area shall be two (2) acres.
 2. Parking lanes and maneuvering aisles shall be required adjacent to the individual storage units. The parking lanes may be eliminated when the access aisle does not serve storage cubicles. All parking lanes and maneuvering aisles shall be paved.
 3. The Planning Commission may require additional landscaping to screen the site and may place limitations on outdoor illumination.

Section 19.37 Motel

- A. Motels shall be subject to the following requirements:
 1. The property shall be suitable for transient lodging facilities with overnight lodgers staying typically not longer than thirty (30) nights.
 2. The use and the impact of the establishment shall be compatible with other allowed uses in the vicinity in terms of parking, traffic, noise, design, and odors.
 3. A motel that includes a restaurant shall be further regulated pursuant to Section 19.47.
 4. The use and the impact of the establishment shall be compatible with other allowed uses in the vicinity in terms of parking, traffic, noise, and odors, and shall not adversely impact the subject neighborhood.

5. Any failure on the part of the operator to maintain proper licensing shall be grounds for the revocation of a special land use permit for a motel.
6. Each sleeping room shall contain not less than two hundred fifty (250) square feet of floor area, and shall contain at least two (2) rooms, including a bathroom.
7. No more than fifty (50) percent of the total number of units in a motel shall contain cooking facilities, exclusive of microwave oven, coffee maker and refrigerator of less than three (3) cubic feet capacity.
8. No guest shall establish permanent residence at a motel.

Section 19.38 Multiple-Family Dwelling

- A. Multiple-family dwellings shall be subject to the following requirements:
1. Scaled elevation drawings depicting architectural features shall be provided. In an area of predominately single-family homes, a multi-family dwelling shall be designed to look like a one-unit dwelling and shall include architectural details found on the majority of dwellings in the neighborhood, so that the multi-family dwelling is consistent with the aesthetic character of existing buildings and the rural character of Hagar Township.
 2. A garage serving a multi-family dwelling shall be recessed, placed to the rear of the dwelling, or shall utilize side, courtyard or rear entry.
 3. Carports detached from the dwelling shall not be located in the front yard along a road right-of-way.
 4. In no instance shall more than one (1) out of six (6) multiple-family units in any multiple-family development be utilized as an efficiency dwelling unit.
 5. Setbacks between buildings and from side lot lines shall be a distance equal to or greater than the height of the buildings, but no less than twenty (20) feet.

Section 19.39 Museum

- A. Museums shall be subject to the following requirements:
1. The Planning Commission may require completion of a traffic study.
 2. The use shall have direct access to a paved public road.
 3. The applicant shall demonstrate that the conduct of the museum would be compatible with existing and permitted land uses in the vicinity.
 4. The Planning Commission may limit the hours of operation of the facility to protect the character of the vicinity and surrounding uses.

Section 19.40 Nightclub

- A. Nightclubs shall be subject to the following requirements:
1. Such facilities shall maintain, at all times, all required State and local licenses and permits.
 2. Such facilities shall be located, designed and operated such that no objectionable noise is perceptible at any lot line.

3. Such facilities shall be located and designed such that no objectionable odor or fumes shall be carried onto property located in the residential districts.
4. The site plan shall include measures satisfactory to the Planning Commission to control blowing trash from the facility.
5. The Planning Commission may limit the hours of operation of the facility to protect the character of the vicinity and surrounding uses.

Section 19.41 Nursing or Convalescent Home

- A. Nursing or convalescent homes shall be subject to the following requirements:
1. The use shall be established and maintained in accordance with all applicable local, State and federal laws. As a condition of special land use approval, the use shall at all times maintain all valid State and local licenses.
 2. A nursing or convalescent home shall not be located within fifteen hundred (1,500) feet of any other nursing or convalescent home.
 3. Sufficient off-street parking shall be provided on-site.
 4. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.

Section 19.42 Park

- A. Parks shall be subject to the following requirements:
1. The facility shall be compatible with surrounding neighborhoods in terms of scale and site layout.
 2. The facility shall be maintained in an orderly and attractive manner.
 3. Outdoor lighting shall be the minimum required for safe use of the facility and be directed away from neighboring properties and public rights-of-way. Limitations on lighting may be imposed by the Planning Commission.
 4. The Planning Commission may limit the hours of operation of the facility to protect the character of the vicinity and surrounding uses.
 5. The applicant shall demonstrate that large, periodic influxes in the number of patrons and/or spectators shall not occur except upon approval of an amended special land use application. All parking facilities shall be located on the property and shall not be allowed to spill over into any right-of-way or road.

Section 19.43 Planned Unit Development

- A. Intent. This Section provides enabling authority and standards for the submission, review, and approval of applications for a Planned Unit Development. It is the intent of this Article to authorize the consideration and use of Planned Unit Development regulations for the following purposes:
1. To promote the conservation of natural features and resources.
 2. To promote and ensure greater compatibility of design and use between neighboring properties.
 3. To allow for the flexibility in the regulation of land development.

4. To encourage innovation in land use and variety in design, layout, and type of structures constructed.
5. To achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities.
6. To encourage useful open space.
7. To provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the Township.

The provisions of this Article are not intended as a device for ignoring the Zoning Ordinance or the planning upon which it has been based. To that end, provisions of this Article are intended to result in land use development substantially consistent with the underlying zoning, with modifications and departures from district regulations such as density, lot area, height, lot coverage, lot width, and setbacks, in accordance with standards provided in this Article to ensure appropriate, fair, and consistent decision making. Modifications and departures of the private road pavement and easement width dimensions may also be requested and considered, however, modifications to the construction or maintenance specifications may not be granted. A Planned Unit Development must comply with this Article.

- B. Qualifying Conditions. In order to be eligible for PUD Special land Use, the proposed area shall consist of a minimum of 5 acres of contiguous land.
- C. Development Requirements.
 1. Dwelling Unit Computation. The density permitted by the Planning Commission shall be applied to the net development area of the site in order to determine the maximum number of dwelling units permitted for the site. The net development area is determined by subtracting the following from the gross or total site area:
 - a. Area within existing road rights-of-way and/or private road easement.
 - b. Area within a 100-year floodplain, Critical Dune Area or High Risk Erosion Area as defined by the Department of Environmental Quality or other agency.
 2. Amount of Open Space. A Planned Unit Development shall maintain a minimum of 20 percent of the gross area of the site as dedicated open space held in common ownership.
 3. Areas Not Considered Open Space. The following land areas are not included as dedicated open space:
 - a. Lot areas proposed as single-family residential or site condominiums, or commercial, industrial structures.
 - b. Area proposed to be occupied by multiple-family dwellings, including the minimum required setbacks around buildings.
 - c. The area of any road right-of-way or private road easement.
 - d. Any submerged land area of a pond, lake or stream. Except, constructed wetlands and stormwater detention ponds designed to appear and function similar to natural wetlands and ponds, may be counted as open space, provided at least 50 percent of the minimum required open space area (i.e. 10 percent of the total site) shall be in the form of usable park area or upland nature preserves.
 - e. Golf course/country clubs.

4. Open Space Location. Open space shall be planned in locations visible and accessible to all in the Planned Unit Development. The open space may either be centrally located, along the road frontage of the development, located to preserve natural features, located to buffer adjacent farmland or located to connect open spaces throughout the development, provided the following shall be met:
 - a. The open space along the exterior public roads shall have a depth of at least 50 feet, either landscaped or preserved in a natural wooded condition.
 - b. Open space shall be situated to maximize the preservation of existing site woodlands.
 - c. A minimum 100-foot wide undisturbed open space setback shall be maintained from the edge of any stream or wetland; provided that the Township may permit trails, boardwalks, observation platforms or other similar structures that enhance passive enjoyment of the site's natural amenities within the setback.
 - d. A minimum 100-foot wide open space buffer shall be maintained between residential lots and any adjacent parcel zoned AG-R and actively farmed.
 - e. Where adjacent land includes open space, public land or existing or Planned Unit Developments or open space cluster developments, open space connections shall be provided between the site and adjacent open space. Trails between adjoining open space development shall be constructed to allow future interconnection between neighborhoods.
 - f. Any open space area shall be a minimum of at least 50 feet in all dimensions.
5. Open Space Protection. The dedicated open space shall be set aside in perpetuity by the developer through a conservation easement or other deed restriction that is found acceptable to the Township. The conservation easement or deed restriction shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. The conservation easement or deed restriction shall provide the following:
 - a. Allowable use(s) of the dedicated open space shall be indicated. The Township may require the inclusion of open space restrictions that prohibit the following:
 - i. Dumping or storing of any material or refuse;
 - ii. Activity that may cause risks of soil erosion or threaten any living plant material;
 - iii. Cutting or removal of live plant material except for removal of dying or diseased vegetation;
 - iv. Use of motorized off-road vehicles;
 - v. Cutting, filling or removal of vegetation from wetland areas;
 - vi. Use of restricted pesticides, herbicides or fertilizers within or adjacent to wetlands.
 - b. Dedicated open space shall be maintained by parties who have an ownership interest in the open space. Standards for scheduled maintenance of the open space shall be provided. The conservation easement or deed restriction shall provide for maintenance to be undertaken by the Township in the event that the open space is not adequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the owners of the open space.

- c. The dedicated open space shall forever remain open space, subject only to uses approved by the Township on the approved site plan. Further subdivision of open space land or its use for other than recreation, conservation or agricultural purposes, except for easements for utilities and septic systems, shall be strictly prohibited. Any change in use of the open space from what is shown on the approved site plan shall require Township Board approval, based upon a recommendation by the Planning Commission, and shall not diminish compliance with the requirements of this Article.
- d. Nothing herein shall prevent the conveyance of open space to a public agency or other non-profit entity for recreational or conservation use.

D. Application and Processing Procedures.

1. Effects. The granting of a Planned Unit Development Special land Use shall require two public hearings, one public hearing before the Planning Commission, and a second public hearing before the Township Board.
2. Preapplication Conference. Prior to the submission of an application for Planned Unit Development, the applicant shall meet with Township representatives which may, at the discretion of the Township, include the Zoning Administrator, members of the Planning Commission (less than a quorum) and such consultants as deemed appropriate. The applicant shall present at such conference, or conferences, a sketch plan of the Planned Unit Development and a yield plan with the following information:
 - a. A legal description of the property in question;
 - b. The total number of acres to be included in the project;
 - c. The yield plan shall depict what could be feasibly constructed with the underlying zoning and dimensional standards and would constitute a plan that the Township would normally approve absent the Planned Unit Development option. This number of units, or base density, shall be the maximum number of dwelling units allowable for the Planned Unit Development.
 - d. A statement of the number of residential units and/or the number, type, and square footage of non-residential uses;
 - e. A statement regarding all proposed uses, proposed circulation and proposed parking;
 - f. The approximate number of acres to be occupied and/or devoted to or by each type of use;
 - g. A list of all departures from the regulations of the Ordinance which may be requested;
 - h. The number and written description of acres to be preserved as open space; and
 - i. All known natural resources and natural features.
3. Preliminary Site Plan. Following the pre-application conference or conferences, 11 copies of a preliminary site plan and application for a PUD Special land Use request shall be submitted not later than 45 days prior to the next scheduled meeting of the Planning Commission. The submission shall be made to the Zoning Administrator who shall first determine if the application is complete. Only complete applications shall be scheduled for Planning Commission review. The plan shall be accompanied by an application form and fee as determined by the Township Board. The preliminary site plan shall contain all of the information required for a site plan in accordance with Section 18.03, in addition to the following:

- a. The boundaries of any Floodplain, Critical Dune Area or High Risk Erosion Area as defined by the Department of Environmental Quality or other agency.
 - b. A narrative describing:
 - i. The nature of the project.
 - ii. The proposed density, number, and types of dwelling units if a residential PUD.
 - iii. A statement describing how the proposed project meets the objectives of the PUD.
 - iv. A statement from a registered professional engineer describing how the proposed project will be served by water, sewer, and storm drainage. The applicant shall also provide verification from the County Health Department of soil suitability for well and septic.
 - v. Proof of ownership or legal interest in property.
 - vi. The impact of the project on roads, schools and utilities.
 - vii. Key provisions of the Master Deed that demonstrate how the intent and regulations of this Article will be satisfied.
 - viii. Key provisions of any design guidelines, if applicable.
 - c. A yield plan depicting what could be feasibly constructed with the underlying zoning and dimensional standards and would constitute a plan that the Township would normally approve absent the Planned Unit Development option. The yield plan shall include the boundaries of any floodplain, Critical Dune Area or High Risk Erosion Area as defined by the Department of Environmental Quality or other agency. The number of units, or base density, shall be the maximum number of dwelling units allowable for the Planned Unit Development.
 - d. If the applicant is proposing a private road, an application for private road shall also be submitted and reviewed concurrent with the Preliminary Site Plan.
4. Planning Commission Preliminary Review. The Planning Commission shall review the preliminary site plan according to the provisions of this Section and Section 18.05 herein and transmit any recommendations for changes or modifications of the preliminary site plan to the applicant. At the discretion of the Planning Commission, the request for Special land Use for Planned Unit Development shall be set for a public hearing.
 5. Public Hearing. The public hearing notice shall include the Special land Use for Planned Unit Development as well as preliminary approval of the Planned Unit Development preliminary site plan. Notice of the Special land Use shall follow the noticing requirements contained in Section 21.03.
 6. Planning Commission Recommendation. The Planning Commission shall make a recommendation on the Special land Use to the Township Board who shall make a final decision. The Planning Commission shall recommend approval, approval with conditions or denial of the Special land Use and the preliminary site plan. If deemed appropriate by the applicant, the applicant may request a tabling of the Special land Use request to modify the plan based on public input.
- E. Standards for Special land Use Approval.

1. In making its recommendation, the Planning Commission shall find that the proposed PUD meets the intent of the PUD district and the following standards:
 - a. Granting of the Planned Unit Development use will result in a recognizable and substantial benefit to the ultimate users of the project and to the community where such benefit would otherwise be unfeasible or unlikely to be achieved.
 - b. In relation to underlying zoning, the proposed type and density of use shall not result in a material increase in the need for public services, facilities, and utilities, and shall not place a material burden upon the subject or surrounding land or property owners and occupants or the natural environment.
 - c. The proposed development shall be compatible with the Hagar Township Comprehensive Plan and any updates or sub-area plans thereto, and shall be consistent with the intent and purpose of this Article.
 - d. The Planned Unit Development shall not change the essential character of the surrounding area.
 - e. The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with this Ordinance. This provision shall not prohibit a transfer of ownership or control upon due notice to the Zoning Administrator.

- F. Township Board. The Township Board, being the approving agency for a Planned Unit Development Special land Use, shall hold a public hearing. Notice of the Special land Use shall follow the noticing requirements contained in Section 21.03. Following the public hearing, the Township Board shall grant approval, approval with conditions, or denial of the request for Special land Use to Planned Unit Development subject to the preliminary site plan and in accordance with the standards for approval and conditions for a PUD as contained herein. If deemed appropriate by the applicant, the applicant may request a tabling of the Special land Use request to modify the plan based on public input. This approval is valid for a period of eighteen (18) months.

- G. Final PUD Site Plan. Following approval or approval with conditions of the PUD use and preliminary site plan by the Township Board, the applicant shall submit a final site plan to the Planning Commission within 18 months from the date the Special land Use is approved. If a final site plan is not submitted within 18 months from the date the Special land Use is approved, the Special land Use shall be void. The final site plan shall include the following:
 1. All site plan data required for the preliminary site plan.
 2. Copies of agency approvals (including any approvals, conditional approvals or denials) from reviewing agencies or staff such as but not limited to the Berrien County Health Department, Road Commission, Department of Environmental Quality, County Drain Commission, Township Attorney, Township Engineer, and Township Planner.
 3. A statement listing the conditions of approval and description of how the applicant has complied with each condition. This shall also include any conditions of approval from other reviewing agencies.

- H. Final Approval of PUD Site Plan by Planning Commission. The applicant shall request a final site plan review by the Planning Commission by filing a complete application with the Zoning Administrator. The applicant shall file at least 11 copies of the following: the application, the final site plan, 8 1/2 by 11 reduction of the site plan, and a disk containing a scalable portable

document format (.pdf). The Zoning Administrator may waive any site plan submittal requirement upon a finding that the required information is not applicable to the site.

1. A complete application for final site plan review shall be submitted not less than 30 days prior to the next regularly scheduled Planning Commission meeting.
2. After conducting a review of the site plan, the Planning Commission shall approve, approve conditionally or reject the final site plan. Any conditions required by the Planning Commission shall be stated in writing and shown on the site plan, together with the reasons for such conditions, and delivered to the applicant. Decisions by the Planning Commission shall be made within 100 days of the receipt of the completed application. Any conditions imposed on the application and site plan shall:
 - a. Be designed to protect natural resources; the health, safety, welfare, and social and economic well being of users of the land use or activity under consideration, residents, and landowners immediately adjacent to the proposed land use or activity; and the community as a whole.
 - b. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 - c. Be necessary to meet the intent and purpose of the Zoning Ordinance, and be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
3. Two copies of the approved site plan, with any conditions shall be maintained as part of the Township records for future review and enforcement. One copy shall be returned to the applicant. Each copy shall be signed by the applicant and the Chair of the Planning Commission and dated with the date of approval for identification of the approved plans.

I. Review Criteria. In the process of reviewing a final site plan for Planned Unit Development Special land Use, the Planning Commission shall consider:

1. That there is a proper relationship between the existing streets and highways within the vicinity, and proposed deceleration lanes, service drives, entrance and exit driveways, and parking areas to assure the safety and convenience of pedestrian and vehicular traffic, and that the proposed streets and access plan conform to any street or access plan adopted by the Township, the Michigan Department of Transportation or the Berrien County Road Commission.
2. That the buildings, structures, and entrances thereto proposed to be located upon the premises are so situated and so designed as to minimize adverse effects upon owners and occupants of adjacent properties and the neighborhood.
3. That as many natural features of the landscape shall be retained as possible, particularly, where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.
4. That any adverse effect of the proposed development and activities emanating therefrom upon adjoining residents or owners shall be minimized by appropriate screening, fencing or walls, or landscaping.
5. That all buildings and structures are accessible to emergency vehicles.
6. That a plan for erosion control and stormwater discharge has been approved by the appropriate public agency.

7. That the plan as approved is consistent with the intent and purpose of zoning to promote public health, safety and general welfare; to encourage the use of lands in accordance with their character and adaptability; to avoid the overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties; to preserve property values and natural resources; and to give reasonable consideration to character of a particular area, its peculiar suitability for particular uses and the general appropriate trend and character of land, building, and population development.
 8. That all utility services shall be provided on site in a manner least harmful to surrounding properties, and that all utilities are located underground, as applicable, unless specifically waived by the Zoning Administrator, Planning Commission, or Zoning Board of Appeals.
 9. That all applicable local, regional, state and federal statutes are complied with.
- J. Performance Guarantee. The Planning Commission is empowered to require a performance guarantee such as a letter of credit, cash, or certified check in an amount up to the estimated cost of improvements and administrative costs associated with the project or for each phase, in conjunction with Section 21.12.
- K. Amendments. Amendments to the final site plan shall be classified as either minor or major. Minor amendments shall be reviewed and approved by the Zoning Administrator, and major amendments shall follow the same process of approval as the original application. The following constitutes a minor amendment:
1. Minor Amendments:
 - a. Reduction in the number of parking spaces by no more than 5 percent.
 - b. Changes in the building size, up to 5 percent of the gross floor area.
 - c. Movement of buildings or other structures by no more than 10 feet.
 - d. Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size and/or number.
 - e. Changes to building materials to a comparable or higher quality.
 - f. Changes in floor plans that do not alter the character of the use.
 - g. Changes required or requested by the City, the Berrien County Road Commission, or other County, State or Federal regulatory agency in order to conform to other laws or regulations.
 2. Major changes or amendments to an approved site plan involving a change of use, change in the number and location of accesses to public streets and alleys, a major relocation of a building, increase in the gross floor area or heights of buildings, a reduction in open space, and similar major changes as determined by the Zoning Administrator, shall require the approval of the Planning Commission, in the same manner as the original application was submitted, reviewed, and approved.
- L. Scheduling of Construction. The physical development of the site must start within 2 years of the date of approval of the final site plan. Failure to start development shall invalidate the plan.

Provided, however, the Township Board, upon review and recommendation by the Planning Commission, may extend such period of time up to 1 year. In the event that physical development does not start within 2 years or the date of approval of, or by the date authorized by the Planning Commission if an extension is granted, the Board shall invalidate the PUD Special land Use.

