



ALGANSEE TOWNSHIP

ZONING ORDINANCE

Algansee Township
Branch County, Michigan

Prepared by the Algansee Township Planning Commission, with the assistance of:

McKenna Associates, Inc.
151 South Rose Street, Suite 920
Kalamazoo, Michigan 49007
Tel: (269) 382-4443
Fax: (269) 382-4540
Web Site: www.mcka.com
Information: info@mcka.com

Adopted: June 2, 2008

Effective: June 13, 2008

Amended by Ord. #105

Adopted: August 3, 2009

Effective: August 25, 2009

Amended by Ord. #106

Adopted: February 7, 2011

Effective: February 29, 2011

Amended by Ord. #107

Adopted: April 7, 2014

Effective: April 29, 2014

Amended by Ord. #108

Adopted: September 13, 2021

Effective: September 29, 2021

Acknowledgements

ALGANSEE TOWNSHIP BOARD OF TRUSTEES

Russ Jennings Supervisor
Ann Gary Clerk
Sarah Strong Treasure
Jason Shilling Trustee
Rod Bassage Trustee

ALGANSEE TOWNSHIP PLANNING COMMISSION

Rodney Carpenter Chairman
Sharon Atkinson Secretary
Glenn Preston Vice Chair
Jason Shilling Board Trustee
Craig Fichtelberg Commissioner

Zoning Administrator:

Matt Ashenfelter

Planning Consultant:

McKenna

Legal Counsel:

Lillis & Jansen PC

Table of Contents

PREAMBLE	vi
ENACTING CLAUSE	vi
Title, Scope, and Ordinance Construction	1
Section 1.01 Short Title.....	1
Section 1.02 Scope	1
Section 1.03 Conflicting Regulations	1
Section 1.04 Severability.....	1
Section 1.05 Repeal	2
Section 1.06 Effective Date	2
Definitions	3
Section 2.01 Rules Applying to the Text.....	3
Section 2.02 Definitions	4
Zoning Districts Generally and the Zoning Districts Map.....	42
Section 3.01 Establishment of Zoning Districts	42
Section 3.02 Zoning Districts Map.....	42
Section 3.04 Permissive Zoning.....	43
Section 3.05 Uses Permitted by Right.....	43
Section 3.06 Uses Permitted by Special Use Permit	44
Section 3.07 Uses Not Otherwise Provided For	44
Agricultural (AG) Zoning District Regulations	45
Section 4.01 Description and Purpose	45
Section 4.02 Uses Permitted by Right.....	45
Section 4.03 Uses Permitted by Special Use Permit	46
Section 4.04 Development Standards	51
Lake Residential (R-1) Zoning District Regulations.....	53
Section 5.01 Purpose and Intent	53
Section 5.02 Uses Permitted by Right.....	53
Section 5.03 Uses Permitted by Special Use Permit	54
Section 5.04 Development Standards	54
Urban Residential (R-2) Zoning District Regulations	58
Section 6.01 Description and Purpose	58
Section 6.02 Uses Permitted by Right.....	58
Section 6.03 Uses Permitted by Special Use Permit	59
Section 6.04 Development Standards	60
Multi-family Residential (R-3) Zoning District Regulations.....	62
Section 7.01 Description and Purpose	62
Section 7.04 Development Standards	63
Commercial (C-1) Zoning District Regulations	65
Section 8.01 Description and Purpose	65
Section 8.02 Uses Permitted by Right.....	65
Section 8.03 Uses Permitted by Special Use Permit	66
Section 8.04 Development Standards	67

Industrial (I-1) Zoning District Regulations.....	69
Section 9.01 Description and Purpose	69
Section 9.02 Uses Permitted by Right.....	69
Section 9.03 Uses Permitted by Special Use Permit	70
Section 9.04 Development Standards	70
Restricted Development Overlay (RO) Zoning District Regulations	72
Section 10.01 Description and Purpose	72
Section 10.02 Application	72
Section 10.03 Required Conditions.....	72
Environmental Preservation Overlay (EO) Zoning District Regulations.....	74
Section 11.01 Description and Purpose	74
Section 11.02 Application	74
Section 11.03 Required Conditions.....	74
Reserved for Future Use	75
General Conditions.....	76
Section 13.01 Purpose and Intent	76
Section 13.03 Obstructions to Motor Vehicle Site Lines.....	77
Section 13.04 Fences.....	77
Section 13.06 Storage of Certain Vehicles.....	78
Section 13.07 Keeping of Certain Animals	80
Section 13.08 Performance Standards.....	81
Section 13.09 Restoration of Unsafe Buildings	83
Specific Development Standards	94
Section 14.01 Purpose	94
Section 14.02 Home Occupations.....	94
Section 14.06 Parking Requirements.....	107
Section 16.01 Purpose and Intent	151
Section 16.02 Open Space Preservation	151
Site Plan Review.....	163
Section 17.01 Purpose	163
Section 17.05 Landscaping Plan.....	172
Section 17.07 Review and Approval	182
Section 17.08 Issuance of Building Permit after Site Plan Approval.....	183
Section 17.09 Modification of an Approved Site Plan.....	183
Section 17.10 Conformity to Approved Site Plan Required	183
Special Use Permits	185
Section 18.02 Application Process.....	185
Section 18.03 Standards for Approval of Special Use Permits.....	191
Nonconforming Uses.....	195
Section 19.02 Nonconforming Uses.....	195
Section 19.04 Nonconforming Structures.....	197
Section 19.05 Change in Tenancy or Ownership	199
Section 19.06 Unlawful Nonconformities	199
Section 19.08 Recording of Nonconformities.....	199

Zoning Board of Appeals	201
Section 20.01 Establishment of the Zoning Board of Appeals.....	201
Section 20.02 Intent.....	201
Section 20.03 Rules and Procedures	201
Section 20.04 Authority of the Zoning Board of Appeals Generally	202
Section 20.05 Interpretations of the Zoning Ordinance	202
Section 20.06 Appeals	204
Section 20.07 Variances	209
Zoning Administration.....	215
Section 21.01 Administration	215
Section 21.04 Zoning Certificate.....	223
Section 21.05 Amendments.....	224
Section 21.06 Enforcement.....	228
Section 21.07 Security.....	231

The Township of Algansee

Zoning Ordinance

PREAMBLE

An ordinance enacted under Act 110, of the State of Michigan Public Acts of 2006, as amended, to provide for the establishment in Algansee Township zones within which the use of land and structures, the height, the area, the size, and location of buildings may be regulated by ordinance, and within which districts regulations shall be established for the light and ventilation of those buildings, and within which districts or zones the density of population may be regulated by ordinance; to designate the use of certain state licensed residential facilities; to provide by ordinance for the acquisition by purchase, condemnation, or otherwise of private property which does not conform to the regulations and restrictions of the various zones or districts provided; to provide for the administering of this act; to provide for the establishment of a Zoning Board of Appeals; to provide for amendments, supplements, or changes hereto; to provide for conflicts with the state housing code or other acts, ordinances, or regulations; to provide penalties for the violation of the terms of this act; to provide for the collection of fees for building and zoning permits; to provide for petitions, public hearings, and referenda; to provide for appeals; and to provide for the repeal of acts in conflict with this act. The continued administration of this Ordinance, amendments to this Ordinance, and other matters concerning operation of this Ordinance shall be done pursuant to P.A. 110 of 2006, as amended (being the Michigan Zoning Enabling Act, MCL 125.3101 et. seq.) hereinafter referred to as “Zoning Act”.

ENACTING CLAUSE

The legislative body of Algansee Township, Branch County, Michigan may regulate and restrict the use of land and structures to meet the needs of the Township's residents for natural resources, places of residence, recreation, industry, trade, service, and other use of land; to insure that uses of the land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public

facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; and to promote public health, safety, and welfare. For those purposes, the legislative body may divide the Township into districts of the number, shape, and area considered best suited to carry out the purpose herein described. For each of those districts, regulations may be imposed designating the uses for which buildings or structures shall or shall not be erected or altered, and designating the trades, industries, and other land uses or activities that shall be permitted in designated areas and/or subjected to special regulations.

The land development regulations and districts authorized by this Ordinance shall be made in accordance with the Alganssee Township Master Plan designed to promote and accomplish the objectives of this Ordinance. The Township of Alganssee ordains:

Chapter 1

Title, Scope, and Ordinance Construction

Section 1.01 Short Title

This Ordinance shall be known and may be cited as the "Alganssee Township Zoning Ordinance." Within the following text it may be referred to as the "Ordinance".

Section 1.02 Scope

No building or structure, or part thereof, shall hereafter be erected, constructed or altered, and no land use commenced or continued within Alganssee Township, unless specifically authorized by the terms of this Ordinance.

Section 1.03 Conflicting Regulations

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

Section 1.04 Severability

This Ordinance and the various parts, sentences, paragraphs, sections and clauses it contains are hereby declared to be severable. Should any part, sentence, paragraph, section or clause be declared unconstitutional or invalid by a court of competent jurisdiction for any reason, such judgment shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

Furthermore, should the application of any provision of this Ordinance to a particular property, building, or structure be adjudged invalid by any court, such judgment shall not affect the application of said provision to any other property, building, or structure in the Township, unless otherwise stated in the judgment, and such judgment shall not affect the application of the remaining provisions of this Ordinance to the subject property, building or structure.

Section 1.05 Repeal

The Zoning Ordinance text and maps adopted by the Township of Algansee in November 2003, and all amendments thereto, shall be repealed on the effective date of this Ordinance. The repeal of the above Ordinance and its amendment does not affect or impair any act done, offense committed or right accruing, accrued, or acquired, or any liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted, or inflicted.

Section 1.06 Effective Date

Made and passed by the Township Board of the Township of Algansee, Branch County, Michigan on June 2, 2008 and effective seven (7) days following publication of notice of Ordinance adoption, pursuant to the provisions of '125.3401 Michigan Compiled Laws, as amended.

This Ordinance shall be in full force and effect on and after June 13, 2008.

Chapter 2

Definitions

Section 2.01 Rules Applying to the Text

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

1. The particular shall control the general.
2. In the case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
3. The word "shall" is always mandatory and not discretionary. The word "may" is permissive and discretionary.
4. Words used in the present tense shall include the future. Words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
5. A "building" or "structure" includes any part thereof.
6. The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", and "occupied for".
7. The word "person" includes an individual, a group of people, a corporation, a partnership, a public utility, firm, an incorporated association, or any other similar entity.
8. Unless the context clearly indicates the contrary, or a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and", "or", "either . . . or", the conjunction shall be interpreted as follows:
 - a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - b. "Or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.

- c. "Either . . . or" indicates that the connected items, conditions, or provisions, or events shall apply singly and not in combination.
9. When the Ordinance refers to a number of days, the time frame shall be measured in calendar days.
10. Terms not herein defined shall have the meaning customarily assigned to them, with reference made to the latest edition of Merriam-Webster=s Collegiate Dictionary.

Section 2.02 Definitions

For the purpose of this Ordinance, the terms and words below shall be defined as follows:

Access Property: a property, parcel, or lot abutting a lake or pond either natural or man-made, and used or intended to be used, for providing access to a lake or pond by pedestrian or vehicular traffic to and from offshore land regardless of whether said access to the water is gained by easement, common fee ownership, single fee ownership, lease, license, gift, business invitation or any other form or dedication or conveyance.

Accessory Dwelling Unit: A separate, complete housekeeping unit with separate kitchen, sleeping, and bathroom facilities, which is within or is an attached extension of a principal residential structure in the Township. The Accessory Dwelling Unit shall be completely separated from the principal residence with the exception of a limited number of common foyers or doorways between the units.

Accessory Use, Building or Structure: A use, building, or structure that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same lot, or an adjacent lot, as the principal use to which it is exclusively related. Such principal use shall be permitted and lawful in the zoning district in which it is located.

Adult Day Care Facility: A facility that provides daytime care for any part of a day, but less than twenty-four (24) hour care, for more than twelve (12) functionally impaired elderly persons provided through a structured program of social and rehabilitative or maintenance services in a supportive group setting other than the client's home. Such facilities are not licensed, however those receiving funds through an Area Agency on Aging must comply with adult day care standards promulgated by the Michigan Office of Services to the Aging.

Adult Foster Care Congregate Facility: See *State Licensed Residential Facility*.

Adult Foster Care Facility: See *State Licensed Residential Facility*.

Adult Foster Care Family Home: See *State Licensed Residential Facility*.

Adult Foster Care Large Group Home: See *State Licensed Residential Facility*.

Adult Foster Care Small Group Home: See *State Licensed Residential Facility*.

Adult Use: Any commercial or recreational establishment that at all times excludes minors by virtue of age, including, but not limited to, adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult drive-in theaters, adult massage parlors, adult modeling studios, or eating and drinking places with sexually-oriented entertainment.

Agriculture: The use of any land or building for the purpose of producing grain, fruit, nursery stock, dairy products, vegetables, livestock or fowl or other crops and animal husbandry. For the purposes of this Ordinance, the term agriculture shall include the use of farm laborers, packing and trucking of agricultural products, and the storage and application of fertilizers, pesticides and other agricultural inputs, provided that such are incidental to the primary agricultural use. The term agriculture shall not include the keeping or raising of fur-bearing animals, stables, kennels, game fish hatcheries, or mining. The term shall also not include the disposal of garbage, refuse, offal or rendering plants; the slaughtering of animals except such animals as have been raised on the premises; trucking, equipment repairs and sales, and contractor storage yards.

Alley: A public way that affords only a secondary means of access to abutting property and that is not intended for general traffic circulation.

Alteration: Any change, addition, modification or construction that results or is intended to result in any change to the exterior dimensions of any structure or to the type of occupancy or use.

Animal, Wild or Exotic: Any animal not domesticated by humans or any animal that a person is prohibited from possessing by law. Wild or exotic animals shall include, but shall not be limited to the following: alligator and crocodile (family), deer (family), opossum (family), badger, wild dog or wolf (family), primate excluding human (family), bear, raccoon, ferret, skunk, wild cat (family), lemur, spider (poisonous), coyote, lizard, snake and other reptile (poisonous), weasel (family), wild boar or swine (family), and marten.

Antenna: Any exterior transmitting or receiving device mounted on a tower, building, or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals, or other communication signals.