- M. Residential District Planned Unit Development. All Planned Unit Developments in residentially zoned districts shall be subject to the following limitations:
1. A maximum of 5 percent of the total developed area may be utilized for uses permitted in the "C-1" commercial district.
 2. No business use or any building devoted primarily to a commercial use shall be built or established prior to the residential buildings or uses for which it is developed or intended to serve.
 3. The minimum area, dimensions and setbacks of individual buildings and lots may be reduced, provided the total number and density of dwellings shall be increased by no more than 20 percent greater than that which would ordinarily result under the district regulations. Land accruing from reduction in lot requirements shall be laid out, developed and perpetually reserved for open space, recreational and conservation purposes, with such land dedicated to the municipality or conveyed to another competent public or private entity.
 4. Under no circumstances shall industrial uses be permitted within a Residential District Planned Unit Development.
- N. Commercial District Planned Unit Development. All Planned Unit Developments in commercially zoned districts shall be subject to the following limitations:
1. The use, area, height, bulk and placement regulations of the district may be varied to allow for a variety of architectural design.
 2. Notwithstanding any other provisions of this Section, every lot abutting the perimeter of a commercial Planned Unit Development shall maintain all yard and setback requirements of Section 5.01, B for commercial zoning districts.
 3. A maximum of 15 percent of the total developed area may be utilized for multi-family residential use.
 4. A maximum of 5 percent of the total developed area may be utilized for industrial uses which are deemed compatible with the commercial and/or residential character of the Planned Unit Development.
- O. Industrial District Planned Unit Development. All Planned Unit Developments in industrially zoned districts shall be subject to the following limitations:
1. The use, area, height, bulk and placement regulations of the district may be varied to allow for a variety of architectural design.
 2. Notwithstanding any other provisions of this Section, every lot along the perimeter of the industrial Planned Unit Development shall maintain all yard requirements of Section 5.13 for industrial zoning districts.
 3. A maximum of 10 percent of the total developed area may be utilized for uses that are permitted in the "C-1" commercial zoning district.

Section 19.44 Recreation Facility

- A. Recreation facilities shall be subject to the following requirements:
1. Facilities that include outdoor activity must employ effective physical barriers and isolation distances to ensure that on-site activities shall not be perceptible beyond the lot line, as determined by the Planning Commission.
 2. Outdoor lighting shall be the minimum required for safe use of the facility and be directed away from neighboring properties and public rights-of-way. Limitations on lighting may be imposed by the Planning Commission.
 3. The Planning Commission may limit the hours of operation of the facility to protect the character of the vicinity and surrounding uses.
 4. The facility shall be compatible with surrounding neighborhoods in terms of scale and site layout.
 5. The facility shall be maintained in an orderly and attractive manner.
 6. The applicant shall demonstrate that large, periodic influxes in the number of patrons and/or spectators shall not occur except upon approval of an amended special land use application. All parking facilities shall be located on the property and shall not be allowed to spill over into any right-of-way or road.

Section 19.45 Religious Institution

- A. Religious institutions shall be subject to the following requirements:
1. Religious institutions may be permitted to exceed the building height limitations of the Zoning Ordinance. For every foot of height by which the building, exclusive of spire, exceeds the maximum permitted height of the zoning district, a minimum of one (1) additional foot of front, side and rear setback shall be provided.
 2. The site shall be subject to Township Engineer review and approval with regard to water source, sewer system, and stormwater drainage.
 3. The Planning Commission may require additional landscaping in and around the religious institution's parking area beyond that which is ordinarily required by the Zoning Ordinance, to help screen adjacent residences from the trespass of vehicle headlight glare.
 4. Restrictions may be placed on the use to ensure that the conduct of the use is compatible with surroundings. Restrictions may include the prohibition of outdoor use of an amplified sound system; prohibition of up-lit spires; timers on parking area lighting to protect night skies; and others.
 5. A traffic study may be required; to clearly depict the occasional impact the use may have on roads and traffic, and to facilitate any techniques to mitigate those impacts.

Section 19.46 Resort

- A. Resorts shall be subject to the following requirements:
1. Scaled elevation drawings depicting architectural features of individual buildings shall be provided.

2. Individual buildings within the site shall be setback from each other by least fifteen (15) feet. Perimeter setbacks shall comply with Section 5.01, B. Activities occurring in a resort shall not be conducted within any required yard setback areas.
3. Such facilities shall maintain, at all times, all required state and local licenses and permits.
4. Such facilities that include outdoor recreation activities or uses that would generally meet the definition of commercial recreation establishment, shall meet the requirements of Section 19.18.
5. The Planning Commission may establish, as a condition of approval, hours of operation for certain elements of the resort, or activities that may take place on the resort site.
6. The Planning Commission may establish, as a condition of approval, buffering mechanisms, including, but not limited to, evergreen or combined landscaping, berms, and fencing; and such conditions may be in addition to the landscaping standards of this Zoning Ordinance.
7. The Planning Commission may make reasonable inquiries of the applicant, including, but not limited to, what types of activities will occur. Certain activities, as determined by the Planning Commission, may be restricted to rear or side yards and with adequate screening or fencing.
8. The application shall provide for measures acceptable to the Planning Commission to prevent any excessive noise at any property line. Unless specifically approved by the Planning Commission, the use of amplifiers, banners, and other attention gathering devices shall be prohibited.
9. All such facilities shall be subject to Township Engineer review and approval with regard to water source, sewer system, and stormwater drainage.

Section 19.47 Restaurant

- A. Restaurants shall be subject to the following requirements:
 1. Such facilities shall maintain, at all times, all required State and local licenses and permits.
 2. Such facilities shall be located and designed such that no objectionable noise and no objectionable vibration shall be carried onto adjoining property zoned for residential uses.
 3. Such facilities shall be located and designed such that no objectionable odor or fumes shall be carried onto property located in the residential districts.
 4. The site plan shall include measures satisfactory to the Planning Commission to control blowing trash, dust or debris from the facility.
 5. Restaurants shall front on and be accessed from a paved public road.

Section 19.48 Sexually Oriented Business

- A. Purpose and Intent. It is the purpose of this Section to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the Township, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the Township. The provisions of this Section have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented

entertainment to their intended market. Neither is it the intent nor effect of this Section to condone or legitimize the distribution of obscene material.

- B. Findings. Based on evidence of the adverse secondary effects of sexually oriented businesses presented in reports assembled by the American Planning Association and reviewed by members of the Township Planning Commission and professionals serving the Township, Hagar Township finds as follows:
1. Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. The incidence of crime in the vicinity of sexually oriented businesses ranged from 21% to 56% greater than the community at large, in specific studies conducted in the cities of Indianapolis, Los Angeles, Denver, San Diego and Phoenix.
 2. Studies have shown that the incidence of sex-related crime, including indecent exposure, prostitution and aggravated sexual assault, in the vicinity of sexually oriented businesses has been demonstrated to be as much as five times greater than in the broader community. These negative impacts are exacerbated in any area with a concentration of sexually oriented businesses.
 3. The presence of sexually oriented businesses in proximity to residentially-zoned and used property has been shown to negatively impact property values. A study in Indianapolis showed that the vast majority of respondents (80%) reported an expectation of property value decline within one-block of a sexually oriented business. A study in Austin, TX, found that 88% of the respondents reported an expectation of property value decline within one block of a sexually oriented business and that 59% reported similar expectations within a three-block radius of a sexually oriented business.
- C. Rationale. Each of the foregoing negative secondary effects constitutes a harm which the Township has a substantial government interest in minimizing, preventing and/or abating. This substantial government interest in preventing secondary effects, which is the Township's rationale for this Section, exists independent of any comparative analysis between sexually oriented businesses and non-sexually oriented businesses. Additionally, the Township's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the Township. The Township hereby finds that the information outlined in this section and relied on by the Township is relevant to such secondary effects and the Township hereby adopts and incorporates in its stated findings and legislative record the various studies of the American Planning Association as well as the judicial opinions and reports related to such secondary effects contained therein.
- D. Regulatory Structure. This Section of the Zoning Ordinance is meant to function in conjunction with a sexually oriented business Ordinance pertaining to the licensing and operation of sexually oriented businesses. This Section is intended to regulate the establishment of such facilities, including standards for their location, site and building layout as special land uses in the Township. The sexually oriented business Ordinance provides standards for the licensing and regulation of sexually oriented businesses and their Employees and for the operation of such businesses. The Township hereby finds that the resulting regulatory structure is reasonably necessary to address the operational, siting and development effects of sexually oriented businesses on the community. In addition to the standard requirements of information requested of all uses under special land uses and site plan review, sexually oriented businesses shall provide the following:

1. A narrative statement and supporting evidence demonstrating compliance with the requirements of this section.
2. A site plan compliant with the requirements of Article XVIII depicting the location of all abutting streets, the location of all existing and proposed easements on site, the location of all existing and proposed structures and their uses, the location and extent of all above ground development, both existing and proposed on the site, site lighting, proposed signage, and exterior elevations of the proposed sexually oriented business depicting it, to the extent feasible, in what will become its "as-built" condition, all in legible form.
3. Final building floor plans and specifications of the proposed development.
4. A description of the proposed use, including references to definitions within this section.
5. An area map, in a scale (no larger than 1" = 100'), depicting and describing all land uses situated within 1,000 feet of the boundaries of the property upon which the proposed sexually oriented business is to be located. A survey, sealed by a licensed surveyor or engineer, shall be submitted showing that the proposed Sexually oriented business will be located in accordance with the requirements of Section 19.48, D, 7, a.
6. Documentation that the applicant has received a certificate of tentative approval of a sexually oriented business License from the Hagar Township Board, pursuant to the Hagar Township Sexually Oriented Business licensing ordinance.
7. Basis for determination – specific requirements: In reviewing an application for a sexually oriented business, the Planning Commission shall determine whether the following specific requirements have been met, or will be met in the proposed special land use:
 - a. Isolation Distance Requirements. The proposed sexually oriented business shall not be located within 700 feet of any dwelling, recreation facility, school, assisted living facility, community center, day care center, group day care home, religious institution, park or cemetery, nor within 1,000 feet of any other sexually oriented business. For purposes of this paragraph, the distance between a proposed sexually oriented business and any of the above listed uses, shall be measured in a straight line, without regard to intervening structures or objects, from the proposed sexually oriented business structure to the above listed uses, regardless of the political jurisdiction.
 - b. Proposed signage shall not include animated or flashing illumination of any type and shall otherwise conform to the requirements of Article XV. Proposed signage may contain only the name of the sexually oriented business and shall not include photographs, silhouettes, drawings, or pictorial representations of any type.
 - c. Entrances to the proposed sexually oriented business shall be posted on both the exterior and interior walls, clearly visible to the public, indicating in lettering no less than two inches in height that (a) “No one under the age of 18 is permitted to enter the premises” and (b) “No alcoholic beverages of any type are permitted within the building or anywhere on the property.”
 - d. No product or service for sale or gift, or any picture or other representation thereof, shall be displayed so as to be visible from the street or exterior of the building.
 - e. Hours of operation shall be limited to between the hours of 8:00 a.m. to 12:00 a.m. (midnight).

- f. Persons operating a sexually oriented business shall not permit any person under the age of 18 years to be on the premises.
 - g. All off-street parking areas shall conform to the requirements of Article XVII and shall be illuminated during all hours of operation and for one hour after closing and shall otherwise be open to view from abutting roadways or parking areas.
 - h. The proposed sexually oriented business owner/operator shall have provided an exterior maintenance program to the Township Zoning Administrator, together with its special land use application, which shall provide for routine reasonable and necessary grounds maintenance and shall include, at a minimum, the clearing of trash and rubbish from all parking areas and other portions of the premises not less than daily. Continued adherence to such exterior maintenance program shall be a condition to the issuance of any special land use permit pursuant to this Section.
 - i. The interior of the building shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Enclosed viewing booths shall not be permitted. Restrooms shall not contain video reproduction equipment. If the building has two or more manager's stations designated, then the interior of the building shall be configured in such a manner that there is an unobstructed view of each area of the building to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required by this subsection must be by direct line of sight from the manager's station.
 - j. Any booth, room or cubicle available in any sexually oriented business used by patrons for the viewing of any entertainment characterized as showing specified anatomical areas or specified sexual activities shall:
 - i. Be constructed in accord with the Michigan Building Code, as may be amended from time to time;
 - ii. Be unobstructed by any door, lock or other entrance and exit control device;
 - iii. Have at least one side totally open to a lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;
 - iv. Be illuminated by a light bulb of wattage not less than 100 watts; and
 - v. Have no holes or openings, other than doorways, in walls.
8. The premises shall meet all barrier free requirements and building code requirements applicable in the Township.
 9. The number of patrons allowed on premises at any one time shall be limited to the amount of seating available, but shall not exceed the maximum occupancy permitted by applicable codes.
 10. The applicant shall provide an overall management plan for the facility including explicit rules which prohibit total nudity and prevent any physical contact between or among performers, dancers or entertainers and the establishment patrons. Other rules shall include, but not be limited to, hours of operation which shall conform to the requirements of this Section, the prohibition of alcoholic beverages, and other rules that may be imposed by the Planning Commission.
 11. The Planning Commission may impose such additional conditions and safeguards deemed necessary to mitigate negative secondary effects reasonably documented to emanate from

- sexually oriented businesses for the protection of the general welfare and individual property rights of affected property owners, and for insuring that the intent and objectives of this Section will be observed. The violation of any condition, safeguard, requirement or approved rule of operation shall be grounds for revocation of the permit by the Planning Commission, after not less than 15 days' written notice to the sexually oriented businesses and an opportunity to be heard at a meeting of the Planning Commission.
12. As a condition of approval of any permit issued, renewed and maintained pursuant to this Chapter, the sexually oriented business shall acquire and maintain all necessary federal and local approvals, including the Township Sexually Oriented Business License Ordinance. The revocation or suspension of the sexually oriented business license shall require the immediate revocation of any special land use permit pursuant to this Zoning Ordinance.
 13. Any dumpsters on site shall be enclosed on 4 sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.

Section 19.49 School

- A. Schools shall be subject to the following requirements:
 1. All outdoor play areas shall be located in the rear or side yards only.
 2. All required State and local licenses, charters, permits and similar approvals shall be issued prior to occupancy for any educational purposes and shall be maintained in good standing.
 3. The Planning Commission may establish standards to limit routine noise generated by a school, taking into account the nature of the facility, the surrounding uses and zoning and the probable frequency of objectionable noise levels that may be generated by the use.
 4. Off-street parking shall be arranged so the area for bus loading and unloading of students will not be in the path of vehicular traffic.
 5. Sidewalks shall be required connecting the off-street parking area to the main entrance of the school, and additional provision for pedestrian activity may be required, to help ensure the safety of pupils of the facility.

Section 19.50 Seasonal Farm Labor Housing

- A. Seasonal farm labor housing shall be subject to the following requirements:
 1. All structures hereafter erected, or moved onto farms and occupied as dwellings for employees thereon shall be located no less than one hundred fifty (150) feet from all road right-of-way lines, not less than one hundred (100) feet from property lines, and not less than two hundred fifty (250) feet from any neighboring dwelling. All structures maintained as housing for farm employees shall be occupied by such employees and their families only while engaged in work on the farm of residence.
 2. Outside toilets for migrant farm help are permitted on farms provided such are a minimum distance of one hundred fifty (150) feet from any public road, one hundred (100) feet from any property line and two hundred fifty (250) feet from any dwelling on neighboring property. Outside toilets must meet the standards as set by the Berrien County Health Department and other enforcement agencies.
 3. Any additional standards and requirements of the State and county shall be met.

Section 19.51 Temporary Outdoor Sales

- A. Temporary outdoor sales shall be subject to the following requirements:
1. Temporary outdoor sales shall not occur within any required yard setback area.
 2. No item displayed outdoors, and no tent or similar temporary structure shall exceed the building height limitations of the C-1, Commercial District.
 3. The Planning Commission may establish, as a condition of approval, hours of operation for the use.
 4. The Planning Commission may establish, as a condition of approval, screening mechanisms or limits on outdoor lighting.
 5. The Planning Commission may make reasonable inquiries of the applicant, including, but not limited to, what types of items will be for sale. Certain items, as determined by the Planning Commission, may be restricted for display to rear or side yards and with adequate screening or fencing.
 6. The use shall not generate objectionable noise.
 7. The area shall be paved, or mechanisms to prevent the creation of dust shall be implemented. The site plan shall include measures satisfactory to the Planning Commission to contain blowing dust, trash and debris on the site.
 8. An application for temporary outdoor sales shall not be approved unless public restroom facilities are offered on the property.
 9. Boxes or containers with wheels that are not propelled or moved by an engine, and motor vehicles of any kind, out of which merchandise, food, beverages, etc are offered for sale, is prohibited unless operated in connection with the principal permitted use on the site. Off-site vendors shall not be considered temporary outdoor sales.
 10. Notwithstanding existing signage on the site or other signage restrictions of this Ordinance, the temporary outdoor sales use shall be permitted one (1) sign. Said sign may be a temporary banner sign, a portable sign, or a window sign, and shall be removed upon expiration of the temporary outdoor sales use. The sign shall not exceed twelve (12) square feet in sign area, nor have a sign height greater than 4 feet.
 11. In its review of the special land use application, the Planning Commission shall place time limitations on the temporary outdoor sales use. In no instance shall a temporary outdoor sales use be conducted for more than four (4) consecutive months. The Planning Commission shall stipulate, in any approval as a condition, whether the special land use permit for the temporary outdoor sales use terminates at the first expiration or requires perennial approval.
 12. Adequate off-street parking area, whether temporary or permanent, shall be provided. Off-street parking shall be arranged so that vehicles do not back directly into the path of traffic.

Section 19.52 Theater

- A. Theaters shall be subject to the following requirements:
1. A theater shall front on and be accessed from a public paved road.
 2. The use shall not generate objectionable noise.
 3. The Planning Commission may require the completion of a traffic study.

Section 19.53 Two-Family Dwelling

- A. Two-family dwellings shall have exterior design characteristics similar to single-family dwellings.

Section 19.54 Warehouse

- A. Warehouses shall be subject to the following requirements:
1. Additional landscaping may be required to help screen the building or any outdoor storage area.
 2. Hazardous materials shall be disposed of, stored and handled as required by the Berrien County Health Department, the Michigan Department of Public Health, or other duly appointed authority. No hazardous materials shall be buried or incinerated on site.
 3. The Planning Commission may require that outdoor lighting be turned off after normal business hours.
 4. At least twenty (20%) percent of any elevation of a warehouse building visible from a public road right-of-way shall be comprised of brick.

Section 19.55 Wind Energy Conversion System, Large

- A. Large wind energy conversion systems shall be subject to the following requirements:
1. Large wind energy conversion systems shall not be permitted on any lot less than twenty (20) acres.
 2. Towers shall be connected directly to the commercial electrical grid.
 3. Each tower shall be setback a minimum of 1.5 times the total system height (including tips of blades) to any property line or structure on the same parcel.
 4. Audible noise due to wind turbine operations shall not, at the boundary of the proposed project site, exceed forty (40) dB(A) for more than five (5) minutes out of any one hour time period or exceed forty-five (45) dB(A) for any time period. Large wind energy conversion systems shall not be operated so that impulsive sound below 20 Hz adversely affects the habitability or use of any dwelling unit, hospital, school, library, nursing home, or other sensitive noise receptor.
 5. The electrical transmission lines connecting the wind turbine generator to the public utility electricity distribution system shall be located underground.
 6. Landscaping shall be designed to counter the effects of “shadow flicker” on any neighboring residences or roadways caused by the rotor rotation in the sunlight.
 7. A 6-foot tall chain-link fence shall be erected to prevent access within ten (10) feet of any tower base.
 8. Each wind turbine generator including all accessory structures, or anemometer tower shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness and shall be so maintained as to be in continuous compliance with this paragraph and to prevent any visible oxidation or corrosion.

9. Each wind turbine generator or anemometer tower shall not be artificially lighted, unless required by the FAA or other applicable governmental authority. If lighting is required, the lighting alternatives and design chosen:
 - a. Shall be the lowest intensity allowable under FAA regulations;
 - b. Shall not be strobe lighting or other intermittent white lighting fixtures, unless expressly required by the FAA. Such intermittent lighting shall be alternated with steady red lights at night if acceptable to the FAA;
 - c. Shall be a red top light that does not pulsate or blink;
 - d. Shall be shielded to the extent possible and acceptable to the FAA to reduce glare and visibility from the ground.
10. Each wind turbine generator or anemometer tower shall be sited on the property in a location that reduces to the maximum extent possible any adverse impacts on view corridors from adjacent properties.
11. Each wind turbine generator or anemometer tower shall be a monopole or monotube style construction (as distinguished from a lattice-style tower) and shall not utilize guy wires.
12. Towers shall be designed to withstand a uniform wind loading as prescribed in the building code and industry standards.
13. The plans of the tower construction shall be certified by a registered engineer or architect.
14. Any proposed wind turbine generator anemometer tower shall meet or exceed any standards and regulations of the FAA, the Michigan Public Service Commission, National Electric Safety Code, U.S. Fish and Wildlife Service and any other agency of the State or federal government with the authority to regulate wind turbine generators or other tall structures in effect at the time the special land use permit is approved.
15. The owner shall provide a bond to Hagar Township to cover the cost of removal of said tower(s). If for any reason, the tower ceases operation or is abandoned, it shall be removed from the site by the tower owner within six (6) months of termination of service.

Section 19.56 Wind Energy Conversion System, Small

- A. Small wind energy conversion systems shall be subject to the following requirements:
 1. Setbacks shall be no less than 1.5 times the total height of the small wind energy conversion systems from the ground level to the top of the blade at the highest point in rotation.
 2. Rooftop mounted and detached small wind energy conversion systems shall not exceed 1.5 times the maximum permitted building height for the district in which they are located.

ARTICLE XV SIGNS

Section 15.01 Purpose and Intent

The purpose of this Article is to regulate the size, number, location and manner of construction and display of signs in the Township of Hagar. This Article is further intended to protect all zoning districts from visual chaos and clutter, eliminate distractions hazardous to motorists, protect uses from excessive signage, provide ability for the public to identify premises and establishments, encourage the preservation of rural character through sign design, and enhance the aesthetics of the community.