Architectural Features: Architectural features of a building include cornices, eaves, gutters, sills, lintels, bay windows, chimneys, and decorative ornaments.

Automobile: Unless specifically indicated otherwise, "automobile" shall mean any motor vehicle.

Bank: An establishment for the custody, loan, exchange, or issue of money, for the extension of credit, and for facilitating the transmission of funds by drafts or bills of exchange. The term bank shall not be applied to an automated teller machine when it is located on a lot without a bank.

Bar, Cocktail Lounge, or Night Club: Any establishment licensed by the State of Michigan to sell at retail and serve alcoholic beverages on the premises, excluding restaurants as herein defined.

Bed and Breakfast Inn: A dwelling in which overnight accommodations, with or without meal service, are provided or offered for transient guests, for compensation, by the owners and residents therein. Accommodations for any individual guest shall extend for not more than (14) consecutive days. A bed and breakfast inn shall be limited to accommodating eight (8) or fewer persons at any one time.

Bedroom: In a dwelling unit, any room over seventy (70) square feet in size that contains a window and a closet and that is not the living room, kitchen, or bathroom.

Billboard (Off Premise Sign): Any non-accessory advertising sign, device, design, words, letters, number, or trademark which makes anything known to the general public and may be the principal use of the lot or parcel on which it is located. Billboards are prohibited throughout Alganssee Township.

Boarding House: A building, other than a hotel, where for definite periods of time, lodging or lodging and meals are provided for three or more persons, for compensation or by prearrangement. A rooming house shall be deemed a boarding house for the purposes of this Ordinance.

Boat: Boats, floats, rafts, and any equipment to transport the same on highways.

Buildable Area: The area of a lot exclusive of the required yard areas.

Building: Any structure, either temporary or permanent, having a roof or other covering, and which structure is used or built for the shelter or enclosure of persons, animals, property, or materials of any kind. A building shall include tents, awnings, and carports; and also mobile homes, or pre-manufactured or pre-cut structures, erected on-site, above or below ground, designed or used primarily for shelter rather than as a means of conveyance. A building shall also include structures such as storage tanks, grain elevators, coal bunkers, oil cracking towers, smokestacks, or similar structures. A building shall not include signs and fences.

Building Height: The vertical distance measured from the final grade to the highest point of the roof surface. Chimneys, spires, antennas, and similar projections, other than signs, shall not be included in calculating building height.

Building Permit: The written authority issued by the building inspector permitting the construction, removal, moving, alteration, or use of a building in accordance with the applicable building code.

Building, Principal: A building or group of buildings in which is conducted the principal use of the lot on which the building is located.

Caliper Measurement: The measurement of the diameter of a tree trunk, measured at four (4) feet above the planted grade, and expressed in inches.

Campground: means a lot, parcel or tract of land, or portion thereof, which is offered for the use of the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for three (3) or more recreational vehicles, excluding boats.

Car Wash: An activity or building, or portion thereof, the primary purpose of which is washing motor vehicles.

Certificate of Occupancy: A certificate issued by the building inspector, after final inspections, indicating his or her opinion that all the provisions of the applicable building code have been met.

Child Day Care Organizations, State Licensed: Any structure used for, or any person receiving minor children for care, maintenance, training, and supervision and licensed by the State of Michigan pursuant to Public Act 116 of 1973, as amended. The following types of facilities are included within this definition:

- ***Child Day Care Center*** means a facility, other than a private residence, receiving 1 or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Child care center or day care center does not include any of the following: (i) 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 3 hours per day for an indefinite period, or not more than 8 hours per day for a period not to exceed 4 weeks during a 12-month period; (ii) A facility operated by a religious organization where children are cared for not more than 3 hours while persons responsible for the children are attending religious services.
- ***Family Day Care Home*** means a private home in which 1 but fewer than 7 minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.
- ***Group Day Care Home*** means a private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.

Church: Any structure wherein persons regularly assemble for religious activity and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. The term church shall include buildings used for worship for all bona fide religions and shall include synagogues and mosques. Use of the singular term “church” is for simplicity=s sake and is in no way intended to be preferential to or prejudiced against any particular religion.

Clinic, Veterinary: A place for the care, diagnosis, and treatment of sick or injured animals, and those in need of medical or minor surgical attention. A veterinary clinic may include customary pens or cages enclosed within the walls of the clinic building, when clearly incidental and accessory to the veterinary care.

Clinic, Medical: An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, or similar professionals. A medical clinic may incorporate customary laboratories and pharmacies incidental to or necessary for its operation or to the service of its patients, but may not include facilities for overnight patient care or major surgery.

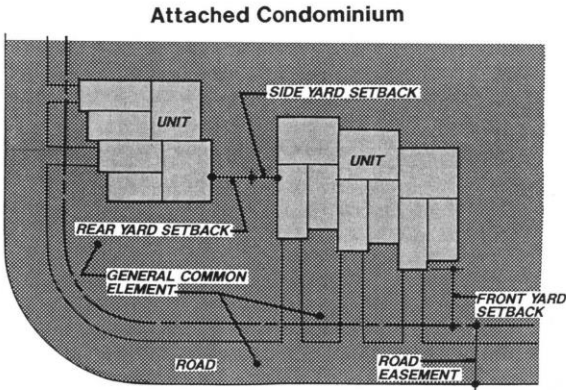
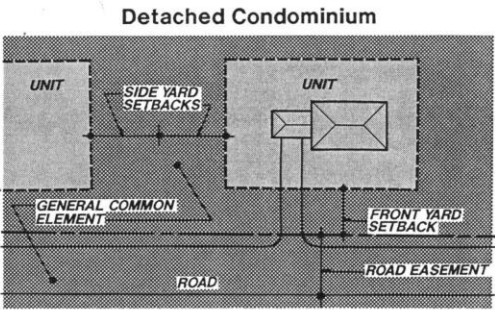
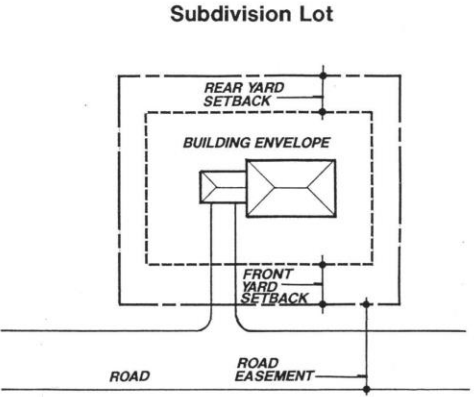
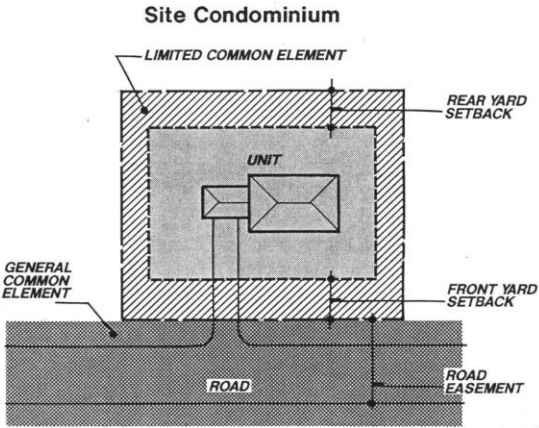
Club or Lodge, Private: A non-profit association, of persons who are bonafide members paying dues, which owns or leases premises, the use of which is restricted to members and their guests. The facilities owned or used by such organization may be referred to as a "club" or "lodge" in this Ordinance.

Commercial, Vehicle: Any motor vehicle with cab and chassis and with a stake, rack, body, dump body, wrecker body, tanker body, or any other body, or any motor vehicle that has a commercial license plate. Commercial vehicles shall not include motor homes or recreational

vehicles, but shall include construction equipment such as backhoes, power shovels, bulldozers, earth moving equipment, semi trucks, tractors, and trailers.

Condominium: Real estate in which certain portions are designated for separate, individual ownership, and the remaining area is designated for common ownership by the separate, individual owners of those portions. Such real estate and the provisions for its ownership shall be in compliance with the State of Michigan's Condominium Act, Public Act 59 of 1978.

- **General Common Element:** The common elements, other than the limited common elements, intended for the common use of all of the co-owners.
- **Limited Common Element:** A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.
- **Site Condominium Project:** A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision. A residential site condominium project shall be considered as equivalent to a platted subdivision for purposes of regulation in this Ordinance.
- **Condominium Subdivision Plan:** Drawings and information which show the size, location, area, and boundaries of each condominium unit, building locations, the nature, location, and approximate size of common elements, and other information required by Section 66 of Public Act 59 of 1978, as amended.
- **Condominium Unit, Site** (i.e., Site Condominium Lot): The area designating the perimeter within which the condominium unit must be built. After construction of the condominium unit, the balance of the condominium site shall become a limited common element. The term "site condominium unit" shall be equivalent to the term "lot" for purposes of determining compliance of a site condominium subdivision with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, minimum lot coverage, and minimum floor area.



CONDOMINIUM TERMINOLOGY

Condominium Unit: The portion of the condominium project designed and intended for separate ownership as described in the Master Deed, regardless of whether it is intended for residential, office, industrial, business, recreational, time-share unit, or any other type of use.

Convenience Store: A retail store with a floor area of two-thousand-five-hundred (2500) square feet or less that offers for sale a limited line of groceries and household items intended for the convenience of the neighborhood in which it is located. A convenience store may also sell motor vehicle fuel and lubricants, but shall not include any motor vehicle repair.

Deck: An open, horizontal platform with an average elevation of eight (8) inches or more from finished grade. A deck shall have no sides other than the railings as required by the applicable building code.

Density: The number of dwelling units situated on or to be developed per gross acre of land.

Development: Any human-caused change to improved or unimproved land or structure, which change requires any approval from any Township, County, State, or Federal agency.

Development Plan: Scaled drawing(s) and accompanying text which describe the existing conditions of a property and the proposed development.

Drainage Ways and Streams: Existing permanent or intermittent watercourses.

Dumpster: A container used for the temporary storage of rubbish, pending collection, having a capacity of at least two (2) cubic yards.

Dwelling: A building or portion thereof, containing sleeping, kitchen, and sanitary facilities, used exclusively for human habitation, but specifically excluding boarding houses, hotels and motels. In no case shall a travel trailer, motor home, motor vehicle, tent or any portable building defined as a recreational vehicle be used as a dwelling, unless approved as an accessory dwelling to the principal structure on site.

Dwelling, Manufactured: A building, or portion of a building, that is designed for long-term residential use; and that is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended 42 U.S.C. Sec. 5401; and that is built on a permanent chassis, is transportable in one or more sections, but is constructed without a permanent hitch, axles, and wheels and is transported to the site, where it is placed on a foundation and connected to utilities; and that is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on a site.

Dwelling, Multi-family: A building containing three (3) or more dwelling units. Multi-family dwellings may include the following:

- **Apartments:** Multi-family dwellings in which individual dwelling units are usually located on a single story with other units above and/or below.
- **Townhouses:** Multi-family dwellings located in a row, with each individual unit occupying one or more stories, sharing common side walls with other units, and having no other units above or below.

Dwelling, Single-family: A building containing not more than one dwelling unit and surrounded by open yards as herein required.

Dwelling, Two-family: A building containing exactly two (2) dwelling units and surrounded by open yards as herein required.

Dwelling Unit: One or more rooms, including sanitary and kitchen facilities, designed and maintained as a self-contained unit for residential occupancy by one or more people living as a single housekeeping unit.

Erected: The word "erected" includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall not be considered a part of erection.

Essential Services: The term "essential services" shall mean the erection, construction, alteration or maintenance by public utilities, quasi-public utilities, municipal departments, or Township-certified cable television companies of underground, surface or overhead gas, steam, electrical, fuel or water systems for the purposes of transmission, distribution, collection, communication, supply, or disposal; including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, and welfare of the public. Essential services shall not include storage yards, sales or business offices, or commercial buildings or activities. Wireless communication facilities antennas are specifically excluded from this definition.

Fence: An accessory structure that is constructed and maintained to serve as a physical barrier to property ingress or egress, as a visual screen, as a marker, as an enclosure, or for decorative use.

Floor Area: The total area of a building measured by taking the outside dimensions of the building at each floor level. The floor area shall exclude non-habitable spaces, specifically unfinished basements, attics, garages, and enclosed or unenclosed porches.

Foster Family Group Home: See *State Licensed Residential Uses*.

Foster Family Home: See *State Licensed Residential Uses*.

Garage, Private: An accessory building used or designed to be used primarily for the storage of motor vehicles, boats, or trailers owned and used by the occupants of the building to which it is accessory. A private garage may be either attached to or detached from the principal structure. Private garages shall not have public repair facilities.

Garage, Public: Any building or premise used or designed to be used primarily for the storage of motor vehicles, boats, or trailers, other than junkyard, that does not constitute a private garage.

Garbage: All wastes, animal, fish, fowl, or vegetable matter incident to the preparation, use, and storage of food for human consumption, spoiled food, animal, and fowl manure.

Gas Station: A place used for the retail sale and dispensing of motor vehicle fuel or lubricants, either full or self service, together with the fixed equipment from which the fuel is dispensed directly into motor vehicles.

Golf Course or Country Club: The premises upon which the game of golf is played, including clubhouses, parking lots, swimming pools, tennis courts, driving range, or other facilities or uses customarily incidental to a golf course or country club.

Grade: A grade is the level of the finished surface of the ground adjacent to the exterior walls of a building or structure.

Group Day Care Home: See *State Licensed Residential Uses*.

Hazardous Substance: Any substance or material, the use of which requires a Material Safety Data Sheet by the US Environmental Protection Agency.

Hospital: An institution which is licensed by the Michigan Department of Health to provide in-patient and out-patient medical and major surgical services for the sick and injured, and which may include accessory facilities as laboratories, medical testing services, central service facilities, and staff offices.

Hotel: A building occupied as a more or less temporary abiding place for individuals who are lodged with or without meals in rooms consisting of a minimum of one (1) bedroom and a bath, occupied for hire, in which access to at least fifty percent (50%) of the lodging units is through a common entrance, and in which provision is not made for cooking in the individual units.

Junkyard: An area where waste and used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to: junk, scrap iron, metals, paper, rags, tires, bottles and automobiles.