Section 15.02 Scope

- A. It shall be unlawful for any person to erect, place, or maintain a sign in the Township of Hagar except in accordance with the provisions of this Article.
- B. Permit Required. Unless otherwise provided by this Ordinance, all signs shall require permits and payment of fees as determined by the Township Board. No permit is required for the maintenance of a sign or for a change of copy on painted, printed, or changeable copy signs. A building permit application shall be submitted along with the supplementary material noted below.
- C. Plan Required. When a site plan is required, pursuant to Section 18.02, proposed signage shall be illustrated on the site plan showing the sign area, sign height, clearance between the ground and the bottom of the sign, sign illumination, sign location and setbacks from property lines, and other applicable information to enable the Township to determine compliance with the requirements of this Ordinance. When a site plan is not required, a scaled drawing clearly depicting this information shall accompany the building permit application. The Zoning Administrator may require that additional information be illustrated on a plan or drawing to determine compliance with this Ordinance.

Section 15.03 General Provisions

- A. Sign Placement.
 - 1. Unless otherwise permitted, all signs shall be located on the same parcel for which the sign is intended to serve. The provisions of this Article are not intended to conflict with provisions controlling signs regulated under the authority of MCL 252.301 et seq., the Highway Advertising Act, as amended.
 - 2. No sign shall be located closer than two (2) feet to a public road right-of-way or property line; no sign shall overhang a public street right-of-way; and all signs, including wall signs, shall have a minimum ground clearance of ten (10) feet above a sidewalk or walkway.
 - 3. Section 3.06, Clear Vision Area at Intersections, shall be complied with; and no sign shall be placed within the clear vision area as defined in that Section 3.06. No exterior sign (whether a permit is required or not) shall be located or erected in such a manner as to interfere with traffic visibility.
 - 4. A wall sign shall not extend beyond the edge of the wall to which it is affixed nor above the roof line of a building to which it is attached.
- B. Sign Illumination.
 - 1. Unless otherwise specified by this Ordinance, all signs may be illuminated.

2. Illumination shall not be flashing, blinking, intermittent, oscillating, or an on-and-off type of lighting. No sign may utilize a revolving beacon light.
 3. Illumination shall be arranged so that light is deflected away from adjacent properties and that no direct sources of light shall be visible to any motorist or pedestrian located in a public right-of-way or from any adjacent property.
 4. Any external lighting of signs shall be downward facing or otherwise directed to illuminate only the sign face.
 5. No illumination or sign shall be so placed or designed to be confused with, or appear similar to, a highway sign or traffic safety device.
 6. All lighting on the underside of a gas station canopy shall be fully recessed. A maximum of twenty-five (25) percent of each canopy facade area may be internally illuminated. No portion of any canopy facade may be externally illuminated.
- C. Where a proposed sign appears to meet the definition of more than one (1) sign, the most restrictive requirements and limitations of the defined sign types shall apply, as determined by the Zoning Administrator.
- D. All signs shall be maintained in a safe condition with proper bracing, anchorage and foundation and be subject to inspection by the Building Inspector or other designated representative. A sign which no longer serves the purpose for which it is intended or is abandoned or is not maintained in accordance with applicable regulations of Hagar Township shall be removed by the owner, or by the Township at the expense of such owner, upon written notice by Hagar Township.

Section 15.04 Signs Not Requiring Permits

- A. Signs shall not be erected without the issuance of a building permit, except for the following signs, provided that such signs comply with the provisions of this Section and other applicable provisions in this Ordinance:
1. Signs erected by the Township, County, State, or Federal Government for street direction or traffic control.
 2. Governmental use signs erected by governmental agencies to designate hours of activity or conditions, or use for parks, parking lots, recreational areas, other public space, or for governmental buildings.
 3. Signs designating sites recognized by the State Historical Commission as Centennial Farms or Historic Landmarks.
 4. Real estate signs advertising premises for sale, rent, or lease when not more than thirty-two (32) square feet in area and eight (8) feet in height for a commercial or industrial zoned property, or six (6) square feet in area and four (4) feet in height for other properties. A real estate sign shall be located on the property that is for sale, rent, or lease.
 5. Signs not larger than two (2) square feet in area posted to control and/or prohibit hunting or trespassing within the Township. One (1) of such signs is permitted per two hundred (200) lineal feet of perimeter lot line.
 6. Signs erected by an essential service establishment denoting utility lines, railroad lines, hazards, and precautions, including portable flashing signs.

7. Memorial signs not larger than twelve (12) square feet in area which are either 1) cut into the face of a masonry surface; or 2) constructed of bronze or other incombustible material when located flat on the face of a building.
8. Holiday lights, works or art, and decorations with no commercial message.
9. Accessory professional nameplate signs less than four (4) square feet in area.
10. A garage sale sign placed upon a lot, on which is a dwelling or religious institution or other nonprofit institution, not to exceed six (6) square feet in area. Such sign shall be placed within the property line of the premises on which said sale is conducted and shall be removed immediately after the completion of the garage sale. Any such garage sale sign shall be erected for not more than two (2) times, for seventy two (72) hour periods within any calendar year. Each such seventy two (72) hour period must be at least thirty (30) days apart.
11. A construction sign not exceeding thirty-two (32) square feet in area and having a height not greater than eight (8) feet. There shall be only one construction sign for a development or project, and the sign shall be removed not later than the issuance of certificates of occupancy for ninety (90) percent of the building(s) in the development or project.
12. Political signs not larger than sixteen (16) square feet in area may be placed upon any parcel of property in all districts provided it does not obstruct the vision of vehicular traffic on any street.

Section 15.05 Prohibited Signs

- A. The following types of signs are prohibited in all zoning districts:
 1. Abandoned signs, or signs in disrepair.
 2. Air-filled or gas-filled balloon signs.
 3. Animated signs, audible signs, and/or flashing signs (except traffic control devices).
 4. New billboards, being those proposed to be erected after the effective date of this ordinance.
 5. Human signs.
 6. Roof signs.
 7. Signs attached to a fence.
 8. Signs imitating or resembling official traffic or government signs or signals.
 9. Streamer signs.
 10. Vehicle signs.
 11. Other signs not expressly permitted or which do not conform to the provisions of this Article.

Section 15.06 Supplementary Signs

- A. In addition to the signs permitted and regulated in Section 15.07, the signs listed below may be permitted in accordance with the following standards.
- B. Temporary Banner Signs. Temporary banner signs shall be permitted on a parcel of land zoned C-1, Commercial and I, Industrial, as follows:

1. Only one (1) temporary banner sign shall be permitted for each separate commercial establishment (that is, each separate store, market, office or other permitted use) located on a parcel of land.
 2. A temporary banner sign shall be displayed for not more than thirty (30) days (whether or not consecutive) in a calendar year; provided, however, that after the removal of a temporary banner sign, the sign may be re-displayed during the calendar year following any interval of time, so long as the total number of days of display during the calendar year does not exceed thirty (30).
 3. A temporary banner sign shall not be larger than eight (8) square feet. A temporary banner sign shall not utilize its own illumination.
 4. A building permit for a temporary banner sign shall be required. There shall be no application fee, and an application for the permit shall include the following:
 - a) An accurate sketch, indicating the exact dimensions of the sign, its height, the structure upon which it will be placed, its location in relation to buildings, property lines, driveways and off-street parking areas, and such other information as may be required by the Zoning Administrator in order to assure that the sign shall comply with the applicable requirements of this Ordinance.
 - b) A statement, signed by the applicant, listing specifically the days, or the span of consecutive days, during which the sign will be displayed, and also the date or dates on which the sign shall be removed and, if applicable, the subsequent date or dates on which the sign shall be re-installed and again removed, during the calendar year.
 - c) A listing and description of the other temporary banner signs, if any, located on the property at the time of the application.
 5. A temporary banner sign shall include any other or subsequent temporary banner sign of generally similar appearance, nature and purpose, as compared to the temporary banner sign initially permitted under the terms of this Section. Accordingly, an applicant shall not seek to extend the time limitation on the display of a temporary banner sign by the attempted display of a different, though similar, temporary banner sign following the maximum permitted period of display of a permitted temporary banner sign.
- C. Changeable Copy Signs. All or a portion of a ground sign, except a development sign, may be a changeable copy sign in compliance with all of the following requirements:
1. The area of a changeable copy sign shall be included in the maximum sign area requirement.
 2. A changeable copy sign shall not change its message, image or other graphic material with such frequency as to be a flashing or oscillating sign, whether in whole or in part. For purposes of this Section, a flashing or oscillating sign shall include not only a sign having a message or image that changes with high rapidity, but shall also include a sign having a message or image that changes with a frequency such as to serve as a means of attracting attention to the sign or the land use, rather than for the purpose of providing identification or information.
 3. The message, image or other graphic material of a changeable copy sign shall, when changing, appear only in its entirety or shall appear in successive letters, words or other graphic elements from left to right only, so that when all such letters, words and other elements have appeared, the message or image shall be complete. The message, image or other graphic material shall not appear to flash, move from the center of the sign outward, move from the corners of the sign inward or demonstrate any other unusual movement, oscillation or method of appearance.

4. A changeable copy sign shall not advertise off-site services or off-site products, activities, locations, persons or events, except that it may advertise or give notice of off-site community or charitable events sponsored by a governmental body, church, public or private school, or a charitable, philanthropic, benevolent or other non-profit group or organization.
- D. Farm Signs. One (1) farm sign shall be permitted per active farm as follows: each such sign shall not be larger than twelve (12) square feet, nor have a sign height greater than eight (8) feet.
 - E. Parking Area or Directional Signs. In parking areas, no signs other than directional or regulatory signs shall be permitted. Signs shall not include any advertising matter or commercial message and shall have a sign area no greater than four (4) square feet.
 - F. Portable Signs. One portable sign without illumination not larger than thirty-five (35) square feet in size, upon obtaining a permit, is permitted on any parcel of property in all districts provided that, it is located on the parcel for not more than seventy-two (72) consecutive hours and not more than three (3) times in any calendar year. No permit fee shall be required for a portable sign.

Section 15.07 Permitted Signs by Zoning District

A. The following sign types shall be permitted in accord with the following regulations, in the AG-R, R-1, R-2, R-3, RE and R-4 Districts:

1. The following sign is permitted identifying the name of a permitted residential development:

Type	Maximum Number	Maximum Sign Area	Height
Development	1 per development	32 square feet	8 feet

2. The following sign is permitted identifying the name of a permitted non-residential use, except farm signs, which are governed by Section 15.06, D:

Type	Maximum Number	Maximum Sign Area	Height
Ground	1 per development	32 square feet	8 feet

B. The following sign types shall be permitted in accord with the following regulations, in the C-1 and I Districts:

Type	Maximum Number	Maximum Sign Area	Height
Wall <u>OR</u> Marquee	1 per building wall facing a public road or parking lot	10% of the wall surface or 50 square feet, whichever is less	See Section 15.03, A, 4
Pole <u>OR</u>	1 per frontage; except a corner lot development is permitted 1 pole sign and the other frontage may use a ground sign	50 square feet	20 feet
Ground	1 per frontage	50 square feet	8 feet

1. Each individual establishment in a multi-tenant commercial or industrial building or development is not permitted a separate pole or ground sign; one (1) collective pole or ground sign may be used subject to the standards above. Each individual establishment may, however, erect one (1) wall or marquee sign subject to the standards above; in which case wall surface applies to the wall surface of the individual establishment.
2. Up to twenty-five (25) percent of a gas station canopy facade visible from a public street may be used for signage, including logos, fuel price, and establishment identification.

Section 15.08 Nonconforming Signs

- A. Intent. It is the intent of this Ordinance to encourage eventual elimination of signs that as a result of the adoption of this Article become nonconforming, to administer this Article to realize the eventual removal of nonconforming signs, to avoid any unreasonable invasion of established private property rights and to adopt regulations on the limited alteration or provisional relocation of certain nonconforming signs, in particular circumstances.
- B. Lawful Existing Signs. A sign lawfully existing at the time of the adoption of these provisions which does not fully comply with the provisions of this Article or other relevant provisions of this Ordinance shall be deemed a lawful nonconforming sign and may be permitted to remain if the sign is properly maintained and if it has no serious adverse effects on the public health, safety and general welfare, except as otherwise stated in this section.
- C. Continuance of Nonconforming Signs other than Billboards. This subsection C. regulates only nonconforming signs that are not billboards, and accordingly, references in this subsection to signs do not include billboards.
1. A nonconforming sign shall not be enlarged or expanded in area, increased in height or changed to another nonconforming sign, in whole or in part.
 2. A nonconforming sign shall not be removed, in whole or in part, from its current location and then relocated, re-erected or re-installed at another location, whether on the same parcel of land or on another parcel of land.
 3. A nonconforming sign shall not be structurally rebuilt or reconstructed to such extent as will prolong the useful life of the sign; or so as to change the shape, size, type, placement or design of the structural elements of the sign; or in order to add illumination, whether by the addition of additional sources of light or by the increase in the intensity of existing light sources.
 4. A nonconforming sign shall not be repaired, re-erected or re-installed after being damaged as a result of casualty, if the repair, re-erection or re-installation of the sign, within any 12-month period, would cost more than sixty (60) percent of the cost of an identical new sign. In evaluating evidence presented as to the cost of an identical new sign, the Township may require the submission of cost estimates from multiple suppliers or contractors or other reliable proof of such cost.
 5. A nonconforming sign shall not be altered or revised, except that the following actions with respect to a nonconforming sign shall be permitted: normal and usual maintenance; the changing of the sign surface area to a lesser or equal area; the replacement of landscaping below the base of the sign; or the changing of the sign's background, letters, figures, graphics or other characters.
- D. Portable and Temporary Signs. Portable and temporary banner signs that are nonconforming shall be altered to comply with the provisions of this Article or removed within 90 days after the effective date of this chapter.

Section 15.09 Billboards or Off-Premise Signs

- A. New billboards or off-premise signs, as defined herein, shall be expressly prohibited. Section 15.09 shall regulate existing billboards in the Township; nonconforming signs that are not billboards are regulated by Section 15.08 above.
1. A nonconforming billboard shall not be enlarged or expanded in area or increased in height, in whole or in part.

2. A nonconforming billboard shall not be changed to another nonconforming billboard or another nonconforming sign, except as permitted under subsection B.
 3. A nonconforming billboard shall not be removed, in whole or in part, from its current location and then relocated, re-erected or re-installed at another location, on the same parcel of land, except as permitted under subsection B. A nonconforming billboard may not be relocated, re-erected or re-installed on a different parcel of land.
 4. A nonconforming billboard shall not be repaired, re-erected or re-installed after being damaged as a result of casualty, if the repair, re-erection or re-installation of the billboard, within any 12-month period, would cost more than sixty (60) percent of the cost of an identical new billboard. In evaluating evidence presented as to the cost of an identical new billboard, the Township may require the submission of cost estimates from multiple suppliers or contractors or other reliable proof of such cost.
 5. A nonconforming billboard shall not be altered or revised, except as permitted under subsection B. and except that the following actions with respect to a nonconforming billboard shall be permitted: normal and usual maintenance; the changing of the billboard surface-area to a lesser or equal area; the replacement of landscaping below the base of the billboard; or the changing of the billboard's background, letters, figures, graphics or other characters.
- B. A nonconforming billboard may be (1) changed to another nonconforming billboard or another nonconforming sign, (2) removed from its current location and then relocated, re-erected or re-installed at another location on the same parcel of land, and (3) altered or revised, or any of them, only in accordance with this subsection B.
1. The Planning Commission may approve as a special land use, the following actions with respect to a nonconforming billboard:
 - a) The changing of a nonconforming billboard to another nonconforming billboard or another nonconforming sign.
 - b) The removal of a nonconforming billboard from its current location and the relocation, re-erection or re-installation of the billboard at another location on the same parcel of land.
 - c) The alteration or revision of the nonconforming billboard.
 2. An applicant shall apply for the special land use on a form provided by the Township, shall pay the application fee and shall pay any required zoning escrow deposit. With the application, the applicant shall submit an accurate site plan and other written material describing in detail the proposed action(s) with respect to the nonconforming billboard.
 - a) The site plan shall comply with the site plan content requirements of Section 18.03 of this Ordinance, except that it need not include items or information deemed by the Planning Commission to be not necessary for consideration of the application or decision thereon.
 - b) The applicant shall include such other information with respect to the requested use as the Planning Commission may determine necessary or useful in considering the application.
 3. The Zoning Administrator shall determine whether the application and the other materials are complete. After such determination, the application, the site plan and other materials submitted by the applicant shall be forwarded to the Planning Commission.
 4. The Planning Commission shall consider the application for the special land use at a public meeting. A public hearing shall not be required. If, however, the Planning Commission

determines to convene a public hearing, notice of the hearing shall be given in the same manner as required for consideration of a special land use under the terms of this Ordinance.

5. The special land use may authorize the following:
 - a) The change of a nonconforming billboard to another nonconforming billboard if the resulting billboard would have less sign surface area, or would be of lesser height, than the existing nonconforming billboard. In no event shall the relocated billboard have more than two sign faces, be larger than 380 square feet per sign face, or have a height greater than 35 feet. The billboard shall be a monopole design.
 - b) The removal of a nonconforming billboard from its current location, and its relocation, re-erection or re-installation at another location on the same parcel of land, if the billboard as relocated would have less sign surface area or would be of lesser height, and if the relocated, re-erected or re-installed billboard would be placed no closer to the nearest edge of the nearest public or private street right-of-way than was the case with the existing nonconforming billboard prior to its relocation. The relocated, re-erected or re-installed billboard shall also be placed no closer to the nearest public or private street right-of-way than the current applicable sign setback regulations permit.
 - c) The alteration or revision of a nonconforming billboard if the altered or revised billboard would be less distracting to motor vehicle drivers or would otherwise have less adverse effects than those of the existing nonconforming billboard, by reason of reduced sign area, reduced sign height, revised configuration, less illumination or other alteration beneficial to the public interest.
6. The special land use may include terms, conditions and limitations including, but not limited to, a limitation on the duration of an approved changed, relocated, altered or revised nonconforming billboard.
7. The special land use may be approved in the sole discretion of the Planning Commission. In determining whether to approve a requested special land use, the Planning Commission shall consider the following:
 - a) Whether the nonconforming billboard as changed, relocated, altered or revised would result in a billboard that would be less distracting to motorists, by reason of reduced size, reduced height, different configuration, less illumination, greater distance from the nearest street right-of-way or by reason of other improvements benefiting the public interest.
 - b) If the nonconforming billboard is proposed to be relocated, such relocation would make possible the development and operation of other land uses consistent with the zoning ordinance and in the public interest.
 - c) Whether the changed, relocated, altered or revised nonconforming billboard would eliminate, reduce or mitigate a vehicle traffic hazard resulting from the existing nonconforming billboard or other adverse effect resulting from the existing billboard.
 - d) Whether the resulting nonconforming billboard would otherwise advance the goals and purposes of the zoning ordinance.
8. The Zoning Board of Appeals shall not have jurisdiction to vary, modify, reverse or otherwise consider the approval or disapproval of the special land use.

ARTICLE XVI LANDSCAPING

Section 16.01 Purpose and Intent

The intent of this Article is to establish minimum standards for the design, installation, and maintenance of landscaping along public streets, as buffer areas between uses, on the interior of sites, within parking lots, and adjacent to buildings. Landscaping is viewed as a critical element contributing to the aesthetics, development quality, stability of property values, and the overall rural character in the Township.

The standards of this Article are also intended to screen headlights to reduce glare, integrate various elements of a site, help ensure compatibility between land uses, minimize negative impacts of storm-water runoff, and promote the preservation of healthy, desirable trees.

The landscape standards of this Article are considered the minimum necessary to achieve the intent. In several instances, the standards are intentionally flexible to encourage creative design. Applicants are encouraged to provide additional landscaping to improve the function, appearance, and value of their property.

Section 16.02 Plan Required and Time of Installation

- A. Plan Required. Individual single-family dwellings, two-family dwellings and agricultural uses are not subject to the provisions of this Article. When a site plan is required, pursuant to Section 18.02, landscaping shall be incorporated into the site and a landscape plan shall be submitted in conjunction with the site plan. The landscape plan shall clearly describe the location, type, size, height, and spacing of plant materials.
- B. Time of Installation. Wherever this Ordinance requires landscaping or plant materials, it shall be planted within six (6) months from the date of issuance of a certificate of occupancy and shall thereafter be reasonably maintained with permanent plant materials which may be supplemented with other plantings. The Zoning Administrator may allow a postponement of installation of up to six (6) months upon request of an applicant based on seasonal weather conditions, but all landscaping must be installed within one (1) year of issuance of a certificate of occupancy.