Kennel: Any lot or premises on which six (6) or more dogs, cats, or other domestic animals six (6) months or older are kept, either permanently or temporarily, whether for sale, breeding, boarding, training, protection, or grooming; and may offer provisions for minor medical treatment including animal shelters. To be considered a kennel, the animals shall not be owned by the owner or occupant of the premises and/or the operations shall be conducted for commercial gain.

Lake: Any body of water, natural or artificial, defined as "inland lake or stream" in the Inland Lake and Stream Act of 1972, P.A. 1972, No. 451, as amended.

Land Division: The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than 1 year, or of building development, which partition or splitting results in one (1) or more parcels of less than 40 acres or the equivalent, and satisfies the requirements of section 108 and 109 of the Land Division Act, P.A. 288 of 1967 as amended.

Landfill: Any disposal area, tract of land, building, unit, appurtenance, or combination thereof that is used to collect, store, handle, dispose of, bury, cover over, or otherwise accept or retain refuse as herein defined.

Landscaping: The treatment of the ground surface with live plant materials such as, but not limited to, grass, ground cover, trees, shrubs, vines, and other live plant material. In addition, a landscape design may include other decorative man-made materials, such as wood chips, crushed stone, boulders, or mulch. Structural features such as fountains, pools, statues, and benches shall also be considered a part of landscaping, but only if provided in combination with live plant material. Artificial plant materials shall not be counted toward meeting the requirements for landscaping.

Livestock: Horses, cattle, sheep, goats, and other domestic animals normally kept or raised as part of an agricultural operation.

Loading Space, Off-street: An off-street space of definite size and dimensions in accordance with the requirements of this Ordinance, which is safely and conveniently located on the same lot as the building or buildings being served, for the temporary parking of delivery vehicles while loading and unloading merchandise and materials.

Lot: For the purposes of this Ordinance, a lot is a discrete area of land under one ownership and control that is at least sufficient in size to meet the minimum requirements for use, coverage, area, yards, and open space as required herein. A lot may consist of:

- A single Lot of Record.
- A combination of complete Lots of Record, provided that the lots are adjacent as herein defined.
- A parcel of land described by metes and bounds.

Lot, Adjacent: Lots that share a common property line or are separated only by a public or private right-of-way or easement, that lie in the same zoning district and that are under the same ownership.

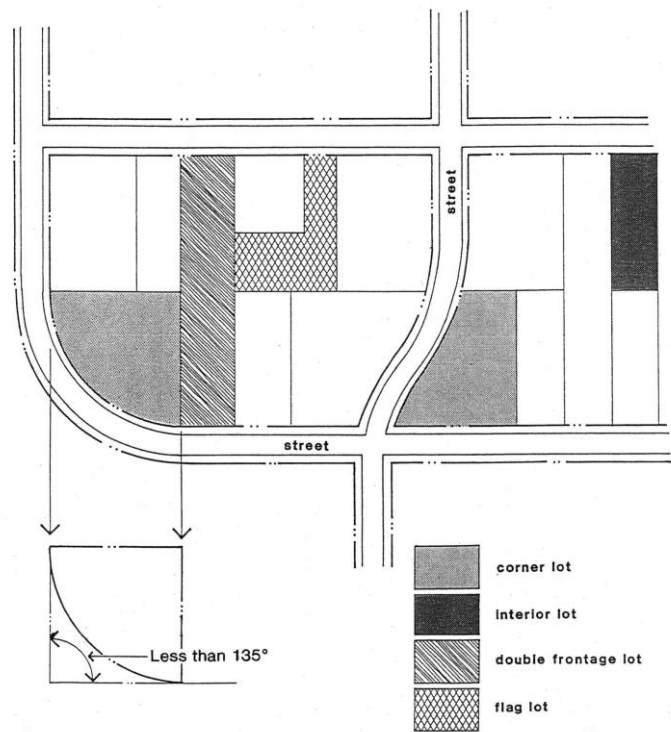
Lot Area: The size of a lot in a horizontal plane, measured in square feet or acres.

Lot, Contiguous: Lots that share a common property line.

Lot, Corner: A lot abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of 135 degree or less.

Lot Coverage: The area of a lot that is occupied by buildings or structures, expressed as a percentage of the total lot area.

Lot, Double Frontage: A lot other than a corner lot having frontage on two (2) more or less parallel streets. A lot with frontage on one (1) street and one (1) alley, as herein defined, shall not be considered a double frontage lot.



**CORNER, INTERIOR &
DOUBLE FRONTAGE LOTS**

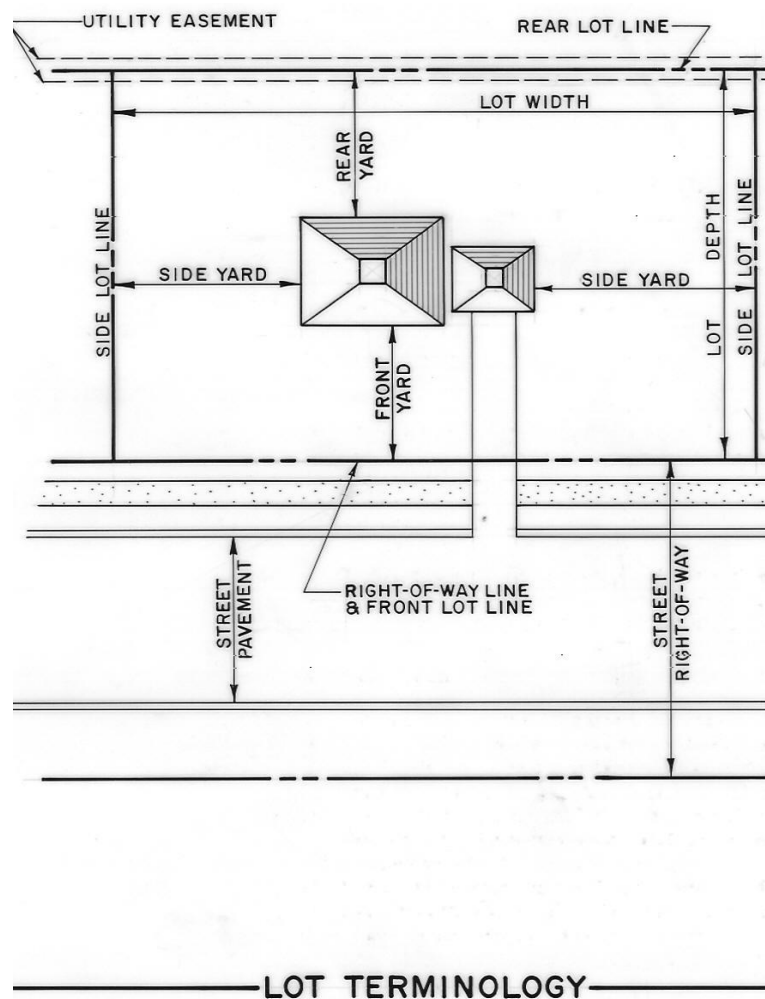
Lot Frontage: The length of a lot line abutting a public or private street or road right-of-way or easement.

Lot, Interior: A lot with only one (1) lot line fronting on a street.

Lot, Lake Frontage: A lot having any frontage directly upon a lake.

Lot Lines: The property boundary lines of a lot.

- **Front Lot Line:** The lot line abutting any public or private street, road, or shared driveway right-of-way or easement boundary. When such right-of-way is owned by the road authority or similar entity, the front lot line shall be the boundary line between the street, road, or driveway right-of-way and the lot. When the right-of-way is only an easement and the land underneath remains a part of the underlying lot(s),



the front lot line shall be the edge of the right-of-way easement.

- **Rear Lot Line:** Any lot line that does not intersect a front lot line.
- **Side Lot Line:** Any lot line that is neither a front lot line nor a rear lot line.

Lot of Record: A lot, the boundaries of which have been established by properly recorded deed and/or by properly approved and recorded plat, in accordance with all applicable laws and regulations in effect at the time of recordation.

Lot Split And Consolidation: The dividing or uniting of lots by virtue of changes in the deeds in the office of the Branch County Register of Deeds. The division of lots shall take place in accordance with the Land Division Act, Public Act 288 of 1967, as amended.

Lot Width: The horizontal distance between side lot lines, measured parallel to the front lot line at the minimum required front setback. Note that on corner lots and double frontage lots there will be more than one front yard and any minimum required lot width must be met along both of these yards.

Manufactured Housing Development (Mobile Home Park): A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual non-recreational basis, which is offered to the public for that purpose regardless of whether a charge is made, together with any building, structure, enclosure, street, equipment, or facility used or intended for use as temporary park, subject to conditions set forth in the Mobile Home Commission Rules and Michigan Public Act 419 of 1976, as amended.

Marina, Public: An establishment owned by a public agency, that provides docking and mooring services. A public marina may also include accessory uses for the provision of boats and for developed open space.

Marina, Commercial: A business that provides boat repair services, provisions and supplies for boats and boaters, and services for boat owners, such as repair or storage of boat lifts, boat docks, and so forth.

Marine Storage: A business that provides storage for boats, trailers, pontoons, water craft, boat lifts, and docks.

Master Plan: Any document, plan, or study adopted by the Alganssee Township Planning Commission pursuant to the authority of Public Act 33 of 2008, as amended. [Amended 8/3/09; Ord. #105]

Mining: The development or extraction of one or more minerals, including topsoil, sand and gravel, from its natural occurrence on or in land or waters. The term mining shall not apply to on-site activities of a fully permitted and lawful construction project.

Mobile Home: A structure, transportable in one (1) or more sections, which is built upon a 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 in the structure. After 1976, those units previously defined as

"mobile homes" came under the definition of "manufactured housing" in accordance with federal legislation. See definition for "Dwelling, Manufactured". Recreational vehicles as described and regulated herein shall not be considered "mobile homes" for the purposes of this Ordinance.

Mobile Home Lot: An area within a manufactured housing development which is designated for the exclusive use of the occupants of a specific mobile home.

Motel: One or more buildings occupied as a more or less temporary abiding place for individuals who are lodged with or without meals in rooms consisting of a minimum of one (1) bedroom and a bath, occupied for hire, in which access to at least fifty percent (50%) of the lodging units is through exterior entrances, and in which provision is not made for cooking in the individual units.

Motor Vehicle: Any self-propelled vehicle that is subject to registration under the Michigan Vehicle Code.

Motor Vehicle Repair, Minor: Engine tune-ups, servicing of brakes, air conditioning, and exhaust systems, oil change or lubrication, wheel alignment or balancing, and similar servicing or repairs that do not normally require any significant disassembly or storing the automobiles on the premises overnight.

Motor Vehicle Repair, Major: General repairs, engine and transmission rebuilding or reconditioning, collision service such as body, frame or fender straightening or repair, steam cleaning, undercoating and rust-proofing, and similar servicing, rebuilding or repairs that

normally do require significant disassembly or storing the automobiles on the premises overnight.

Natural Features: Natural features shall include soils, wetlands, floodplains, water bodies and channels, topography, trees and other types of vegetative cover, and geologic formations.

Nonconforming Building: A building or portion thereof that was lawfully in existence at the effective date of this Ordinance, or amendments thereto, and that does not now conform to the minimum building height, area, setback, lot coverage or other provision of this Ordinance pertaining to buildings in the zoning district in which it is located.

Nonconforming Lot: A lot of record which was lawfully in existence at the effective date of this Ordinance, or amendments thereto, and that does not now conform to the lot size, lot width, or other provisions of this Ordinance pertaining to lots in the zoning district in which it is located.

Nonconforming Use: A use which was lawfully in existence at the effective date of this Ordinance, or amendment thereto, and that does not now conform to the use regulations of this Ordinance for the zoning district in which it is now located.

Nonconformity: Any structure, lot, or use of any lot, land or structure, which was lawfully in existence at the effective date of this Ordinance, or amendment thereto, and that does not now conform to the regulations for the district in which it is located.

Nursery: A space, building, and/or structure, or combination thereof, where live trees, shrubs, and other plants used for gardening and landscaping are propagated, stored, and/or offered for sale on the premises.

Nursing Home, Convalescent Home, or Rest Home: A home for the care of the aged, infirm, or those suffering from bodily disorders, wherein two or more persons are housed or lodged and furnished with nursing care. Such homes shall be licensed in accordance with Michigan Public Acts 139 of 1956, as amended.

Occupied: Used in any way at the time in question.

Open Air Business: Any business in which any portion of the business operations or any activity or operation, including but not limited to production, storage or sales, is conducted outside of a fully enclosed structure.

Open Space: Lands containing only natural features.

- ***Developed Open Space:*** Open space that is partially developed for passive recreation limited to playgrounds, basketball and tennis courts, ball fields for baseball, soccer, football, and concession stands for these passive recreational uses.
- ***Common Open Space:*** Open space, developed and non-developed, within a specific residential area (neighborhood, subdivision, development, condominium) which open space is reserved for the exclusive use of the residents of that residential area and which open space is maintained by the same residents.

- ***Private Open Space:*** Developed open space which is owned by other than a public agency, regardless if the use of the open space is available to the public or restricted.
- ***Public Open Space:*** Developed open space that is owned by a public agency, regardless if the use of the open space is available to the public or restricted.

Open Storage: Any outdoor storage of building materials, sand, gravel, stone, lumber, equipment, or other supplies.

Ordinary High Water Mark: The line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface soil and the vegetation.

Overlay Zoning District: A zoning district that applies additional restrictions or requirements to those of one or more underlying zoning districts.

Parking, Off-street: An area not on a public or private road or street right-of-way that is intended, designed and maintained to provide safe and convenient ingress and egress to a public or private road or street, parking spaces for one (1) or more motor vehicles, and adequate drives and aisles for maneuvering.

Parking Lot: An area that provides clearly delineated off-street parking for three (3) or more motor vehicles and that is surfaced with asphalt or concrete.

Parking Space: An area that is intended, designed, and maintained to provide parking for one (1) motor vehicle and that is at least twelve (12) feet in width and twenty (20) feet in length.

Pet or Domestic Animal: A domesticated dog, cat, bird, gerbil, hamster, guinea pig, rabbit, or other similar animal, specifically excluding wild or exotic animals, that is kept for pleasure or companionship.

Planning Commission: The Algansee Township Planning Commission created pursuant to the provisions of Michigan Public Act 33 of 2008, as amended. [Amended 8/3/09; Ord. #105]

Plat: A map of a subdivision of land in accordance with the Land Division Act, Public Act 288 of 1967.