Section 16.03 Specific Requirements

- A. Parking Lot Landscaping. Within every parking area containing ten (10) or more proposed spaces, at least one (1) deciduous tree shall be used for every ten (10) parking spaces, in addition to any other landscaping requirements. This landscaping shall meet the following standards:
 - 1. Landscaping shall be dispersed within the parking area in order to break up large expanses of parking surface and help direct smooth traffic flow within the lot.
 - 2. Dimensions of separate landscaped areas within the interior of or adjacent to parking areas shall be shown on the site plan. Minimum dimensions of such areas shall be ten (10) feet by ten (10) feet.
- B. Buffers between Uses. For non-residential developments, there shall be provided and maintained on those sides abutting or adjacent to a residential zoning district and/or a current residential use, a masonry wall or wooden privacy fence six (6) feet in height, or between six (6) feet and eight (8) feet in height in industrial districts, or a totally obscuring landscape buffer or berm, at least partially comprised of evergreen trees, sufficient to provide adequate screening between uses for the purpose of protecting the quality and integrity of the residential use.

- C. Front Yard Landscaping. In addition to the provisions of subsection A above, where front yard parking exists or is proposed, a minimum of one (1) deciduous tree shall be planted between the parking area and the street per every thirty (30) feet of linear frontage. Base plantings, such as shrubs and perennials, shall be required along the front of the building. Additional front yard landscaping is encouraged and may be required by the Planning Commission where it is found that such additional landscaping would enhance and protect the Township's rural character.

Section 16.04 Planting Specifications

- A. Plant materials permitted in required landscaped areas shall be hardy to the climate of Michigan, long-lived, resistant to disease and insect attack, and shall have orderly growth characteristics.
1. Trees. Required trees shall be of the following sizes at the time of planting, unless otherwise stated in this Article.
 - a) Deciduous Trees. Two and a half (2 ½) inch caliper minimum trunk measurement at four (4) feet off the ground, with a minimum eight (8) feet in height above grade when planted.
 - b) Evergreen Trees. Six (6) feet in height above grade when planted.
 2. The following plant materials are not permitted for planting (in a public right-of-way or as required by the minimum landscaping standards of this Ordinance) due to susceptibility to storm damage, propensity for root clog of drains and sewers, susceptibility to disease or insect pests, or other undesirable characteristics, such as being an exotic invasive species: Silver Maple, Box Elder, Honey Locust (thorned), Ginko (female), Mulberry, Black Locust, Willow, Siberian Elm, Slippery Elm (Red Elm), Chinese Elm, Horse Chestnut, Poplar, Ailanthus, Catalpa, Osage orange, Cottonwood, European Barberry, purple loosestrife, autumn olive, and Russian olive.

Section 16.05 Adjustment of Requirements

Pursuant to the site plan review process described in Section 18.04, the Planning Commission may review a landscape plan and determine that the provisions of this Article would better serve the intent and purpose of this Ordinance if modified; and may require additional landscaping beyond these minimum requirements when deemed necessary due to the scope and nature of the proposed development. Additionally, the Planning Commission may waive or lessen requirements of this Article when it finds circumstances that warrant a decrease in the requirements or in a finding that existing landscaping or screening on the site will be preserved and would meet the intent of this Article.

Section 16.06 Maintenance

- A. Landscaped areas and plant materials required by this Ordinance shall be kept free from refuse and debris. Plant materials, including lawn areas, shall be maintained in a healthy condition, neat and orderly in appearance. If any plant material required by this Ordinance dies or becomes diseased, they shall be replaced within six (6) months of written notice from the Zoning Administrator, or within an extended time period as specified in said notice.
- B. All landscaped areas shall be provided with a readily available and acceptable water supply to facilitate continued growth and vitality.

ARTICLE XVII PARKING

Section 17.01 Purpose and Intent

The intent of this Article is to ensure sufficient land area out of the public right-of-way set aside for the temporary storage or parking of motor vehicles to avoid vehicle congestion and parking on roadways. As such, no parking space required herein shall be located in, or encroach upon, any public right-of-way unless otherwise noted. Additionally, this Article is intended to preclude “over-parking” and excessive parking area pavement, which can undermine the rural character of the Township and cause storm-water runoff issues.

Section 17.02 Scope

In all zoning districts, off-street facilities for the temporary storage or parking of motor vehicles for the use of occupants, employees and patrons of all buildings hereafter erected, altered, or extended after the effective date of this Ordinance, shall be provided as herein prescribed.

Whenever the use of a building, structure, or lot is changed, parking facilities shall be provided as required by this Ordinance for all new uses. If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means as applicable, additional off-street parking shall be provided commensurate with such increase in intensity of use.

Section 17.03 General Standards

- A. The number of off-street parking spaces shall be determined in accordance with Section 17.04. For uses not specifically mentioned therein, off-street parking requirements shall be established by the Zoning Administrator, from requirements for similar uses or using technical publications from entities such as the Institute of Transportation Engineers or other similar objective standards.
- B. Any area once designated as required off-street parking shall never be changed to any other use unless and until equivalent facilities are provided elsewhere. Off-street parking existing at the effective date of this Ordinance in connection with the operation of an existing building shall not be reduced to an amount less than would hereinafter be required for such building or use.
- C. Two (2) or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately. The maximum joint requirements will be less than the total cumulative individual requirements if the peak needs for the uses occur at distinctly different times of the day from the peaks of the other uses, as determined by the Zoning Administrator or Planning Commission.
- D. Required off-street parking shall be for the use of occupants, employees, visitors and patrons and shall be limited in use to motor vehicles. The storage of merchandise and junk within a parking area shall be prohibited. Motor vehicles for sale and the repair of vehicles shall be prohibited in all parking areas, except for those vehicles registered in the name of persons owning or renting the housing on the lot where such repair activity takes place for a period not to exceed 30 days, and except for approved business uses involved in the conduct of motor vehicle sale or repair.
- E. Off-street parking, whether public or private, for nonresidential uses and multiple-family development shall be either on the same lot or within three hundred (300) feet of the building it is

intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot, without crossing any major street.

- F. Off-street parking facilities required for single and two-family dwellings shall consist of a driveway, and typically a garage or combination thereof, and shall be located on the premises they are intended to serve. For single and two-family dwellings, off-street parking shall not be permitted in the required front yard except on a driveway which leads to an approved parking space.

Section 17.04 Quantity of Parking Spaces

The number of parking spaces required on a site shall be determined based on the requirements below. The requirements below reflect the actual requirement and not a minimum, but the requirements may be adjusted per Section 17.05. Provided, that the parking requirements below for residential uses shall be considered the minimum required. Where the requirements indicate a certain number of spaces “per employee,” it shall mean the total number of employees working in the largest shift. Where the requirements indicate that the applicant demonstrate parking demand, the applicant shall submit a detailed analysis that clearly relates the proposed number of parking spaces to actual projected demand; however, the Zoning Administrator may consult technical publications from entities such as the Institute of Transportation Engineers to determine required parking to evaluate and confirm any such parking demand projection.

Use	Parking Requirement
Accessory Caretaker Dwelling	1 space per unit
Agri-Tourism Establishment	Applicant shall demonstrate parking demand and shall provide adequate parking on site for any events
Airplane Landing Field	Applicant shall demonstrate parking demand
Animal Hospital	1.5 spaces per 1,000 square feet usable floor area
Assisted Living Facility	.5 spaces per dwelling unit
Automobile Repair Establishment	1 space per employee plus 2 spaces per service bay
Automobile Sales or Rental Establishment	Applicant shall demonstrate parking demand, but not less than 1 space per employee plus 1 space per 450 square feet of showroom or office
Automobile Service Establishment	1 space per employee plus 2 spaces per service bay
Beach	Applicant shall demonstrate demand
Bed and Breakfast	2 spaces for principal dwelling use plus 1 space per rental room
Boat Livery	1 space per 1.5 slips or racks
Campground	2 spaces on each campsite plus 1 space per 5 campsites
Car Wash	3 stacking spaces per bay plus 1 space per 350 square feet of retail/office space
Cemetery	Applicant shall demonstrate parking demand
Commercial Recreation Establishment	10 spaces per 1,000 square feet usable floor area
Commercial Riding Stable	Applicant shall demonstrate parking demand
Community Center	Applicant shall demonstrate parking demand
Contractor's Office and Yard	1 space per employee plus 1 space per 500 square feet of retail or showroom space
Day Care Center	1 space per employee plus 1 space per 4 persons cared for
Drive-Through Facility	5 stacking spaces for drive-through lane with window service or 3 stacking spaces for drive-through ATM, in addition to any spaces required for non-drive-through uses
Dry Cleaning Plant	1 space per employee
Family Day Care Home	2 spaces for principal dwelling use plus 1 space per employee plus 1 client space

Use	Parking Requirement
Farm	2 spaces for any principal dwelling use, if applicable, plus any additional spaces and maneuvering area needed for farm equipment
Financial Institution	1 space per 200 square feet usable floor area
Funeral Home	1 space per employee plus 1 space per 4 units of legal capacity
Gas Station	1 space per 150 square feet dedicated to retail activity plus 1 space at each fuel pump plus 1 stacking space per fuel pump
Golf Course/Country Club	8 spaces per hole
Golf Driving Range	1.5 spaces per tee plus the required spaces for other uses on site
Greenhouse and Nursery	1 space per 2,000 square feet usable floor area
Group Camp Facility	Applicant shall demonstrate parking demand
Group Day Care Home	2 spaces for principal dwelling use plus 1 space per employee plus 2 client spaces
Home-Based Business	2 spaces for principal dwelling use plus up to 2 additional off-street spaces, unless the Planning Commission approves more
Home Occupation	2 spaces for principal dwelling use plus up to 2 additional off-street spaces
Hospital	1 space per employee plus 1 space per in-patient bed plus 1 space per 1,000 square feet dedicated to out-patient services
Hotel	Applicant shall demonstrate parking demand, but no less than 1 space per rental room
Junkyard	Applicant shall demonstrate parking demand
Kennel	1.5 spaces per 1,000 square feet usable floor area
Laundry and Dry Cleaning Establishment	1 space per 350 square feet of retail space plus 1 space per 3 coin-operated machines, if applicable, plus 1 space per employee
Library	1 space per 500 square feet usable floor area
Manufactured Housing Community	2 spaces at each unit plus 1 off-street space per 10 units
Manufacturing	1 space per employee plus 1 space per 2,000 square feet usable floor area
Medical Clinic	1 space per employee plus 1 space per 200 square feet usable floor area
Mining	Applicant shall demonstrate parking demand
Mini-Storage Facility	3 spaces per 100 storage units
Motel	1 space per rental room
Multiple-Family Dwelling	2 spaces per unit
Museum	1 space per 500 square feet usable floor area
Nightclub	1 space per every 3 units of legal capacity
Nursing or Convalescent Home	1 space per 2 dwelling units or bedrooms
Park	5 spaces per acre
Personal Service Establishment	1 space per 350 square feet usable floor area
Private Club or Organization	1 space per 300 square feet usable floor area
Professional Office	1 space per 300 square feet usable floor area
Professional Services Establishment	1 space per 450 square feet usable floor area
Recreation Facility	Applicant shall demonstrate parking demand
Religious Institution	1 space per 4 units of legal capacity in main worship room
Research and Development	1 space per employee plus 5 visitor spaces
Resort	Applicant shall demonstrate parking demand, but no less than 1 space per sleeping room plus required spaces for other uses on site
Restaurant	1 space per 3 units of legal capacity
Retail Establishment	1 space per 250 square feet usable floor area up to 10,000 square feet, plus 1 space per 350 square feet usable floor area in excess of 10,000 square feet
Roadside Stand	Applicant shall demonstrate parking demand

Use	Parking Requirement
School	1 space per employee plus 1 space per classroom plus 1 space per 4 seats of seating capacity in a gymnasium or auditorium
Seasonal Farm Labor Housing	2 spaces per unit
Single-Family Dwelling	2 spaces per unit
Temporary Outdoor Sales	No additional requirement over principal use
Theater	1 space per 3 units of legal capacity
Two-Family Dwelling	2 spaces per unit
Warehouse	1 space per employee plus 5 visitor spaces

Section 17.05 Adjustment of Standards

The Planning Commission may increase or decrease the requirements of Section 17.04 upon request of an applicant, up to 20% of the required number of spaces. The applicant shall submit, in writing, justification for the proposed adjustment. Modifications shall not result in inadequate parking area; large, unwarranted amounts of unused parking space; or a reduction in critical open space or natural features. In addition, in approving any request to modify the parking standards, the Planning Commission must find that the proposed quantity of parking spaces would preserve the rural character of the Township, be consistent with Section 17.01, and protect the public health, safety and welfare.

Section 17.06 Commercial Loading Space and Barrier-Free Parking

- A. Loading Space. On the same premises with every building, structure or part thereof, erected and occupied for manufacturing, storage, warehousing, retailing, wholesaling or other uses involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services adjacent to the opening used for loading and unloading in order to avoid interference with public use of highways, streets or alleys. Such loading space shall not interfere with or overlap, or be counted toward the number of, motor vehicle parking spaces.
- B. Barrier-Free Requirements. Off-street parking facilities as required under this Ordinance shall include, in accordance with the following table and identified by signs, parking spaces which are barrier free and designed in accordance with PA 1 of 1966, being MCL 125.1351-1356, as amended (Barrier Free Design), and reserved for physically handicapped persons. Signs shall be located approximately six (6) feet above grade. Each reserved parking space shall be not less than twelve (12) feet wide. Where a curb exists between a parking lot surface and a sidewalk surface, an inclined approach or a curb cut with a gradient of not more than one (1) foot in twelve (12) feet and a width of not less than four (4) feet shall be provided for wheelchair access. Barrier free parking spaces shall be located as close as possible to walkways and building entrances. Signs shall be provided when necessary indicating the direction to a barrier-free entranceway into a building.

Barrier Free Total Parking Spaces Provided	Parking Spaces Required Minimum Number of Barrier Free Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
More than 1,000	20, plus one for each 100 over 1,000

Section 17.07 Parking Lot Layout, Construction and Maintenance

- A. Adequate ingress and egress shall be provided to the parking lot by means of clearly limited and defined drives.
- B. Parking spaces in non-residential districts and on property used for non-residential purposes shall be set back from abutting residential districts by a minimum of ten (10) feet.
- C. Parking spaces in non-residential districts and on property used for non-residential purposes shall be set back a minimum of ten (10) feet from a public right-of-way. The land between the parking lot pavement edge and the right-of-way shall be used as a planting strip as required in Section 16.03. Other parking area landscaping provisions of Article 16 shall also be met.
- D. Bumper stops or wheel chocks shall be provided, as necessary or as required by the Township, and located so as to prevent any vehicle from projecting over the lot line.
- E. The parking lot shall be drained to eliminate surface water.
- F. The surface of the parking lot, including drives and maneuvering aisles, except landscaped areas, shall be constructed of asphalt, concrete or gravel. The Township reserves the right to require a specific paving material in the interest of protecting the integrity of any nearby natural water features, to avoid excessive water runoff, to establish a dustless parking surface, or protect the public safety, health and welfare.
- G. Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements:

Parking	Maneuvering Aisle	Parking Space (width)	Parking Space (length)
0 degrees (parallel)	12 feet	8 feet	23 feet
45 degrees	14 feet (one way)	10 feet	20 feet
60 degrees	17 feet (one way)	10 feet	20 feet
90 degrees	25 feet	10 feet	20 feet

- H. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street in a manner which will least interfere with traffic movements. No driveway or curb cut across public property shall exceed a width of forty (40) feet, or as permitted by the Berrien County Road Commission. In addition, all parking spaces shall be designed in such a manner as to not permit vehicles to back directly out onto a public street.

ARTICLE XVIII SITE PLAN REVIEW

Section 18.01 Purpose and Intent

- A. The intent of requiring site plan submittal and review in certain instances specified herein is to facilitate determination of whether certain development proposals meet all applicable requirements and are in harmony with the purpose, intent and spirit of this Ordinance.
- B. It is further the intent to assist Township officials in encouraging and assisting proposers of land development to design and implement land use proposals which foster orderly, efficient, compatible and aesthetic uses of land in Hagar Township.

Section 18.02 Scope

No building shall be erected or structurally altered nor shall any grading take place on any lot or parcel where a site plan is required, unless a site plan is submitted and approved under the terms of this Ordinance, or such development is otherwise in accordance with this section. A Township permit shall not be issued or otherwise authorized until a site plan, submitted in accordance with this section, shall have been reviewed and approved, and any required securities have been received, based on the following submittal requirements. A site plan shall be prepared and submitted in accordance with this Article for:

- A. any application for a Special Land Use or Variance;
- B. any application for a zoning compliance permit or building permit, other than for the sole purpose of constructing a single-family or two-family dwelling or agricultural permitted principal use or accessory use thereto;
- C. any application for a Planned Unit Development;
- D. any application for a structure within the Sensitive Area Overlay or Floodplain Overlay requiring Township approval.

Section 18.03 Contents

- A. A required site plan shall be drawn at a scale of not less than 1 inch equals 100 feet and, together with any supplementary materials, shall contain the following information:
 - 1. Name, address and signature of applicant and property owner.
 - 2. Legal description, property parcel number and street address of the subject parcel(s) of property.
 - 3. Area of the subject parcel(s) of property stated in acres, or if less than one (1) acre, in square feet.
 - 4. Present zoning classification on parcel and on adjacent parcels.
 - 5. Present land use.
 - 6. Applicant's statement of the expected effect on emergency service requirements, schools, storm water systems, automobile and truck circulation patterns and local traffic volume.
 - 7. A description of the proposed development and the land use proposed.
 - 8. The name, signature, title and mailing address of the person who prepared the site plan. A site plan for any development of 5 acres or more in land area shall be prepared by a registered

architect, engineer, professional community planner or land surveyor. A site plan for a development of less than 5 acres may, at the discretion of the Zoning Administrator, be prepared by a qualified person who is not a registered architect, engineer, professional community planner or land surveyor.

9. The scale of the drawing and north arrow.
10. A vicinity sketch showing the location of the site in relation to the surrounding street system and other land uses within three hundred (300) feet in every direction of the proposed use including land uses on the opposite side of any public thoroughfare(s).
11. Natural features such as woodlots, wetlands, streams, County drains, lakes or ponds, and man-made features such as existing roads and structures, with indication as to which are to be retained and which removed or altered.
12. Topography of the site and its relationship to adjoining land illustrated at two (2)-foot contours and including an area extending one hundred (100) feet from the parcel boundary. Provided, however that portions of the site not proposed for development or disturbance need not include topographic contours.
13. Existing man-made features, including buildings, fences, landscaping, parking, screening and the locations, heights and footprint of each.
14. Illustration of all proposed improvements and buildings, fences, landscaping, parking and screening, including location, height, footprint of each.
15. Setback lines and their dimensions.
16. Percentage of land covered by buildings and impervious surfaces and that reserved for open space.
17. Dwelling unit density where pertinent; including a density schedule demonstrating number of each dwelling type, if applicable.
18. Project phasing, if applicable.
19. Location of public and private rights-of-way and easements contiguous to and within the proposed development which are planned to be continued, created, relocated or abandoned, including grades and types of construction of those upon the site.
20. Curb-cuts, driving lanes, parking and loading areas, including the number of parking spaces and parking calculations; vehicular circulation patterns and features, location and size of all parking spaces and the identification of service lanes and parking.
21. Curb-cuts and driveways on adjacent properties.
22. Location and type of drainage, storm sewers and other facilities, including surface and subsurface drainage for all impervious surfaces on the site and all drainage calculations.
23. Existing and proposed water and sanitary sewer sources or services, natural gas, electric, telephone, cable television and other utilities, the proposed location of connections to existing utilities and any proposed extensions thereof.
24. Proposed changes to the topography of the site illustrated at no greater than two (2)-foot contours.
25. Soil erosion and sediment control measures which shall include preventive soil erosion devices or measures, both during and after any site work related to the development.

26. Detail on proposed signage including an illustration of all proposed signs, their surface area, height and nature of illumination, in accordance with Article XV.
27. A written and illustrated landscape plan prepared in accord with Article XVI of this Ordinance.
28. Any additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may be requested by the Zoning Administrator or the Planning Commission.

Section 18.04 Review Process

- A. Requests for site plan review shall be made by filing with the Zoning Administrator the required filing fee and escrow, a complete application form, sufficient copies of a complete site plan as determined by the Zoning Administrator, and a cover letter signed by the land owner and/or developer or applicant providing a general explanation and background information on the proposed development, together with any additional information required. The Zoning Administrator and Planning Commission may waive any site plan submittal requirement upon a finding that the required information is not applicable to the proposal.
- B. Upon receipt of a submitted application and site plan, the Zoning Administrator shall review the plan to determine its completeness. If the submittal is incomplete, the Zoning Administrator shall provide the applicant with a list of items needed to make the submittal complete. If a site plan submittal is complete, the Zoning Administrator shall record the date of receipt and transmit copies thereof to each of the Planning Commissioners; to the Fire Department when necessary; to other area review agencies as necessary, such as the Township Engineer, Berrien County Health Department, Michigan Department of Transportation, retaining at least one (1) copy in the Zoning Administrator's office.
- C. A meeting shall be scheduled for a review of the application, plans, and of the recommendation of the Zoning Administrator with regard thereto. Members of the Planning Commission shall be delivered copies of the same prior to the meeting for their preliminary information and study. The meeting shall be held within sixty (60) days of the date of the receipt of the complete plans and application.
- D. The applicant shall be notified of the date, time and place of the meeting on the application not less than three (3) days prior to such date.
- E. After conducting a review of the site plan, the Planning Commission shall approve, approve with conditions or reject the site plan, as it pertains to requirements and standards contained in this Ordinance. Any conditions required by the Planning Commission shall be stated in writing and shown on the site plan, together with the reasons for such conditions, and delivered to the applicant.
- F. If a proposed development requires a rezoning of land, the rezoning application shall be approved by the Township Board prior to Planning Commission consideration of a site plan. Likewise, if a proposed development requires a variance, the variance application shall be approved by the Zoning Board of Appeals prior to Planning Commission consideration of a site plan.

Section 18.05 Site Plan Review Standards

In the process of reviewing a site plan, the Planning Commission shall consider the following standards. A site plan that is found to meet the requirements of this section shall be approved.

- A. That there is a proper relationship between the existing streets and highways within the vicinity, and proposed deceleration lanes, service drives, entrance and exit driveways, and parking areas to assure the safety and convenience of pedestrian and vehicular traffic, and that the proposed streets and access plan conform to any street or access plan adopted by the Township, County or the Michigan Department of Transportation.
- B. That the buildings, structures, and entrances thereto proposed to be located upon the premises are so situated and so designed as to minimize adverse effects upon owners and occupants of adjacent properties and the neighborhood.
- C. That as many natural features of the landscape shall be retained as possible, particularly, where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.
- D. That any adverse effect of the proposed development and activities emanating therefrom upon adjoining residents or owners shall be minimized by appropriate screening, fencing or walls, or landscaping.
- E. That all provisions of this Ordinance are complied with unless an appropriate variance therefrom has been granted by the Zoning Board of Appeals.
- F. That all buildings and structures are accessible by emergency vehicles.
- G. That a plan for storm water discharge has been approved by the appropriate public agency.
- H. The relationship to shore, dune and lake preservation principles where appropriate.
- I. That the plan as approved is consistent with the intent and purpose of this Ordinance.
- J. That all utility services shall be provided on site in a manner least harmful to surrounding properties, and that all utilities are located underground, as applicable, unless specifically waived by an appropriate entity.
- K. That all applicable local, regional, State and federal statutes are complied with.

Section 18.06 Conditions of Approval

Reasonable conditions may be attached to any approval of special land uses, planned unit developments, site plans, variances, and other discretionary zoning decisions. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

- A. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- B. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.

- C. Be necessary to meet the intent and purpose of this Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

Section 18.07 Conformity to Approved Site Plans

Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have received approval. If construction and development does not conform to such approved plans, the approval shall be revoked by the Zoning Administrator by written notice of such revocation posted upon the premises involved and mailed to the applicant at the last known address. Upon revocation of such approval, all construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation. Nothing in this Section shall be construed to preclude the Planning Commission from considering an amendment to the site plan pursuant to Section 18.09.

Section 18.08 Term of Approval

Approval of the site plan shall be valid for a period of one (1) year after the date of approval. The Planning Commission may grant extensions if applied for and granted in writing. The reasons for extensions may be the inability to complete the requirements, financial constraints, regulatory approvals or other proven hardship. If a building permit has not been obtained or if on-site development has not commenced within said one (1) year, the site plan approval shall become null and void and a new site plan application shall be required and approved before any construction or earth change is commenced upon the site, unless an extension is received as prescribed herein.

Section 18.09 Amendment of Site Plan

No changes shall be made to an approved site plan prior to or during construction except upon application to the Zoning Administrator according to the following procedures:

1. The Zoning Administrator may approve minor changes to an approved site plan involving slight changes in the location of buildings and structures, adjustment of utilities, walkways, parking areas, and similar minor changes.
2. Major changes or amendments to an approved site plan involving change in the number and location of accesses to public streets, changes in the number of parking spaces, a major relocation of a building as determined by the Zoning Administrator, increase in the gross floor area or heights of buildings, a reduction in open space, and similar major changes, shall require the approval of the Planning Commission, in the same manner as the original application.

ARTICLE XX NONCONFORMANCE

Section 20.01 Purpose and Intent

- A. Within the districts established by this ordinance, or any subsequent amendments thereto, there exist lots, structures, uses of land and structures and characteristics of use which were lawful before this Ordinance was adopted or amended but which would be prohibited under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed but not to encourage their continuation. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district, except as authorized within this Article.
- B. Nonconforming uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. A nonconforming use of land or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.
- C. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Section 20.02 Nonconforming Lots of Record

- A. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance, provided erection of such dwellings and buildings is in accordance with all other applicable Township, County and State regulations. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that minimum required setback dimensions and other applicable requirements are met. Relief from the minimum setback or other standards may only be provided by the Zoning Board of Appeals in accordance with Section 21.10.
- B. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purpose of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance. The provisions of this subsection do not apply where the automatic “joining” of lots would result in a property with more than one principal building, except where two or more principal buildings are otherwise

permitted. In addition, the provisions of this subsection only apply to adjacent properties that are vacant and the subject of a permit application. Where the provisions of this subsection B. apply, deed restrictions shall be required to tie adjacent lots to each other for conveyance and development purposes.

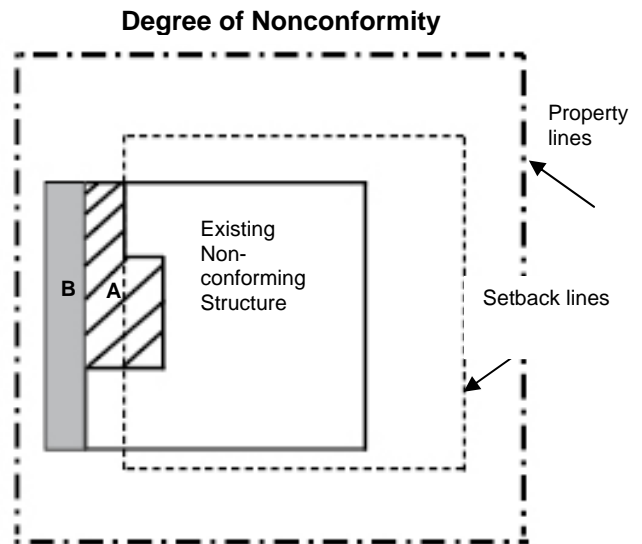
Section 20.03 Nonconforming Uses of Land

- A. Where, at the effective date of adoption or amendment of this Ordinance, a lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:
1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
 2. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance, unless so doing shall make the use less nonconforming;
 3. No nonconforming use shall be resumed, where the nonconforming use has been abandoned in accordance with Section 20.07.
 4. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land.

Section 20.04 Nonconforming Structures

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

1. A nonconforming structure shall not be enlarged or altered in a way that increases the degree of its nonconformity. However, a structure may be enlarged in a way that does not increase the degree of its nonconformity (see figure below). For the purposes of this subsection, the degree of the nonconformity refers to:
 - a) Any portion of the existing structure which is located in a required setback area, and/or
 - b) The height of any portion of a structure that exceeds the height limits of the district.
2. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more



Alteration A does not increase the degree of nonconformity and would be permitted. Alteration B increases the degree of nonconformity and is prohibited.

than fifty (50) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance;

3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 20.05 Nonconforming Uses of Structures or of Structures and Premises in Combination

A. If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any additional land outside such building;
3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided the Zoning Board of Appeals, either by general rule or by making findings in the specific case, shall find the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Zoning Board of Appeals may require appropriate conditions and safeguards in accord with the provisions of this Ordinance;
4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not hereafter be resumed;
5. No nonconforming use or nonconforming structure and premises in combination shall be resumed, where the nonconforming use has been abandoned in accordance with Section 20.07;
6. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than fifty (50) percent of the replacement cost at the time of destruction.

Section 20.06 Repairs and Maintenance

A. Except as provided by Sections 20.04, A, 2 and 20.05, A, 6, and Paragraph B below, on any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding fifty (50) percent of the current replacement cost of the nonconforming structure, provided the cubic content existing when it became nonconforming shall not be increased.

B. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by any duly

authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

Section 20.07 Abandonment

Any nonconforming use, or nonconforming use of structure and premises in combination, shall be considered abandoned, and such use shall not be resumed thereafter if any of the following conditions apply:

- A. When the owner declares or otherwise makes evident his intent to discontinue such use as existed at the time of adoption of this Ordinance or an amendment to this Ordinance.
- B. When the nonconforming use, or nonconforming use of structure and land in combination, has been replaced by a conforming structure or use.
- C. The cessation of the nonconforming use, or nonconforming use of structure and land in combination, for a period of twelve (12) consecutive months shall result in a rebuttable presumption of the owner's and any lawful occupant's intent to permanently discontinue and abandon the nonconforming use, or nonconforming use of structure and land in combination. At any time after said twelve (12) consecutive month period, the Zoning Administrator may notify the owner and any occupants in writing of said presumption and such writing shall provide the owner and any occupants at least thirty (30) days to rebut the presumption in a writing addressed and delivered to the Zoning Administrator by certified mail with a return receipt. If the owner and occupants fail to provide written evidence rebutting the presumption within said thirty (30) day period, the owner's and occupant's intent to discontinue and abandon the nonconforming use, or nonconforming use of structure and land in combination, shall thereby be established. The notice from the Zoning Administrator shall be sent by certified mail, with a return receipt, to the owner and any occupants at the mailing address of the owner listed on the Township tax rolls and at the street address of the property in question if a building with an address exists at said location.

ARTICLE XXI ADMINISTRATION AND ENFORCEMENT

Section 21.01 Administrative Officer

An administrative official who shall be known as the Zoning Administrator shall be designated by the Township Board to administer and enforce this Ordinance. He may be provided with the assistance of other such persons as the Township Board may direct.

Section 21.02 Duties and Limitations of the Zoning Administrator

- A. The Zoning Administrator shall have the authority to grant building permits, zoning compliance permits, and certificates of occupancy, and to make inspections of buildings or premises necessary to carry out his duties in the enforcement of the Ordinance. It shall be unlawful for the Zoning Administrator to approve any plans or issue a Building Permit for any excavation or construction or use until he has inspected such plans in detail and found them in compliance with this Ordinance. To this end, the Zoning Administrator shall require every application for a Building Permit for excavation, construction, moving, alteration or change in type of use or type of occupancy, where required by Section 18.02, be accompanied by a site plan prepared in accordance with specifications of Section 18.03.
- B. If the Zoning Administrator shall find any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.
- C. If the proposed excavation, construction, moving or alteration or use of land as set forth in the application is in conformity with the provisions of this ordinance and in conformance with the provisions of the building code, the Zoning Administrator shall issue a building permit upon evidence of a valid sewage disposal permit. If an application for such permit is not approved, the Zoning Administrator shall state in writing on an appropriate denial form the cause for such disapproval.
- D. The Zoning Administrator may accept a preliminary application and a lesser number of submitted documents than those listed above in situations where basic clarification is desired before proceeding with further technical work; and the Zoning Administrator may on such preliminary submittal indicate tentative denial or tentative approval.
- E. Issuance of a building permit shall in no case be construed as waiving any provision of this Ordinance. The Zoning Administrator is under no circumstance permitted to grant exceptions to the actual meaning of any clause, order, or regulation contained in the ordinance to any person making application to excavate, construct, move, alter or use either buildings, structures or land. The Zoning Administrator is under no circumstance permitted to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out his duties.
- F. The Zoning Administrator shall not refuse to issue a permit when the applicant complies with conditions imposed by this Ordinance and all other applicable township, county, and state regulations.

Section 21.03 Hearing and Notice Requirements

Where this Ordinance requires the Township to provide notice of a public hearing for any decision or action permitted under Act 110 of the Public Acts of 2006 as amended, notice of the public hearing shall be given as stipulated in said Act.

Section 21.04 Stop Work or Stop Use Order

- A. In addition to any other rights or remedies the Township may have pursuant to this Ordinance or other applicable law, upon finding the existence of any one of the conditions listed in paragraph A of this section, the Zoning Administrator shall be empowered to issue stop work or stop use orders and may order a stoppage of work or a cessation of a land use.
- B. A stop work or stop use order will be issued when:
 - 1. An imminent threat to the public health, safety or welfare exists.
 - 2. Work is being done or has been done without a proper permit.
 - 3. Work is being done beyond the scope of the issued permit.
 - 4. Work being done does not conform to approved site plans.
 - 5. The Zoning Administrator finds evidence of a permittee's failure to comply with any of the terms, conditions and/or requirements of its permit.
 - 6. The Zoning Administrator finds evidence of a land use, other than a legal nonconforming use, being conducted in violation of this Ordinance.
 - 7. A permittee's fails to pay any fees required by this Ordinance.

Section 21.05 Zoning Compliance

- A. It shall be unlawful to commence excavation for, or construction of, any building or other structure, including an accessory building, or to commence the moving, alteration or repair of any structure, including accessory buildings, exceeding one hundred and twenty (120) square feet in floor area until the Zoning Administrator has issued for such work a building permit including a certification of his opinion that plans, specifications and intended use of such structure does in all respects conform to the provisions of this Ordinance.
- B. It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use on any lot on which there is a nonconforming use, until the Zoning Administrator has determined such change to be in compliance with applicable provisions of this Ordinance.
- C. When the Zoning Administrator receives an application for a building permit which requires Zoning Board of Appeals approval, he shall so inform the applicant.
- D. Where this Ordinance references a zoning compliance permit or zoning permit, such shall mean certification from the Zoning Administrator that the proposed development or improvements, including land use, specifications, dimensions, and other matters conform, in all respects, with the provisions of this Ordinance and any conditions of approval.

Section 21.06 Nuisance Per Se

Uses of land, dwellings, buildings or structures, including tents and manufactured homes, used, erected, altered, razed, or converted in violation of any provision of this Ordinance or regulations adopted under the authority of this Ordinance, are hereby declared to be a nuisance per se.

Section 21.07 Complaints

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the cause and basis thereof shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint; investigate with all due dispatch; and take action thereon as provided by this Ordinance.

Section 21.08 Penalties for Violation

- A. Any act, attempt to act or failure to act upon demand by the Township by a person, firm, corporation, or agent, or employee, contractor, or subcontractor of same, in violation of any of the provisions of this Ordinance or any of the regulations adopted in pursuance thereof, or any attempt to impede or interfere with an enforcement official, shall be a violation of this Ordinance.
- B. A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine as established by the Township, including actual costs of enforcement.
- C. The Court shall assess all costs, including expenses, actual attorney fees, and direct and indirect expenses which Hagar Township has incurred in connection with enforcement of this Ordinance. The Township may collect such costs as a tax against the lands of the defendant in the Township.
- D. The rights and remedies set forth above shall not preclude the use of other remedies provided by law, including any additional rights of the Township to initiate proceeding in an appropriate court of law to restrain or prevent any non-compliance with any provisions of this Ordinance, or to correct, remedy, or abate such noncompliance. All remedies referenced in this Chapter may be utilized by the Township collectively, in the alternative or in any combination or order the Township may decide.

Section 21.09 Amendments

- A. Any interested person may request, and the Township may approve or disapprove, an amendment to this Ordinance and/or zoning map.
- B. An amendment to the text of the Ordinance shall be submitted for consideration by the Planning Commission and Township Board in accordance with the Zoning Enabling Act, Act 110 of 2006, as amended. A description of the request, reference to the text proposed for amendment, proposed new text, as well as justification for the request shall be included in the petition.
- C. An amendment to the zoning map shall be submitted in writing for consideration by the Planning Commission and Township Board in accordance with the Zoning Enabling Act, Act 110 of 2006, as amended. A description of the request, map of the location of the subject property or properties, description of existing and proposed zoning, as well as justification for the request shall be included in the petition. An application to amend the zoning map shall be accompanied by an application form signed by the owner of the subject property.
- D. When reviewing an amendment request, the Township may consider, but shall not be limited to:

1. Whether the proposed change is in accordance with the Hagar Township Development Plan and the M-63 and Lakeshore Sub Area Plan or any subsequent Plan.
 2. Whether the proposed change is a reasonable alternative because it will promote land use policies of the Hagar Township Development Plan and the M-63 and Lakeshore Sub Area Plan or any subsequent Plan and will not conflict with present policies.
 3. Although representing a change in the Hagar Township Development Plan and the M-63 and Lakeshore Sub Area Plan or any subsequent Plan for future land use, whether the proposed district:
 - a) Would be compatible with existing or future uses in the area.
 - b) Would not have a negative impact on the policies of the Hagar Township Development Plan and the M-63 and Lakeshore Sub Area Plan or any subsequent Plan.
 - c) Would further the objectives, goals or policies of the Hagar Township Development Plan and the M-63 and Lakeshore Sub Area Plan or any subsequent Plan.
 - d) Would preserve an existing, unique natural area.
 4. Whether the proposed district does not conform to the Hagar Township Development Plan and the M-63 and Lakeshore Sub Area Plan or any subsequent Plan for future land use and would be in conflict therewith.
 5. Whether the proposed change represents a form of spot zoning.
 6. Whether the proposed use would be incompatible with existing (and/or future) uses in the area.
 7. Whether the proposed change would negatively affect the Township's ability to implement or follow the Hagar Township Development Plan and the M-63 and Lakeshore Sub Area Plan or any subsequent Plan for the area.
 8. Whether the proposed use would add more acreage than can be justified, thereby detracting from the Township's ability to develop according to the Hagar Township Development Plan and the M-63 and Lakeshore Sub Area Plan or any subsequent Plan.
 9. Other factors set forth in the Zoning Enabling Act, Act 110 of 2006, as amended.
- E. Public notice of an amendment to this Ordinance shall follow the process set forth in Section 21.03.

Section 21.10 Zoning Board of Appeals

- A. Establishment. A Zoning Board of Appeals is hereby established in accordance with Act 110 of the Public Acts of Michigan of 2006, as amended, being the Michigan Zoning Enabling Act. The Zoning Board of Appeals shall perform its duties and exercise its powers as provided by said Act, as amended, and in such a way that the objectives of this Ordinance may be equitably achieved; that there shall be provided a means for competent interpretation and controlled flexibility in the application of this Ordinance; that the health, safety, and welfare of the public be secured; and that substantial justice be secured.
- B. Membership. The Zoning Board of Appeals shall consist of 5 members appointed by the Township Board. The first member of such board shall be a member of the Planning Commission, and the Commissioner's term on the Zoning Board of Appeals shall be concurrent with their term on the

Planning Commission. The Township Board shall appoint the remaining members of the Zoning Board of Appeals. The members selected shall be representative of the population distribution and of the various interests present in the Township. One member may be a member of the Township Board. An elected officer of the Township shall not serve as Chair of the Zoning Board of Appeals; and an employee or contractor of the Township shall not serve on the Board.

The term of office of each member shall be 3 years. A successor shall be appointed not more than one month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term. The Township Board shall seek to stagger the expiration dates of members of the Zoning Board of Appeals so at least one member's term expires each year and to achieve a reasonable degree of continuity of membership from one year to the next. The Township Board may appoint not more than 2 alternate members, who shall serve for 3 year terms. Alternate members shall provide continuity of service on a particular application.

The Township Board may remove a member of the Zoning Board of Appeals for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Zoning Board of Appeals. Failure of a member to disclose a potential conflict of interest as required by this subsection constitutes malfeasance in office.

- C. Meetings. Meetings of the Zoning Board of Appeals shall be held at the call of the Chair and at such other times as the Zoning Board of Appeals in its rules of procedure may specify. The Chair or in his absence, the acting Chair, may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Board of Appeals shall be open to the public. The Zoning Board of Appeals shall maintain a record of its proceedings, which shall be filed in the office of the Township Clerk and shall be a public record. The Zoning Board of Appeals shall not conduct business unless a majority of the members of the Zoning Board of Appeals are present.
- D. Jurisdiction and Authority. The Zoning Board of Appeals shall act upon all questions as they may arise in the administration of this Ordinance, including interpretation of the zoning map, and may fix rules and regulations to govern its procedures.
 - 1. It shall hear and decide appeals where it is alleged there has been an error in any order, requirement, decision or determination made by the Zoning Administrator or any official or body charged with the enforcement of this Ordinance.
 - 2. Such appeal may be taken by any person aggrieved, or by any office, department, board, or bureau of the Township, County, or State. The grounds of every such determination shall be stated.
 - 3. A decision or condition related to a decision of the Planning Commission in connection with a special land use or planned unit development may not be appealed to the Zoning Board of Appeals.
- E. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed except as provided herein. Proceedings shall not be stayed in the event the officer from whom the appeal is taken certifies to the Zoning Board of Appeals, after the notice of appeal is filed, that a stay would cause imminent peril to life or property. The Zoning Board of Appeals or the Circuit Court may issue a restraining order to reinstitute a stay on application and notice to the officer from whom the appeal is taken with due cause shown.

- F. Hearings and Notices, Right to be Heard, Disposition of Appeals, Decision Not Final. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal or application for relief, give due notice thereof to all interested parties and in accord with Section 21.04, and decide the matter being considered by the Zoning Board of Appeals within a reasonable time.

Upon the hearing, any party may appear in person or by agent or attorney. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the official or body from whom the appeal was taken, and may issue or direct the issuance of a permit. Where there are practical difficulties in the way of carrying out the strict letter of this Ordinance, the Zoning Board of Appeals shall have the power to vary or modify any of its rules, regulations or provisions so that the spirit of the Ordinance shall be observed, public safety secured and substantial justice done. The decision of the Zoning Board of Appeals shall be final, and any person having an interest affected by this Ordinance shall have the right to appeal to a Circuit Court.

- G. Duties and Powers. The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of intent of this Ordinance, but does have power to act on those matters where by statute or this Ordinance provision is made for an administrative review, interpretation, variance or exception as defined therein.