Plot Plan: A scaled drawing showing lot lines, existing and proposed buildings, and the distances from proposed buildings to property lines.

Porch: An exterior appendage to a building that has a separate roof, or a roof integral with the building, which roof forms a covered approach to a doorway or vestibule. If a porch is enclosed it becomes a part of the building and is no longer considered a porch.

Principal Use: The principal use is the main use of land and/or buildings and the main purpose for which the land and/or buildings exist.

Private Road: A road privately owned and maintained that is used as the principal means of access to the abutting lots. A private road is not a maintenance responsibility of the Township or the County Road Commission, but it shall be accessible for emergency and service purposes.

Public Road: A road, and the associated right-of-way, that is owned by or that has been dedicated to Alganssee Township, Branch County, the Branch County Road Commission, the State of Michigan, the Michigan Department of Transportation, or the Government of the United States, and that is available for use by the general public.

Public Utility: Any persons, firm, corporation, municipal department, or board, duly authorized to furnish to the public under government regulations any of the following: electricity, gas, steam, communications services, cable television services, transportation services, water, sewer service, or sewage treatment.

Quarter Section: A square unit of land, measuring approximately one-half (2) mile in an east-west direction and one-half (2) mile in a north-south direction, which is derived by dividing a single Section into four, square quadrants, with each quarter section abutting one corner of the Section. A quarter section is typically referred to by the quadrant of the Section in which it is located, i.e. the northeast quarter section, the southeast quarter section, the southwest quarter section, or the northwest quarter section. See the definition for “Section”.

Quarter-Quarter Section: A square unit of land, measuring approximately one-quarter (3) mile in an east-west direction and one-quarter (3) mile in a north-south direction, which is derived by

dividing a single quarter section into four, square quadrants, with each quarter-quarter section abutting one corner of the quarter section. A quarter-quarter section is typically referred to by the quadrant of the quarter section in which it is located, i.e. the northeast quarter-quarter section, the southeast quarter-quarter section, the southwest quarter-quarter section, or the northwest quarter-quarter section. See the definition for “Section”.

Recreation Establishment, Indoor: A facility designed and equipped for the conduct of sports, amusement, leisure time activities, and other customary recreational activities entirely within an enclosed building; such activities include, but are not limited to gymnasiums and fitness centers, bowling alleys, indoor soccer facilities, racquetball and tennis clubs, ice and roller skating rinks, curling centers, and firearms ranges.

Recreation Establishment, Outdoor: A facility designed and equipped for the conduct of sports, amusements, leisure time activities, and other customary recreational activities, one or more of which activities take place outside of an enclosed building; such activities include, but are not limited to, tennis clubs, archery ranges, golf courses, miniature golf courses, golf driving ranges, water slides, batting cages and machines, skateboarding parks, and amusement parks.

Recreational Vehicle: A vehicular-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motor power or is mounted on or drawn by another motor vehicle. For the purposes of this Ordinance, the term "recreational vehicle" shall also include tents, boats, golf carts, off-road vehicles, snowmobiles, and similar vehicles as well as any trailers used to transport recreational vehicles.

Refuse: The miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing, and offices, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, garbage, glass, scrap metal, rubber, trash, paper, rags, chemicals, or any similar or related combinations thereof.

Residentially Zoned Area: Any and all areas in the R-1, Lake Residential, R-2, Urban Residential, and R-3 Multi-Family Residential zoning districts.

Restaurant: Any establishment whose principal business is the sale of food and beverages to the consumer in a ready-to-consume state. However, any such establishment in which more than twenty-five (25) percent of the gross receipts are from the sale of alcoholic beverages shall be deemed to be a "bar" for the purposes of this Ordinance.

Right-of-way: A specific and defined area of land over which the right to pass has been granted. The right of passage may be for a specific mode, such as a road, or a railroad, or a walking path. A right-of-way may exist as either the ownership of the subject area of land, in which case it is known as a right-of-way in fee simple, or else as an easement while another party or entity retains ownership, in which case it is known as a right-of-way easement. The right of passage may be available to all persons, in which case it is a public right of way, or the right of passage may be restricted to a specific group of people, such as the owners of lots in a subdivision, in which case it is a private right-of-way. Unless the context clearly indicates otherwise, the term right-of-way as used in this Ordinance shall mean a public or private right-of-way for a road or street for the passage of automobiles and pedestrians, and may be in fee-simple or as an easement.

Road: A pathway intended for the passage and circulation of motor vehicles, which pathway has an all-weather surface and is maintained by Algansee Township, the Branch County Road Commission, the State of Michigan, or by some other designated entity.

Roadside Stand: A temporary or existing permanent building operated for the purpose of selling only produce raised or produced by the proprietor of the stand or his family on the premises.

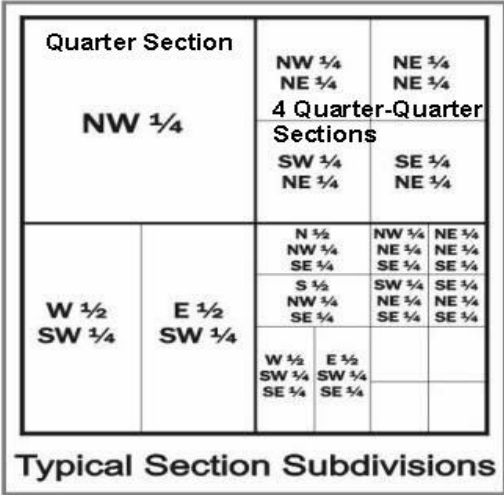
Salvage Operation: A use of land, whether for profit or not, in which motor vehicles, recreational vehicles, mobile homes, and/or manufactured homes are disassembled for storage, sale, disposal, or any other purpose. The term “salvage operation” shall not include major and minor vehicle repair when conducted lawfully and in accordance with the provisions of this Ordinance.

Sawmill, Portable: A temporary operation for the primary processing of timber into lumber: the equipment is taken to the area where the timber is being harvested and the equipment is removed at the conclusion of the harvesting of the timber in that area.

Sawmill: A facility for the primary processing of timber into lumber.

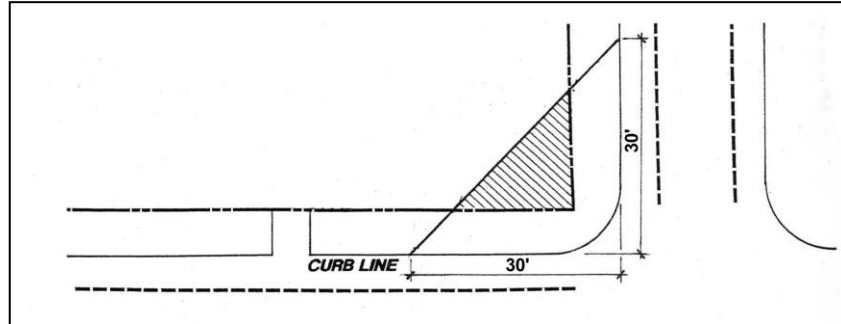
School: Any educational institution, whether public or private, certified by the State of Michigan to offer instruction in grades kindergarten through 12, including Amish schools.