1. Review. The Board shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or the Planning Commission or by any other official in administering or enforcing any provision of this Ordinance. The allegation shall be duly made within 30 days of the date of decision being appealed.
2. Interpretation. The Zoning Board of Appeals shall have the power to:
 - a) Interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of the Ordinance.
 - b) Determine the precise location of the boundary lines between zoning districts.
3. Variances. The Zoning Board of Appeals shall have the power to authorize, upon an application, specific variances from such requirements as lot area and width regulations, building height regulations, yard and depth regulations, and off-street parking and loading space requirements provided it finds that all of the following conditions set forth herein can be satisfied. The applicant shall submit, along with the established fee and other materials, a narrative demonstrating why a variance is sought.
 - a) In granting a variance, the Zoning Board of Appeals shall find that the variance request meets all of the following conditions:
 - i) The requested variance shall not be contrary to the public interest or to the intent and purpose of this Ordinance.
 - ii) The requested variance shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a special land use permit is required.
 - iii) The requested variance shall not cause a substantial adverse effect upon properties in the immediate vicinity or in the district in which the property of the applicant is located.

- iv) The conditions or situations which necessitate the requested variance is not so general or of such recurrent nature as to make the formulation of a general regulation for such conditions reasonably practical.
 - v) The requested variance shall not be necessitated by any self-created condition or action taken by the applicant or property owner.
 - vi) There is no reasonable alternative location on the parcel for the proposed improvements for which a variance is sought where such alternative location would eliminate the need for the requested variance or reduce the extent of the condition(s) necessitating the variance.
 - vii) The requested variance is the minimum variance that will make possible the reasonable use of the land.
 - viii) Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property or uses in the same zoning district.
 - ix) Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.
- b) The following rules shall be applied in the granting of variances:
- 1) The Zoning Board of Appeals may specify, in writing, such conditions regarding the character, location, and other features that will in its judgment, secure the objectives and purposes of this Ordinance. The breach of any such condition shall automatically invalidate the permit granted.
 - 2) Within 12 months after the granting of a variance, the applicant shall obtain all required permits and begin the construction or other work authorized by the variance, and shall proceed diligently towards the completion thereof. The construction or other work authorized by a variance shall be completed not later than one year after commencing the construction or other work. The Zoning Board of Appeals may grant an extension of up to one additional year, upon request by the applicant and if the Zoning Board of Appeals finds that the Township Ordinances and conditions of property and surrounding area supporting the variance have not changed, extenuating circumstances have prevented the completion of the authorized work, and if the Zoning Board of Appeals determines that an extension is otherwise justified. Any request for such an extension shall be considered at a public meeting of the Zoning Board of Appeals, but a public hearing shall not be required. If not, the variance becomes null and void.
 - 3) No application for a variance which has been denied, in whole or in part, by the Zoning Board of Appeals, may be resubmitted for a period of 12 months from the date of the denial, except on the grounds of newly discovered evidence and except for when the new application is substantially different. A new application may be submitted if the Zoning Administrator finds that the new plan is substantially different, or there is newly discovered evidence.
4. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any administrative

official or to decide in favor of the applicant any matter upon which they are required to pass under this Ordinance or to effect any variance in this Ordinance.

Section 21.11 Planning Commission

The Hagar Township Planning Commission is hereby established in accordance with the Michigan Planning Enabling Act, Act 33 of 2008, as amended. While the Planning Commission has lawfully existed and exercised its duties for decades, an ordinance establishing or reestablishing the Planning Commission is required under the provisions of the Michigan Planning Enabling Act and this Section is therefore incorporated into the Zoning Ordinance to comply with said Act.

- A. Membership.
1. The Planning Commission shall consist of five (5) members, or such other number determined by the Township Board and authorized by law.
 2. The Planning Commission membership shall generally be representative of the Township.
 3. Members of the Planning Commission shall be qualified electors of the Township, except that one Planning Commission member may be an individual who is not a qualified elector of the Township.
 4. One (1) member of the Township Board shall be a member of the Planning Commission.
 5. All members of the Planning Commission shall be nominated by the Township Supervisor and appointed with affirmative majority vote of the members of the Township Board.
 6. The Township Board may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. The member is disqualified from voting on the matter if so provided by the bylaws or by a majority vote of the remaining members of the Planning Commission. Failure of a member to disclose a potential conflict of interest as required by this subsection constitutes malfeasance in office.
- B. Terms. The term of each member shall be 3 years, and until a successor is appointed and qualified, except that a Township Board member appointed as a member of the Planning Commission shall have a term corresponding with that person's term as a member of the Township Board. The duration of the terms of members first appointed to the Commission shall vary, though not exceeding 3 years, so that terms will expire in different years. Vacancies in office shall be filled for the remainder of the unexpired term.
- C. Officers. The officers of the Commission shall be the chairperson, the vice-chairperson and the secretary. The officers shall be elected by affirmative majority vote of the Commission members present and voting. The Commission may by majority vote establish other officers in its discretion. In addition, the Planning Commission may appoint advisory committees whose members are not members of the Planning Commission.
- D. Bylaws and Record-Keeping. The Planning Commission shall adopt bylaws for the transaction of business, and shall keep a public record of its resolutions, transactions, findings, and determinations.
- E. Meetings.

1. Regular meetings of the Commission shall be held once a month on a day and at a time to be determined by the Commission at its first meeting of the calendar year; provided, however, that a meeting need not be convened if pending matters do not warrant a meeting.
 2. The Commission shall hold at least 4 meetings each year.
 3. All meetings of the Planning Commission shall be public meetings, held in compliance with the provisions of the Open Meetings Act.
 4. A quorum for the conduct of business shall consist of a majority of the total number of current members of the Commission.
- F. Duties and Responsibilities. The Planning Commission shall be responsible for the following planning activities, among others:
1. To prepare, consider and approve or recommend approval of the Township's Development Plan.
 2. Monitor and oversee the effectiveness of the Development Plan; and in accordance with the Michigan Planning Enabling Act, Act 33 of 2008, as amended, to consider, no less frequently than every five years, whether a revision of the Development Plan or updated amendments in the Development Plan are needed and to prepare, consider and approve or recommend approval of any such revisions or amendments.
 3. To consider and recommend the adoption of this Ordinance and amendments to this Ordinance.
 4. To promote understanding of and interest in the Development Plan and this Ordinance.
 5. To consider, recommend and/or approve zoning applications and requests assigned to the Commission under the terms of this Ordinance, including special land uses and other types of land use approval.
 6. To make an annual written report to the Township Board concerning its zoning and planning activities during the previous year and including, if desired, recommendations on zoning and planning changes and amendments.
 7. To review and make recommendations on proposed public improvement projects, and to review and approve a capital improvement plan, as applicable and in accordance with the Planning Enabling Act, Act 33 of 2008, as amended.
 8. To review and make recommendations on proposed platted subdivisions, condominiums and site condominiums.
 9. To carry out other duties and responsibilities provided by law.

Section 21.12 Performance Guarantees

In the interest of insuring compliance with this Ordinance, the Planning Commission, Township Board or Zoning Board of Appeals may require the applicant to deposit a performance guarantee as set forth herein. The purpose of the performance guarantee is to insure completion of improvements connected with the proposed use as required by this Ordinance, including but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, and landscaping.

- A. Performance guarantee as used herein shall mean a cash deposit, certified check, or irrevocable bank letter of credit in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the Zoning Administrator or designee.

- B. When a performance guarantee is required, said performance guarantee shall be deposited with the Township Treasurer prior to the issuance of a permit by the Zoning Administrator for the development and use of land. Upon the deposit of the performance guarantee, when in the form of a cash deposit or certified check, the Township shall deposit it in a nominal interest-bearing account.
- C. In the event a performance guarantee is required, the applicant shall also furnish such authorization as is required by the Township to permit the Township to enter upon the subject property to complete the improvements in the event of default by the applicant.
- D. An approved site plan shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of a permit.
- E. In the event the performance guarantee deposited is a cash deposit or certified check, the Township shall rebate the applicant 50% of the deposited funds when 60% percent of the required improvements are completed as confirmed by the Zoning Administrator, and the remaining 50% of the deposited funds when 100% of the required improvements are completed as confirmed by the Zoning Administrator. If a request is made by the applicant for a temporary certificate of occupancy without completion of required improvements, the performance guarantee herein required may be applied by said applicant to assure compliance with this Ordinance and the specifications of the approved site plan.
- F. Upon the satisfactory completion of the improvement for which the performance guarantee was required, as determined by the Zoning Administrator, the Township Treasurer shall return to the applicant the performance guarantee deposited and any interest earned thereon.
- G. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Township, the Township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the Township to complete the improvements for which it was posted, the applicant shall be required to pay the Township the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited. 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 the Township administrative costs in completing the improvement with any balance remaining being refunded to the applicant. At the time the performance guarantee is deposited with the Township and prior to the issuance of a zoning permit, the applicant shall enter an agreement incorporating the provisions hereof with the Township regarding the performance guarantee.

Section 21.13 Validity

If any clause, sentence, sub-sentence, paragraph, section or part of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, sub sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

ARTICLE XXII PRIVATE ROADS

Section 22.01 Purpose and Intent

This Article is intended to provide minimum standards and specifications for private roads constructed or extended in Hagar Township. It is recognized that such standards are necessary because of the need for road services adequate to provide year around access by fire, police, and like emergency vehicles and services. It is further recognized that if roads are not constructed and maintained with certain minimum standards, such roads frequently become impassable, and vehicles which use them during such times of impassability are likely to become stuck, find it impossible to gain access to the persons or structures located on the roadway, block the roadway and otherwise pose a threat to the health, safety, and welfare of the residents located along the roadway, as well as those other residents who would find use of the roadway essential. It is the intent of this Article to provide for adequate access along private roads of fire, police, ambulance, and other emergency and necessary services at all times and conditions.

Section 22.02 Scope

Any parcel of land which does not abut a public road shall abut a private road meeting the standards of this Article. This Article shall not apply to access roads internal to any individual lot or parcel of land, as defined herein, which has direct public road frontage access and is under the control of 1 individual, firm or corporation, provided that the access road does not provide access to any abutting lot or parcel of land. Examples of access roads that may be exempted from the provisions of this Article include those serving apartment complexes, mobile home parks, nursing homes, hospitals, factories, schools, shopping centers and other properties which are otherwise subject to site plan review and approval under the provisions of the Hagar Township Zoning Ordinance; as well as access roads providing internal access to agricultural fields and structures providing such roads do not circumvent the intent of this Article.

Section 22.03 Prohibitions and Permit Required

- A. Construction of Private Roads. No person or persons shall construct a private road within Hagar Township except by permit in accordance with the standards as herein set forth.
- B. Extension of Private Roads. No person or persons shall extend an existing or future private road within Hagar Township except by permit in accordance with the standards as herein set forth.
- C. Permit required. No new private road shall be constructed nor an existing private road be extended except by permit in accordance with the standards as herein set forth.

Section 22.04 Notice Required of Conveyance of Interest in Land Abutting a Private Road

No person shall sell or convey an interest in any lot, including by purchase agreement in a recorded plat or any parcel of unplatted land in an unincorporated area if it abuts a road or street which has not been accepted as public, or said street or road abuts a private road as defined in this Article, unless such person first informs the purchaser or grantee in writing on a separate instrument to be attached to the instrument conveying or granting any interest in such lot or parcel of land of the fact that the street or road is private and is not required to be maintained by the public. In addition, any contract or agreement so made and entered into in violation of this section shall be voidable at the option of the purchaser or grantee.

Section 22.05 General Provisions

- A. All private roads shall be located within a private road easement. Such easement shall be not less than 66 feet in width at any point. At any dead end of such easement that exceeds 200 feet in length, the easement shall widen such that there is a minimum radius of 67 feet for residential use.
- B. The maximum grade for any private road shall not exceed 8 percent.
- C. A dead end private road or cul-de-sac shall not exceed 600 feet in length.
- D. A private road shall not connect with dead end public road when the effect would result in a combined length of public and private road in excess of 1,000 feet.
- E. A private road shall not interconnect with the public road network in a manner that will preclude the extension of public roads within areas where the future extension of public roads is necessary to further the logical, orderly, and efficient development of the overall public road network. In making such a determination, the Township Board shall consider the circulation pattern and traffic volumes on nearby public roads, existing and proposed land use in the general area, the recommendations contained within the Hagar Township Development Plan, the M-63 and Lakeshore Sub Area Plan, and major road plan, and if applicable, the street, road, and highway plans of the Berrien County Road Commission and Michigan Department of Transportation.
- F. Where a private road meets a public road, a stop sign and other necessary warning signs shall be installed at the intersection at the expense of the owners of the private road. All traffic signs shall meet Berrien County Road Commission Standards.
- G. No private road shall have a gate or other device or structure used for the purpose of impeding access to, egress from, or use by a motor vehicle on the private road.
- H. All private roads created hereunder shall be named with the suffix "path" or "lane" or other suffix approved by the Township Board with said name also subject to approval by the Board or its designee. Name signs and sign posts shall be erected and maintained in good, readable condition under both day and night conditions at the expense of the applicant by either the Berrien County Road Commission or Hagar Township. Name signs shall be blue in color with white letters and shall comply with all other standards of the Berrien County Road Commission at time of erection.
- I. A proposed private road shall provide easements for all utilities, both existing and future, as may be necessary to provide public services to the properties. Such easement may describe the entire roadway or may be defined by specific legal description.
- J. All improvements installed or constructed as required under this Article shall be made and maintained at the expense of the property owner(s) or developer.

Section 22.06 Extension of Existing Private Roads

- A. In those cases where an applicant seeks to extend an existing private road, such extension shall be permitted only if the existing private road is brought up to the standards as set forth in this Article. All of such standards shall be deemed to apply to the existing roadway and the proposed extension. Such applicant shall obtain the consents from all persons who, to the knowledge of the applicant, own any interest in the existing private road or have a right to access to their property thereby, which consent shall be in writing and shall be filed with the Township contemporaneously with the filing of the application for permit hereunder. Said consent shall state:
 - 1. That the owner consents to the extension of the roadway pursuant to the application, and

2. That the consenting party consents to the upgrading of the existing private roadway to the standards as set forth herein, or as permitted, and where applicable will agree to deed such easement or rights-of-way as are necessary to satisfy the requirements of this Article, and
3. That the consenting party consents to the maintenance agreement which shall accompany the application for extension and which, if approved by the Board, shall become part of the extension permit.

Section 22.07 Private Road Classes and Construction Specifications

- A. Classes of Private Roads. Private roads shall be classed according to the numbers of residences they serve ("Residential Class"), or the types and numbers of commercial or industrial facilities or other non-residential uses they serve ("Non-Residential Class").
 1. Residential Class Private Roads. A Residential Class private road shall be a private road which shall serve 2 or more residential lots or parcels. No Residential Class ("RC") private road may serve any commercial or industrial facility, except by special exemption approved by the Township Board. Residential Class private roads shall further be classed according to the number of residences served, as follows:
 - a) RC-1: Serving more than 6 single-family residences, more than 2 duplexes or any number of multi-family residences.
 - b) RC-2: Serving from 3 to 5 single-family residences.
 - c) RC-3: Serving 2 single-family residences.
 2. Commercial Class Private Roads. Any private road serving business, commercial, industrial or other non-residential uses shall be classed as a Commercial Class ("CC") road and may be further classed according to the type and numbers of facilities and uses served as required in the future.
- B. Private Road Construction Specifications and Requirements. Private roads falling under the jurisdiction of this Article shall comply with the minimum construction specifications of this Article as shall be found in Appendix A ("Specifications"), as may be amended from time to time and which by reference may adopt the minimum standards of the Berrien County Road Commission.

Section 22.08 Private Road Maintenance Specifications and Agreements

- A. Maintenance of Private Roads. The following shall be the minimum maintenance requirements for all private roads in Hagar Township falling under this Article.
 1. Private roads shall be graded and graveled or paved to assure vehicle transit at all times of the year and shall be maintained and kept in good condition on a regular basis.
 2. Drainage facilities shall be maintained, open, and freely draining.
 3. A clear, unobstructed envelope shall be maintained above the roadway surface to a height of 15 feet in order to accommodate and allow for the passage of emergency vehicles.
 4. Road and traffic control signs shall be maintained and replaced by the owners of the private road at their expense.
- B. Agreements Required for Private Roads. The following agreements shall be required of all private roads falling under this Article, and shall be filed with the Township Clerk and recorded with the

Berrien County Register of Deeds or other appropriate filing office prior to final approval by the Township Board:

1. Maintenance Agreement. A maintenance agreement, signed by all property owners with interests in the private road, containing at a minimum the following provisions:
 - a) A method of initiating and financing, in perpetuity, said private road and/or easement(s) in order to keep the road in reasonably good and usable condition as required in this Article.
 - b) A workable method of apportioning the costs of maintenance and improvements among the owners of the road.
 - c) A notice that no public funds from Hagar Township are to be used to build, repair, or maintain the private roads.
2. Public Safety Access Easement Agreement. An agreement, signed by all property owners with interest in the private road, providing, in perpetuity, easements to the public for purposes of public safety and service to emergency, police, ambulance, fire and other public vehicles for whatever public services are necessary. Said agreement shall specifically prohibit the building, placement, or use of gates or other devices that may limit access to or delay response to an emergency by any of the above vehicles.
3. Private Access Easement Agreement. An agreement, signed and agreed to by all the owners of the private road, with provisions that the owners or occupants of any of the property using the road shall refrain from prohibiting, restricting, limiting, or in any manner interfering with normal ingress and egress and use by any of the other owners, occupants, or their invitees, including, but not limited to, family, guest, tradesmen, or others bound to or returning from any of the properties having a right to use the road.

Section 22.09 Private Road Approval

Prior to issuance of a building permit for a building on a lot or parcel, not in existence at the time of adoption of this Article, and served by an existing private road or a new or extended private road, the private road shall be submitted for approval by the Township Board in accordance with the following procedures:

- A. Preliminary Approval Recommendation by Township Planning Commission.
 1. Ten copies of a site plan prepared in accordance with the Hagar Township Zoning Ordinance shall be submitted to the Township Clerk or designated agent. In addition, the site plan shall include the following further information:
 - a) Locations, widths, and names of existing or prior easements of record, public, and/or private.
 - b) Indication of possible future land divisions for informational purposes.
 - c) Proposed private road agreements as required by this Article.
 - d) Proposed construction plans for the private road.
 2. Should the Township Planning Commission find that all conditions have been satisfactorily met, it may recommend preliminary approval to the Township Board. All information and recommendations from the Township Planning Commission shall be forwarded to the Township Clerk for Township Board consideration.

- B. Preliminary Approval Township Board and Construction.
1. Upon recommendation by the Township Planning Commission, the Township Board may authorize the applicant preliminary approval to commence road construction. Preliminary approval expires within 1 calendar year if the applicant fails to obtain final approval. The 1-year preliminary approval period may be extended if applied for by the applicant in writing and granted by the Township Board.
 2. Road Construction. Prior to and/or during construction, the applicant shall meet the following conditions:
 - a) The applicant shall obtain all necessary approvals and permits required by the Berrien County Road Commission, and shall provide copies of the same to the Township, and shall provide proof of liability insurance for the road construction by the owners or contractors.
 - b) Prior to the start of any clearing or grading, the work area shall be staked or marked by the applicant's or developer's engineer(s) or surveyor(s).
 - c) The Township engineer's office shall be given 10 working days' notice prior to commencement of construction. All private roads being constructed shall be certified by the builder's engineer, who shall verify that the road has been built in accordance with the construction standards of this Article and who shall provide as-built plans at the completion of construction of the private road. Any significant changes from the approved plans submitted for preliminary approval shall be noted along with reasons for the changes.
 - d) Upon receipt of acceptable as-built plans and verification of proper certification of construction, the Township engineer may submit his recommendation to the Township Board to accept the road as completed. If there is any deviation from the plans, the Township engineer shall report the deviation and reason for same. The Township engineer has the right to reject work and issue stop work orders if the contractor or contractor's equipment creates any unnecessary disturbance beyond the limits of construction as shown on the approved plans and staked by the developer's engineer.
 - e) A Private Road Construction Permit Fee as determined by a schedule approved by the Township Board.
 3. Variance. The Zoning Board of Appeals may grant variance from the specific requirements of this Article if it can be demonstrated to the satisfaction of the Board that compliance with the specific requirements of the Article is not possible or practical and that a variance from the requirements of the Article would not be in conflict with the spirit, intent and purpose of the Ordinance.
- C. Final Approval by Township Board. Final approval from the Township Board may not be granted until the following conditions are met:
1. Final inspection and approval of the private road by the Township's designated engineer and his recommendation for final approval.
 2. Installation of approved and required street name signs and traffic control devices.
 3. Installation of underground utilities, if required.
 4. Submission of the following documents to the Township Clerk at least 14 days prior to the Board meeting where final approval is sought.

- a) Two copies of the recorded road maintenance agreement as required in this Article.
 - b) Two copies of the recorded Public Safety Access Easement agreements as required in this Article.
 - c) Two copies of the recorded Private Access Easement agreements as required in this Article.
 - d) Eight copies of the recorded land survey and legal descriptions showing easements for any underground electrical service lines, communication service lines, drainage, sanitary sewer, private road right-of-way, and/or dedication of any public road right-of-way.
5. Only upon satisfactory evidence of compliance with the above conditions and all other conditions of this Article and other applicable Township ordinances, the Township Board may grant final approval to the private road. A copy of the private road plan shall also be submitted to the Berrien County Road Commission and appropriate fire departments and public safety departments.

Section 22.10 Permits Not To Be Issued; Fees, Severability, Penalty

- A. Permits not to be issued. No building permit shall be issued by the building inspector for the use of any parcel of land served by a new or extended private road constructed after the date of adoption of this Article, unless such road has been approved by the Township Board as provided herein.
- B. Fees. Fees charged pursuant to this Article shall be set, or from time to time may be amended, by resolution of the Township Board.

APPENDIX A

Minimum Private Road Specifications

Refer to the diagram within this Appendix for further information concerning the following construction parameters and other construction specifications and standards which are hereby required by this Article.

TABLE INSET:

PRIVATE ROAD CLASS		RC-3	RC-2	RC-1	CC
PARAMETER					
(A)	Total easement width	33 ft.	66 ft.	66 ft.	80 ft.
	Cul-de-sac required?	No	Yes	Yes	Yes
	Cul-de-sac radius required	N/A	40 ft.	40 ft.	40 ft.
(B)	Minimum road surface width if total road length				
	Less than 200 feet	10 ft.	15 ft.	20 ft.	20 ft.
	Over 200 feet	15 ft.	15 ft.	20 ft.	20 ft.
(C)	Minimum shoulder width, if required	None	None	2 ft.	2 ft.
	Clear overhead envelope	15 ft.	15 ft.	15 ft.	15 ft.
	Clear lateral envelope from road surface or shoulder	4 ft.	4 ft.	6 ft.	8 ft.

	edge				
(D)	Aggregate surface, minimum thickness	8 in.	8 in.	8 in.	8 in.
(E)	Sub-base, minimum thickness if required				
	If native soil is SAND	None	None	None	None
	If native soil is CLAY or SILT	None	9 in.	9 in.	9 in.
(F)	Paved surface, minimum thickness by type if required				
	Bituminous	None	None	2 in.	4 in.
	or				
	Concrete	None	None	6 in.	8 in.

Minimum product standards for aggregate, bituminous, and concrete shall meet or exceed Berrien County Road Commission or MDOT Standards in effect at time of construction.

ARTICLE XXIII SITE CONDOMINIUMS AND CONDOMINIUMS

Section 23.01 Purpose and Scope

Tracts of land that are developed and sold as site condominium developments are not subject to regulation under the Michigan Land Division Act. The Township determines it is in the best interest of public health, safety and welfare to regulate the creation of site condominium development to assure that these developments will not adversely affect the occupants thereof, other properties, or the Township. This Article regulates both site condominium and condominium developments, whether for residential use or non-residential use.

Site condominium projects may be approved as provided by this Article in any zoning district for the uses permitted by the Zoning Ordinance in the zoning district in which the project is located.

Section 23.02 Definitions

For the purposes of this Article, the following words and phrases are defined as follows:

- A. “Building envelope” means the area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the master deed for the site condominium project. In a single-family residential site condominium project, the building envelope refers to the area of each condominium unit within which the dwelling and any accessory structures may be built.
- B. “Building site” means either:
 - 1. The area within the site condominium unit by itself (i.e., exclusive of any appurtenant limited common element), including the area under the building envelope and the area around and contiguous to the building envelope; or
 - 2. The area within the condominium unit (as described in Sec. 19.02(B)(i), taken together with any contiguous and appurtenant limited common element.
 - 3. For purposes of determining compliance with the applicable requirements of the Zoning Ordinance (including, without limitation, height, area, yard, and density requirements) or with other applicable laws, ordinance or regulations, a "building site" shall be considered to be the equivalent of a “lot.”
- C. “Condominium Act” means Act 59 of the Public Acts of 1978, as amended.
- D. “Condominium project” means a project consistent of not less than two condominium units established in compliance with the Condominium Act.
- E. “Condominium unit” means a condominium unit established in compliance with the Condominium Act which consists of a volume of surface or subsurface vacant air space, designed and intended for separate ownership and use as described in the condominium master deed.
- F. “Exempt change” means a change to a site condominium project (other than a major or minor change) that is exempt from review and approval as required for major or minor changes under this Article. Exempt changes shall be limited to the following:
 - 1. a change in the name of the project; in the name of a street within the project; or in the name of the developer of the project;
 - 2. a change in the voting rights of co-owners or mortgages; or

3. any other change in the site condominium project which, as determined by the Planning Commission, does not constitute a major or minor change or will not otherwise change the site configuration, design, layout, topography or any other aspect of a project which is subject to regulation under the Zoning Ordinance.
- G. “Limited common element” means an area which is appurtenant to a site condominium unit and which is reserved in the master deed for the site condominium project for the exclusive use of the owner of the site condominium unit.
- H. “Major change” means a change in the site configuration, design, layout or topography of a site condominium project (or any portion thereof), including any change that could result in:
1. an increase of 20% or more in the number of site condominium units;
 2. a reduction of 5% or more in the area of the building site for any site condominium unit;
 3. a reduction of 5% or more in the total combined area of the general common elements of the site condominium project;
 4. a reduction of 5% or more in the total combined area of all limited common elements of the site condominium project; or
 5. any other change in the site configuration, design, layout, topography, or other aspect of the project which is subject to regulation under this Zoning Ordinance, including, without limitation, a change in the location of streets and utilities, or in the size, location, area, horizontal boundaries or vertical boundaries of a site condominium unit, and which is determined by the Planning Commission to constitute a major change to the site condominium project.
- I. “Minor change” means a change in the site configuration, design, layout or topography of a site condominium project (or any portion thereof), including any change that will result in:
1. an increase of less than 20% in the number of site condominium units or a decrease in the number of site condominium units;
 2. a reduction of less than 5% in the area of the building site for any site condominium unit;
 3. a reduction of less than 5% in the total combined area of the general common elements of the site condominium project;
 4. a reduction of less than 5% in the total combined area of all limited common elements of the site condominium project; or
 5. any other minor variation in the site configuration, design, layout, topography or other aspect of the project which is subject to regulation under this Zoning Ordinance, and which, as determined by the Planning Commission, does not constitute a major change.
- J. “Project plan or plan” means the plans, drawings and information prepared for a site condominium or condominium project as required by Section 66 of the Condominium Act and as required by this Article for review of the project by the Planning Commission and the Township Board.
- K. “Site condominium project” means a plan or project consisting of not less than two site condominium units established in compliance with the Condominium Act.
- L. “Site condominium unit” means a condominium unit established in compliance with the Condominium Act which consists of an area of vacant land and a volume of vacant air space,

designed and intended for separate ownership and use as described in the site condominium project master deed, and within which a building or other improvements may be constructed by the condominium unit owner.

- M. Except as otherwise provided by this Article, the following words and phrases, as well as any other words or phrases used in this Article which are specifically defined in the Condominium Act, shall conform to the meanings given to them in the Condominium Act: "common elements"; "condominium documents"; "condominium unit"; "contractible condominium"; "convertible area"; "expandable condominium"; "general common elements"; and "master deed".

Section 23.03 Compliance with Standards

- A. Condominiums. The condominium project shall comply with all applicable provisions of this Zoning Ordinance, including without limitation, the minimum building height, lot area, lot width and yard size requirements with respect to each of the buildings in which the condominium units are located. The minimum requirements of the Zoning Ordinance with respect to dwelling unit density shall be met with respect to all of the attached condominium units located in the condominium project, in relation to the area of the project. For purposes of demonstrating compliance with this provision, the condominium project plan shall include lines drawn around each building, accurately depicting minimum or greater lot area and minimum or greater lot width, and minimum or greater setbacks in compliance with the zoning district in which the condominium is located.

In the case of a condominium project containing detached single-family condominium buildings, or other detached buildings, the minimum requirements of this Zoning Ordinance, including without limitation, the minimum building height, lot area, lot width and setback requirements, shall apply with respect to each detached condominium building. For purposes of demonstrating compliance with this provision, the condominium project plan shall include lines drawn around each building, accurately depicting minimum or greater lot area, minimum or greater lot width, and minimum or greater setbacks in compliance with the zoning district in which the condominium is located.

- B. Site Condominiums. The building site for each site condominium unit shall comply with all applicable provisions of this Zoning Ordinance including minimum lot area, minimum lot width, road frontage, lot width to depth, lot depth and configuration, required front, side and rear yards, street access and street buffers, and maximum building height. For example, the area and width of the building site shall be used to determine compliance with the minimum lot area and lot width requirements. Compliance with required front, side and rear yards shall be determined by measuring the distance from the equivalent front, side, or rear yard boundaries of the building site to the closest respective front, side or rear boundary of the building envelope. In keeping with the above referenced provisions, the following shall apply:

- C. Building Sites/Lots.

1. All lots and units shall face upon, and have direct access to, a public or private street or other access easement which complies with the Zoning Ordinance.
2. The side lines of a lot shall be approximately at right angles or radial to the street upon which the lots face.
3. All lots and units shall conform to the requirements of the Zoning Ordinance for the zoning district in which the condominium or site condominium is located.

4. Corner lots for residential use shall have the minimum required lot width on both streets adjacent to the lot and shall have sufficient extra width so as to permit appropriate building setback from both streets or orientation to both streets.
 5. The depth of a site condominium lot shall not exceed four times the width. The depth of a lot shall be measured along a horizontal line located midway between the site lines and connected to the front and rear lines, or the two front lines of a through lot. The width of the lot shall be measured between the side lot lines parallel to the front lot line at the minimum required front setback line.
 6. The width of a lot as measured between side lot lines along the rear lot line shall not be less than 20 feet.
 7. Lots in projects bounded by existing Berrien County primary roads and State highways shall only have access from internal streets constructed to serve the project and not directly to such existing streets. The Planning Commission and Township Board may waive this requirement if it is determined that there is no practical way to provide an internal access street due to insufficient lot depth, topography or other natural features of the land to be developed or if other lands in the immediate vicinity generally have access on existing streets.
- D. Buffers and Landscaping. Landscaping shall be provided between a residential condominium project or site condominium project and any adjacent Berrien County primary streets and State highways. The preliminary site condominium plan shall show the location of proposed landscaping which shall be of sufficient size and number, or otherwise be in compliance with Township landscaping requirements, to provide a landscaped area to serve as a visual separation between the houses and the street. An earthen berm may be provided in conjunction with plantings.
- E. Open Space.
1. All residential site condominium developments, unless otherwise approved as part of a Planned Unit Development, shall contain preserved, common open space areas as follows:
 - a) Developments whose average lot size is 12,000 square feet or greater in size shall contain open space areas equal to a minimum of 15% of the total area proposed for development.
 - b) Developments whose average lot size is between 10,800 and 11,999 square feet in size shall contain open space areas equal to a minimum of 17% of the total area proposed for development.
 - c) Developments whose average lot size is between 10,799 and 9,600 square feet in size shall contain open space areas equal to a minimum of 19% of the total area proposed for development.
 - d) Developments whose average lot size is between 9,599 and 8,400 square feet in size shall contain open space areas equal to a minimum of 21% of the total area proposed for development.
 2. The open space shall be maintained by the developer, condominium or site condominium property owner's association or similar organization and shall be set aside for the common use of the home or building site/lot owners within the site condominium. At least one open space area must be accessible from a street, sidewalk or other means to all residents within the development.
 3. For purposes of this section, open space shall be deemed to be only those areas having a minimum dimension of 50 feet by 100 feet, unless smaller dimensions are approved by the

Planning Commission for linear “no disturb zones” established for the purposes of screening and tree preservation.

4. Unless specifically authorized by the Planning Commission and Township Board, lot area calculated in meeting minimum lot or building site area requirements or which support public or private street rights-of-way, driveways and parking areas will not be included in open space percentage calculations. In addition, unless specifically waived or modified by the Township, the following guidelines shall apply:
 - a) All areas included in the calculation of percentage of open space must be protected by agreement, deed or easement as indicated in the following Subsection v.
 - b) Sidewalks, pathways and other active or passive recreational facilities will be considered in the open space calculation where they are an integral part of a larger open space area.
 - c) Lakes and other areas permanently inundated by water, wetlands and floodplain areas and other areas determined to be non-buildable will be included in the open space percentage calculation.
 5. Prior to approval of a final preliminary site condominium or condominium plan, the applicant shall provide to the Township an open space agreement or restrictive covenants, as determined appropriate and sufficient by the Township Board. The agreement (or covenants) shall include a legal description of the site condominium or condominium area, a legal description of the area to be set aside as common open space, and a plan for permanent maintenance of the open space, unless such provision for continued maintenance is waived or deemed unnecessary by the Township Board. Upon approval of the final plan, the applicant shall record the open space agreement with the Berrien County Register of Deeds. The agreement shall be binding upon the applicant-developer and all successors and assigns of the grantor and grantee of all building sites/lots or parcels within the development. The agreement may be incorporated within the Master Deed.
- F. Streets. If a project is proposed to have public streets, the streets shall be paved and developed to the minimum design, construction, inspection, approval and maintenance requirements for public streets as required by the Berrien County Road Commission. All private streets in a project shall be developed to the minimum design, construction, inspection, approval and maintenance requirements of the Zoning Ordinance or any other applicable Township ordinance.
1. All proposed public and private streets shall be continuous and in alignment with existing, planned or platted streets insofar as practicable. Where streets in new developments are extensions of existing streets, the extended streets shall comply with all Township and Berrien County Road Commission requirements and standards, and be at least as wide as the existing streets that are being extended.
 2. One or more streets may be required to extend to the boundary of the development so as to provide sufficient access to adjoining developable property and to future development on contiguous land.
 3. No dead end street system or streets terminating in a cul-de-sac shall provide access to more than 75 dwelling units.
 4. In order to reserve access to adjoining properties, a reserve strip shall be provided between the terminus of a public or private street and the development boundary. The reserve strip shall be a minimum of 10 feet deep across the entire width of the road right-of-way. The developer shall grant to the Township a deed for the entire area of the reserve strip prior to final approval by

the Township Board. The reserve strip shall be illustrated on the preliminary plan and final plans.

5. Public streets, intersections, and cul-de-sacs shall conform to the design, drainage, grade, layout, right-of-way width and construction requirements of the Berrien County Road Commission.

G. Sidewalks.

1. Except as otherwise provided in this section, sidewalks at least 5 feet wide shall be provided for and installed in every project. The development shall include right-of-way of sufficient width so as to accommodate such sidewalks.
2. Sidewalks shall be laid out and constructed when streets and other public improvements are made, unless the Township Board, with consideration by the Planning Commission, approves an arrangement for subsequent sidewalk construction, as lots are improved. With any such approval for subsequent sidewalk construction, conditions such as an irrevocable letter of credit, and time deadlines may be imposed by the Township.
3. Sidewalks will be required along at least one side of each new residential street, public or private, proposed as part of a new development except that:
 - a) Sidewalks will not be required within the radius of the turn around at the end of a cul-de-sac street unless the sidewalk is required to be extended within a pedestrian easement beyond the street end.
 - b) Unless the sidewalk will provide a direct linkage between two existing or planned sidewalk segments, or there is potential for a future street extension, sidewalks will not be required along residential streets that provide direct frontage access to 20 or fewer dwelling units.
 - c) Along residential streets that provide direct frontage access to more than 20 dwelling units or which support through traffic originating or terminating elsewhere, sidewalks may, in the discretion of the Township Board, be waived when:
 - i. Excluding lots on cul-de-sacs, the majority of lots along the street are greater than 40,000 square feet in area.
 - ii. The average lot width along the street is 100 feet or more.
 - iii. The street will not be a direct route to a school or park.
 - iv. A sidewalk capable of being extended does not presently exist within 500 feet of the development.
 - d) The Township may require sidewalks on each side of a street where it is determined that a street or street segment will provide direct and/or indirect access to more than 75 dwelling units and/or there is expected to be high pedestrian volume, high through vehicular traffic volume or high traffic speed along the street segment that warrants the additional requirement.
4. Sidewalks will generally be required on streets within non-residential developments, but the Township may waive sidewalks if an alternative pedestrian pathway is provided.

- H. Alternate Sidewalk/Pedestrian Way Plan (Residential and Non-Residential Developments). It is recognized that in certain instances, due to topography and other natural or manmade conditions, a developer may wish to propose a pedestrian walkway plan for a specific residential development that will require a deviation from the requirements for sidewalks as set forth herein (such as a system of asphalt or brick pedestrian walkways that would access otherwise inaccessible open spaces,

follow rear lot lines or which might border a natural drainage course). In such instances, an overall plan for the proposed alternate system of pedestrian walkways may be submitted along with the preliminary plan and will be reviewed as a part of the approval process. An alternate sidewalk/walkway plan must provide a continuous system of walkways located within dedicated pedestrian easements, and comply with the requirements established by the Township for pedestrian ways.

The Planning Commission may recommend and the Township Board may approve the waiving of one or more of sidewalk requirements of this section. In considering whether to recommend and approve such waiver, the Planning Commission and Township Board shall consider and make findings upon any of the following factors:

1. Whether the installation of sidewalks would be a reasonably appropriate improvement, giving consideration to the convenience of pedestrians, the amount of available land and other applicable circumstances.
2. The likelihood that pedestrians will make reasonable use of sidewalks in the proposed development, currently and in the future.
3. Whether there are other sidewalks already installed on adjacent or nearby lands.
4. The effect of topography, landscaping, location of streets and other improvements and the effect, if any, of other physical aspects of the proposed development lands.

- I. Bicycle Pathways. The Township may require the dedication of right-of-way for bicycle pathways and for construction of bicycle pathways along the entire frontage of the proposed development which abuts a proposed collector street, an existing collector street or arterial road. If bicycle pathways are required where sidewalks would otherwise be required pursuant to subsection G. above, the requirement for sidewalks shall be waived and the bicycle pathway provided in their stead.

Where required, the bicycle pathways shall be located either on the same side of the street or road as the proposed development or on the opposite side of the street or road, as the Township shall determine is most advantageous to the Township with respect to developing a Township pathway system to connect neighborhoods, schools, business districts, parks, and other facilities. In lieu of the developer constructing the required bicycle pathways, the Township may require or accept a financial contribution from the developer for the use by the Township, together with interest earned thereon, for the construction of the required pathways at a future date to be determined by the Township.

1. Procedures. As part of its review of the preliminary plan, the Planning Commission shall specifically consider whether bicycle pathways are necessary along the proposed development frontage which abuts an existing street or road in order to achieve the public purposes intended. If the Planning Commission determines bicycle pathways are necessary to achieve these public purposes, it shall next determine to what extent the cost of those pathways (right-of-way dedication, if any, and construction cost) shall be borne by the developer. In making this determination, the Planning Commission shall consider, in addition to any other relevant factors, all of the following standards:
 - a) Vehicle traffic likely to be generated by the proposed development.
 - b) Pedestrian, bicycle, and other non-vehicle traffic likely to be generated by the proposed development.

- c) The importance of the required bicycle pathways to provide a safe means for children to access schools, churches, parks, libraries, and other amenities intended for their use.
- d) The proximity of the development to pedestrian attractions such as parks, churches, public buildings, and shopping opportunities.
- e) The cost of construction of the required bicycle pathways.
- f) The fair market value of any right-of-way required to be dedicated for the required bicycle pathways.

The Planning Commission shall provide the developer with a reasonable opportunity at a Planning Commission meeting to provide the developer's position with respect to the need for pathways and the portion of the cost thereof to be borne by the developer.

The Planning Commission shall include in its report and recommendation concerning the preliminary plan its final determination concerning the necessity for any pathways and their location and also its final determination as to the portion of the cost of the pathways which shall be borne by the developer. The Planning Commission report and recommendation pertaining to pathways shall also state the Planning Commission's rationale for its determinations.

The Township Board shall review and consider the Planning Commission's report and recommendation concerning bicycle pathways and then make a final determination based upon the preceding standards of ~~the~~ this subsection, as part of its consideration of granting final approval of the Preliminary Site Condominium Plan. Based upon the recommendation of the Planning Commission and its own findings, the Township Board shall decide as to what pathways, if any, are to be required for the development and, if so, their location and the portion of the cost of the required pathways construction cost, to be borne by the developer. This determination shall be effective to make pathway construction or contribution to the cost thereof, to the extent the cost thereof is to be borne by the developer, an improvement required by this Ordinance which shall be constructed or deferred and paid for by the developer into an escrow fund created for such purposes, prior to Township Board Final preliminary plan approval as is provided in this Article.

- 2. Construction. The required pathways shall be designed and constructed in accordance with the following requirements:
 - a) The pathways shall be constructed in accordance with the bicycle pathway construction standards and requirements of the Township Board or generally accepted engineering practice.
 - b) The plans and specifications for the pathways shall be approved in advance of construction in writing by the Township.
 - c) Right-of-Way. All dedicated bicycle pathway rights-of-way shall be a minimum of 15 feet wide.

J. Street Lighting. Adequate street lights may be required to be provided.

K. Street Trees. The Township Board may require that trees be planted within the right-of-way adjacent to the street.

L. Utilities.

- 1. Public electricity, telephone, and gas service shall be furnished to each lot in the development.

2. Public sanitary sewer and water, or either of them, shall be provided, except where they, or either of them, are not reasonably available.
 3. All utilities shall be installed and maintained underground and in appropriate easements.
 4. Utility easements shall be provided along front, rear, and side lot lines when necessary. The total width of such easements shall be not less than 10 feet.
 5. When a project is to be served by a publicly-owned or privately-owned community water system, fire hydrants and other required water system appurtenances shall be provided by the developer.
- M. Natural Features. Existing natural features which add value to residential development and enhance the attractiveness of the community (such as trees, watercourses, historic sites, and similar assets) shall be preserved, insofar as practical, in the design of the development.
- N. Drainage.
1. An adequate storm drainage system, including the necessary storm sewers, drain inlets, manholes, culverts, bridges, and other appurtenances, shall be provided in accordance with the requirements of the Township and the County Drain Commissioner. Such facilities shall be designed and constructed so as to have no adverse affect on adjoining lands, or upon lots within the development.
 2. Storm drainage facilities shall be designed to respect the natural drainage pattern of the site. Measures shall be taken to reduce roadway and parking area oil and gas residues and other pollutants from being discharged to the natural drainage systems.
 3. Storm water detention ponds, if necessary for the containment of estimated surface water run-off, shall be designed to avoid steep slopes. Vegetation that provides natural drainage along existing and planted drainage - ways shall be encouraged so as to help eliminate or reduce the need for storm water detention ponds.
- O. Unbuildable/Uninhabitable Areas. Floodplain areas, as established by the State Department of Environmental Quality and other lands deemed by the Planning Commission to be unbuildable/uninhabitable may be included within building sites/lots provided that if included in the minimum building site area requirements, the developer shall illustrate that the remaining building site area is reasonable and sufficient for the proposed use.

Section 23.04 Step I – Review of Conceptual Plan by the Planning Commission

- A. Step 1 Application: A conceptual plan shall be submitted for review by Planning Commission in accordance with the following procedures and requirements:
1. Application. An application for review shall be submitted to the Township Clerk or the Clerk's designee. Upon receipt of a complete application, the application shall be forwarded to the Township Planner who shall distribute the application and plan to the Planning Commission, Township Engineer and others as determined appropriate. An application for conceptual plan review shall be considered complete if it includes an application fee in accordance with the fee schedule established by resolution of the Township Board and the following:
 - a) The developer/applicant's name, address and phone number.
 - b) The name, address and phone number(s) of the property owner(s) of record.

- c) The legal description of the subject property.
 - d) A project description including the proposed use, number of building sites or units, acreage, type of streets, and open spaces.
 - e) Proposed intent with regard to the provision of domestic water supply and sewage collection and treatment.
 - f) Any intent to pursue variances, Planned Unit Development or other special zoning, if eligible.
 - g) A minimum of 11 copies of a conceptual project plan drawn in accordance with subsection 2. below.
2. Contents of Conceptual Plan. A conceptual plan submitted for a Step 1 project shall include the following:
- a) A plan showing the boundary of the subject property and all contiguous properties drawn at a scale of not more than 100 feet to the inch.
 - b) A location map showing the relationship of the subject property to the surrounding area.
 - c) The proposed layout of streets and building sites.
 - d) The relationship of proposed streets to adjacent streets and neighboring properties.
 - e) Existing physical conditions and characteristics including existing structures, topography, flood plains, wetlands, streams and drainage.
 - f) Approximate horizontal extent of proposed grading and a preliminary indication of the proposed major storm drainage improvements such as detention/retention ponds.
 - g) The land use and existing zoning of adjacent building sites and parcels of land.
 - h) If the proposed project is contiguous to other lands owned by the applicant, a map showing the proposed street layout and access for subsequent development.
 - i) Preliminary building site data including number of lots, minimum lot area and lot width.
- B. Review of Conceptual Plan: The Planning Commission shall review the conceptual plan. Based upon the information at its disposal and the comments from the Township Planner and Engineer, the Planning Commission shall provide comments and recommendations to the applicant regarding the following:
- 1. Compliance with the standards and requirements of this section and other applicable provisions of the Zoning Ordinance and other applicable Township Ordinances.
 - 2. The appropriateness of the proposed street layout and the arrangement of building sites, drainage and open spaces relative to natural features such as topography, soils, water features and significant or unique vegetation.
 - 3. The appropriateness of the proposed street layout and building site arrangement in light of the Township's Master Plan, existing zoning, planned or anticipated or needed public improvements such as streets, utilities, drainage facilities and parks.
 - 4. Existing utility system capabilities and utility improvements that will be required.
 - 5. Additional issues and factors which may assist the applicant in proceeding in a reasonable manner toward final approval of the project.

- C. Review Comments and Recommendations: Conceptual plan review comments and recommendations made by the Planning Commission are advisory and do not constitute zoning approval or binding commitment on the part of the Township. Upon a favorable recommendation by the Planning Commission, the applicant may proceed with the preparation of preliminary plans. Conceptual review does not authorize the applicant to proceed with construction.

Section 23.05 Step 2 – Review of Preliminary Plan by Applicable Agencies

- A. Agency Review: Prior to submittal of a project plan for Step 3 preliminary plan review by the Planning Commission, the applicant shall prepare and submit a preliminary plan to the following agencies for their information, review, comment and/or approval, as applicable:
1. Berrien County Health Department
 2. Berrien County Road Commission
 3. Berrien County Drain Commission
 4. Michigan Department of Environmental Quality
 5. Michigan Department of Transportation
 6. Gas and electrical utility corporations serving the area.
 7. The applicable public school district affected by the project.
 8. Other state and county review and enforcement agencies having jurisdiction or permitting authority over all or part of the project.

Section 23.06 Step 3 – Review of Preliminary Plan by the Planning Commission

- A. Submittal of Preliminary Plan: Prior to final review and approval of a plan by the Township Board, a preliminary plan shall be reviewed by the Planning Commission in accordance with the procedures, standards and requirements provided in this Section.
1. Submittal. An application for review of a preliminary plan shall be considered complete if it includes the following:
 - a) The developer/applicant's name, address and phone number.
 - b) The name, address and phone number(s) of the property owner(s) of record.
 - c) The legal description of the proposed project.
 - d) A narrative describing the overall objectives of the proposed project.
 - e) An outline of the proposed use and occupancy restrictions and maintenance provisions for all general and limited common elements that will be included in the master deed.
 - f) A summary describing the proposed method of providing potable water supply, waste disposal facilities and public and private utilities.
 - g) Any intent to pursue variances, Planned Unit Development approval or other special zoning, if eligible.
 - h) Copies of letters of preliminary plan transmittal and any written comments or approvals from agencies listed in Section 23.05 above.

- i) A minimum of 11 copies of a preliminary plan drawn in accordance with subsection 2. below.
2. Contents of Preliminary Plan. A preliminary plan shall include the documents and information required by the Condominium Act and shall also include the following as determined necessary by the Planning Commission for Step 3 preliminary plan review or by the Township Board for review of a Step 4 final preliminary plan. All maps shall be at scale of not more than 100 feet to 1 inch.
- a) The name or title of the proposed project.
 - b) Legal description of the proposed project.
 - c) The name, address and telephone number of the developer and property owner(s).
 - d) A small-scale vicinity map showing the location of the project within the Township, and the name and location of abutting subdivisions, site condominiums and condominiums.
 - e) The location, dimensions and approximate grade and radius of proposed and existing streets, alleys and highways included in the project.
 - f) Location and dimension of building sites, radii of all curves and location of all setback lines. Lot width shall be shown for each lot, at the required front setback line.
 - g) When any part of the project lies within or abuts a floodplain area:
 - i. The floodplain, as established by the State Department of Environmental Quality shall be shown within a contour line.
 - ii. The contour line shall intersect the sidelines of the building sites.
 - iii. The sidelines shall be dimensioned to the traverse line from the street line and the established floodplain (contour) line.
 - iv. The floodplain area shall be clearly labeled on the plan with the words "floodplain area."
 - h) Property lines, dimensions, and building setback distances and all structures, lot lines and wetlands within 100 feet of the project.
 - i) Existing and proposed topographic elevations at 2 foot intervals on the site and to a distance of 50 feet outside the boundary lines of the project.
 - j) Location of the following: abutting streets, rights-of-way, service drives, curb cuts, and access easements serving the site; driveways opposite the site and driveways within 100 feet on either side of the project; and proposed driveway width, curb radii and design of deceleration lanes.
 - k) Additional street right-of-way or easements as required by the Berrien County Road Commission.
 - l) Proposed pedestrian ways and street lighting, if any.
 - m) Location of existing and proposed slopes which are 12 percent or greater, which may be altered by the development or the construction of buildings within the development.
 - n) Existing zoning and use of the proposed project. Existing zoning and use of adjacent properties.

- o) The location of all existing off-site features within a 100 feet affecting the project, such as railroads, buildings, trees, ditches, water courses and other physical features.
 - p) Location and type of significant existing vegetation, water courses, and water bodies including county drains and manmade surface drainage ways, floodplains, and wetlands located on the site.
 - q) A utility plan showing the location and size of all water and sewer lines, hydrants, equipment and facilities and easements to be granted to the appropriate municipality for installation, repair and maintenance of all utilities.
 - r) A storm drainage and a storm water management plan indicating the direction of storm water drainage and how storm water runoff will be handled, where storm water will be ultimately discharged such as a creek, stream, lake or wetland. The plan shall include all lines, swales, drains, basins and other facilities and easements to be granted to the appropriate public or private entity for inspection, repair and maintenance of all drainage facilities.
 - s) If the project is contiguous to other lands owned or under the control of the applicant, a map showing the proposed street layout and access for subsequent development.
 - t) A street construction and paving plan and a maintenance plan for all private streets within the project.
 - u) An indication of the amount of peat, gravel, sand, clay or other soil material, if any, that is proposed to be removed, imported and/or stockpiled on the site during the development process. If stockpiling is proposed, the location and duration of the stockpiles shall be indicated. Excavation and removal of material from the site over a period of time that exceeds 45 calendar days or a cumulative total of 60,000 cubic yards of material shall be subject to further review and approval under the Township's Mineral Removal Ordinance.
- B. Review of Preliminary Plan: The Planning Commission shall review the preliminary plan in accordance with the standards and requirements contained in the Zoning Ordinance and the following:
1. Consultations. As part of its review of a preliminary plan, the Planning Commission may consult with the Zoning Administrator, Township Attorney, Township Engineer, Township Fire Chief, Township Planner or other appropriate persons regarding the adequacy of the proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, project layout and design, or other aspects of the project.
 2. Public Informational Meeting. Prior to acting on a preliminary site condominium plan, a public informational meeting shall be held by the Planning Commission in accord with Section 21.03.

Section 23.07 Planning Commission Recommendation, Preliminary Plan

After reviewing the preliminary plan, the Planning Commission shall make formal recommendations regarding the proposed project, including any suggested or required changes in the plan. The recommendations shall be included in the meeting minutes of the Planning Commission. The Planning Commission shall forward a copy of the minutes or a summary thereof to the applicant and to the Township Board.

Section 23.08 Step 4 – Review and Approval of Final Preliminary Plan by Township Board

- A. After receiving the Planning Commission's recommendations on the preliminary plan, the applicant shall submit to the Township Clerk or the Clerk's designee, a minimum of 11 copies of a final preliminary plan which complies with the requirements of this Ordinance. The Township Clerk or the Clerk's designee shall forward the copies of the final plan to the Township Planner and to the Planning Commission.
- B. The final preliminary plan submitted by the applicant shall include final engineered construction plans and shall incorporate all of the recommendations, if any, made by the Planning Commission based on its review of the preliminary plan. If any of the Planning Commission's recommendations are not incorporated in the final preliminary plan, the applicant shall clearly specify in writing which recommendations have not been incorporated and the reasons why those recommendations have not been incorporated. Except for changes made to the plan as necessary to incorporate the recommendations of the Planning Commission, the final preliminary plan shall otherwise be identical to the preliminary plan which was reviewed by the Planning Commission. Changes made to the plan other than those necessary to incorporate the recommendations of the Planning Commission shall be reviewed by the Planning Commission as provided by this Article prior to the review and approval of the final preliminary plan by the Township Board.
- C. After receiving the Planning Commission's recommendations on the preliminary plan, applicable agency comments and authorizations and a final preliminary plan from the applicant, the Township Board shall proceed to review and may approve, deny or approve with conditions the plan in accordance with the standards provided by Section 23.03 and other applicable procedures, standards and requirements provided by this Article.
- D. As a condition of approval of a final preliminary plan the Township Board may impose additional reasonable conditions of approval.

Section 23.09 Approval of Multi-Phase Projects

A project that is to be undertaken in two or more phases shall require the initial approval of an overall project Site Plan by the Township Board. In addition to the procedures required for conceptual and preliminary plan review and approval under this Article the following requirements and procedures shall apply to multi-phase projects.

- A. Preliminary plans for multi-phase projects submitted under Step 3 must contain proposed project phasing information detailing the extent and expected timing of each phase. An approved phasing plan and schedule as recommended by the Planning Commission shall be submitted to the Township Board along with the Planning Commission's other recommendations required by Section 23.07.
- B. Based on the recommendations of the Planning Commission and an acceptable overall project site plan and phasing program specifying the timing and sequence of necessary improvements, the Township Board may in its discretion grant final preliminary plan approval to the proposed first or other initial phases of a multi-phased development project within two years of initial approval of the overall project site plan. In deferring final preliminary approval of one or more phases, the Township Board may waive the requirements for final construction plans as stipulated under Step 4 in Section 23.08, B and require that such plans only be submitted for the proposed first phase or other initial phases to be completed.
- C. In accordance with an approved phasing plan, any phase of a project that has initially received deferred final preliminary plan approval from the Township Board is, prior to receipt of final

preliminary plan approval, required to be re-submittal and reviewed by the Planning Commission for conformity with the approved overall site plan and compliance with any conditions imposed at the time of overall site plan approval. The Planning Commission shall forward its findings to the Township Board under the procedures in Section 23.07. The Township Board shall then review the deferred plans and take action on granting final preliminary plan approval to each phase as outlined in Section 23.08.

- D. Unless otherwise specified in the conditions approving a project with multiple phases, deferred final approval of each phase shall be effective for a period of no more than 5 years. Once a phase has received final preliminary plan approval, the two-year effective period outlined in Section 23.10, C shall apply. Expiration of the five-year period of approval will negate all prior approvals and expose all further development of the project to changes in zoning and other governing ordinances adopted by the Township subsequent to the date of initial overall project site plan approval.

Section 23.10 Term of Approval

- A. Effect of final preliminary plan approval. Approval of a final preliminary plan by the Township Board shall serve as conditional authorization to commence with the construction of required improvements to the land in accordance with the approved final preliminary plans and approved construction plans. Final preliminary plan approval does not authorize the construction of buildings or uses on individual building sites.
- B. Construction in compliance with approved final preliminary plan. No site improvements or changes shall be made on the property in connection with a proposed site condominium project except in compliance with a final preliminary plan as approved by the Township Board, including any conditions of approval. This provision shall apply to all phases of a multi-phased development project that have only received approval as part of an overall project site plan and which have not specifically been granted final preliminary approval.
- C. Final preliminary plan approval effective for two years. No approval of a final preliminary plan by the Township Board as granted hereunder shall be effective for a period of more than 2 years, unless construction of the project or phase commences within that 2 year period and is diligently pursued to completion in accordance with the terms and conditions of the approval. The 2 year time limit period for completion may be extended by the Board in its discretion for additional periods of time as determined appropriate by the Board if the extension is applied for by the applicant within the effective period of the approval.

Expiration of the 2 year time period negates final preliminary plan approval and unless the project is part of an approved multi-phased project having a five year period of approval, expiration exposes further development of the project to changes in zoning and other governing ordinances adopted by the Township subsequent to the date of initial final preliminary plan approval.

Section 23.11 Step 5 – Review and Approval of Final Plan by Township Board

- A. Within 2 years from the date of approval of the final preliminary plan, the applicant shall prepare and submit the necessary copies of the final plan to the Township Clerk along with a completed application form and any fee established by the Township Board at least 2 weeks prior to the next regularly scheduled Board meeting. The applicant shall also submit the following:
 - 1. Two (2) copies of as-built plans of all required private and public improvements which shall be reviewed by the Township Engineer for compliance with applicable Township ordinances.

2. A copy of all final agreements and the Master Deed which is to be recorded with the Berrien County Register of Deeds which shall be reviewed by the Township Planner for compliance with the final preliminary plan as approved by the Township Board under Step 4.
 3. Letters of approval from all applicable agencies or utilities listed in Section 23.05 stating that improvements have been properly installed and inspected, and inspection fees paid, or that performance guarantees or other similar surety have been submitted for uncompleted improvements.
- B. Once all submissions are found acceptable, the Clerk shall submit the same to the Township Board at its next regular meeting for approval.
 - C. The Board shall approve or reject said final plan based upon the plans and other material submitted and the recommendation of the Township Planner and Engineer and notify the applicant in writing. Notification may be in the form of a written notice or a copy of the Board's Minutes.
 - D. If the final plan is rejected, the Clerk shall notify the applicant stating the reasons for denial.
 - E. Security for completion as a condition of final plan approval and in lieu of completion of some or all required improvements, the Township Board may give final plan approval conditioned upon the developer providing a financial guaranty for performance as provided in this section.
 1. Security shall be in an amount equal to the total estimated cost for completion of the improvement, including reasonable contingencies. Security shall not be required for an improvement for which security has been furnished to another governmental agency.
 2. Security shall remain in force for a time to be specified by the Township Board.
 3. Security shall be in the form of an irrevocable bank letter of credit issued by a bank, in a form satisfactory to the Township, or in the form of cash escrow or certified check. A performance bond in a form satisfactory to the Township, from a surety company authorized to do business in the State of Michigan and acceptable to the Township, may be substituted in lieu of such security only if the applicant can satisfy the Township that an irrevocable letter of credit, cash escrow or certified check cannot reasonably be made available.
 4. The developer may request periodic reductions in the amount of security as public improvements are completed. Township Engineer may approve such reductions, to an amount estimated to be equal to the remaining cost of improvements, plus a reasonable contingency.
 5. Upon completion of all required improvements, one complete copy of as-built engineering plans for all required public improvements and utilities shall be filed with the Township Clerk within 6 months of completion of required improvements.

Section 23.12 Commencement of Construction; Issuance of Construction and Building Permits

- A. No construction, grading, soil stripping, tree removal or other site improvements or changes shall be commenced by any person until:
 1. A final preliminary plan has been approved by the Township Board,
 2. All conditions to commencement of construction imposed by the Township Board have been met, and

3. Documentation is provided to the Township that all pertinent and applicable approvals of detailed construction plans or permits from appropriate county and state review and enforcement agencies have been obtained for the project.
 4. A construction schedule is submitted to the Township indicating the general schedule of the timing and sequence for the installations of required improvements. The schedule must satisfy the needs of the Township, County and State inspection agencies.
- B. Except as may be permitted for up to 4 model homes in a residential development, no building, construction or grading permits shall be issued by the building inspector until final plan approval has been granted by the Township Board as outlined in Section 23.11. With respect to model units, no occupancy permit shall be issued prior to Township Board approval of the final plan.

Section 23.13 Expandable or Convertible Condominium Projects

Approval of a final plan shall not constitute approval of expandable or convertible portions of a project unless the expandable or convertible areas were specifically reviewed and approved by the Township Board in compliance with the procedures, standards and requirements of this Article.

Section 23.14 Review and Approval of Changes to Approved Projects

Any change proposed in connection with a project for which the Township Board has previously approved a preliminary or a final plan shall be subject to review as provided by this Section:

- A. Any change which constitutes a major change shall be reviewed by the Planning Commission and approved by the Township Board as provided by this Article for the original reviews and approvals outlined for Step 3, Step 4 and Step 5.
- B. Any change, which constitutes a minor change, shall be reviewed and approved by the Planning Commission alone, without the need for a public hearing.
- C. Any change which constitutes an exempt change shall not be subject to review by the Township under this Article, but a copy of the changes proposed (and of the changes made, if differently than proposed) shall be filed with the Township Clerk.

Section 23.15 Incorporation of Approved Provisions in Master Deed

All provisions of a preliminary plan which are approved by the Township Board as provided by this Article shall be incorporated by reference in the master deed for the project. Further, all major changes to a project shall be incorporated by reference in the master deed. A copy of the master deed as filed with the Berrien County Register of Deeds for recording shall be provided to the Township within 10 days after filing the plan with the County.

Section 23.16 Exemption of Existing Project

- A. This Article shall not apply to a project, which is determined by the Township Board to have met the following conditions as of the effective date of this Article (an "existing" project):
 1. A condominium master deed was recorded for the project with the Berrien County Register of Deeds in accordance with the requirements of the Condominium Act and other applicable laws and ordinances, and
 2. The project fully complied with all other applicable requirements under Township ordinances in effect on the date when the condominium master deed was recorded.

- B. The exemption provided by this Section shall apply only to an existing project as described in the condominium master deed recorded for the project on the effective date of this Article, including any subsequent change which would constitute (i) an exempt change, whether or not the Condominium Act would require an amendment to the master deed as a result of the change; or (ii) a minor change for which the Condominium Act would not require an amendment of the master deed. However, this exemption shall not apply to any subsequent expansion, conversion or platting of the project, or subsequent major change to the project, which shall be fully subject to the applicable review and approval requirements as provided by this Article.