Section: A square unit of land, measuring approximately one (1) mile in an east-west direction and one (1) mile in a north-south direction, as established by the United States Public Land Survey System. A section may be divided into smaller units as depicted in the following diagram (see also the definitions for “quarter section” and “quarter-quarter section”).



Shared Driveway: An access easement and driveway for the shared use of up to four (4) lots or dwelling units. The driveway shall be private and shall be the maintenance and ownership responsibility of those accessing the drive. The driveway shall be accessible for emergency or service purposes.

Sight Triangle: A triangular area formed by the street property lines of two intersecting streets and a line connecting them at points thirty (30) feet from the intersection of the pavement edge lines, or in the case of a rounded corner, from the intersection of the street property lines extended.



Sign: Any device that is designed to or capable of visually conveying a message from a property or building to another property or to a public or private right-of-way or to a public or private lake or other watercourse, and any support structures and mechanisms.

Site Plan: A map or set of maps and accompanying text depicting and describing a proposed or existing development that is used to determine whether or not the development or proposed development complies with the requirements of this Ordinance.

Special Event: An occurrence or noteworthy happening of seasonal, civic, or church importance, which is organized and sponsored by a non-profit Alganssee Township community group, organization, club or society, and which offers a distinctive service to the community, such as public entertainment, community education, civic celebration, or cultural or community enrichment. Special events typically run for a short period of time (less than two weeks) and are unlike the customary or usual activities generally associated with the property where the special event is to be located. All such special events shall be open to the public.

Stable: An enclosed building intended for the keeping of horses or other large domestic animals. A stable is "private" when its use is without consideration or remuneration of any kind and when it is used solely by the residents of the property on which it is located and constitutes an accessory use in the agricultural zoning district. Any other stable is considered to be a public stable.

State Licensed Residential Facility: Any structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Public Act 287 of 1972, Public Act 11 of 1973, or Public Act 218 of 1979. These acts provide for the following types of residential structures:

- **Adult Foster Care Facility:** A residential structure licensed to provide room, board, and supervised care but not continuous nursing care for unrelated adults over the age of 17 in accordance with Public Act 218 of 1979, as amended, and the Adult Foster Care Administrative Rules as administered by the Michigan Department of Social Services.
 - **Adult Foster Care Family Home:** A private residence with the approved capacity to receive not more than 6 adults who shall be provided foster care for 5 or more days a week and for 2 or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence. Adult foster care family homes shall be treated similar to single family homes in the permitting and review process.
 - **Adult Foster Care Small Group Home:** An adult foster care facility with the approved capacity of not more than 12 adults who shall be provided foster care. The licensee is not required to be a resident of the household. Local zoning approval is required prior to issuance of a license only if seven (7) or more residents will live in the home.
 - **Adult Foster Care Large Group Home:** An adult foster care facility with the approved capacity to receive at least 13 but not more than twenty (20) adults who

shall be provided foster care. The licensee is not required to be a resident of the home. Local zoning approval is required prior to issuance of a license.

- ***Adult Foster Care Congregate Facility:*** An adult foster care facility with the approved capacity to receive more than twenty (20) adults who shall be provided foster care. The licensee is not required to be a resident of the home. Local zoning approval is required prior to issuance of a license.
- ***Foster Family Home:*** A private residence that houses four (4) or fewer foster children, up to age 19, who are not related to an adult member of the household by blood, marriage or adoption, are given care and supervision for 24 hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks unattended by legal parent or guardian. Under Public Act 116 of 1973, a Foster Family Home does not require local zoning approval before being licensed by the Department of Consumer and Industry Services.
- ***Foster Family Group Home:*** A private residence that houses five (5) or six (6) foster children, up to age 19, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for 24 hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks unattended by legal parent or guardian. Under Public Act 116 of 1973, a Foster Family Group Home requires local zoning approval before being licensed by the Department of Consumer and Industry Services.
- ***Group Day Care Home:*** A private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

Street or drive: Any public or private pathway intended for the passage and circulation of motor vehicles and pedestrians, and intended to provide access to abutting lots.

Structure: Anything constructed or erected, the use of which requires a location on the ground or attachment to the ground. Structures include, but are not limited to, principal and accessory buildings, towers, decks, fences, gazebos, privacy screens, walls, antennae, swimming pools, and signs. Outdoor recreational use apparatus including but not limited to swing sets, basketball goals, sand boxes, playgrounds, and tree houses, with a floor area or ground coverage of less than 100 square feet shall not be considered structures for the purposes of this ordinance.

[Amended 8/3/09; Ord. #105]

Swimming Pool: Shall mean any structure or container located either above or below ground that is designed to hold water to a depth of greater than twenty-four (24) inches, and that is intended for swimming or bathing.

Toxic or Hazardous Waste: Any material or substance, in any amount, that has been identified by the US Environmental Protection Agency as an Extremely Hazardous Substance.

Use: The purpose for which a lot, or the building(s) thereon is designed, arranged or intended, or for which it is occupied, maintained, let or leased.

Use, Principal: The main use of a lot and its buildings and the main purpose for which the lot and buildings exist.

Use, Special: A use that would not be appropriate generally or without restrictions throughout a particular zoning district, but would promote the public health, safety, welfare, morals, order,

comfort, convenience, appearance, or general welfare if controlled as to number, area, density, location, or relation to neighborhood. Those uses which constitute special uses in a particular zoning district are set forth in the regulations for each zoning district.

Variance: A modification of the literal provisions of the Zoning Ordinance granted by the Zoning Board of Appeals in cases where strict enforcement would cause practical difficulty as a result of special circumstances affecting an individual property, which circumstances do not generally affect other properties in the same zoning district.

Warehouse: A building used for short and/or long term storage in connection with production, marketing, manufacturing, freight handling, distribution, or retailing.

Warehouse, Self-storage: A building or group of buildings containing independent, fully enclosed bays that are typically leased or rented to individuals for the short- or long-term storage of personal or household goods.

Water Frontage: The line of a lot of record that directly abuts the ordinary high water mark of an adjacent lake, river, channel, or stream. It shall be measured as a straight line between the points where the two lot lines closest to the water intersect with the ordinary high water mark.

Wetland: Land characterized by the presence of water at a frequency and duration sufficient to support, and that, under normal circumstances, does support wetland vegetation or aquatic life.

Wetland, Regulated: Those wetlands regulated by the Michigan Department of Environmental Quality under the provisions of Act 451, as amended.

Wholesale Sales: On-premise sales of goods primarily to customers engaged in the business of reselling the goods.

Wireless Communication Facilities: All structural facilities, attached or accessory, related to the radio frequency spectrum for the purpose of transmitting or receiving radio signals, including but not limited to radio and television towers, cellular telephone and paging towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment buildings, wireless internet transmission towers, and commercial mobile radio service facilities. Not included are facilities for citizen band radio, short wave radio, ham and amateur radio, television reception antenna, satellite dishes, type IG radios, and government facilities which are subject to state and federal law. Wireless communication facilities shall be specifically excluded from the definition of "public facility" or "essential service."

Wireless Communication Support Structures (Towers): Any structure used to support attached wireless communication facilities, or other antenna or facilities, including support lines, cables, wires, braces and masts intended primarily for the purpose of mounting an attached wireless communication facility or similar apparatus above grade, including any ground or roof-mounted pole, monopole, lattice towers, light poles, wood poles, and guide towers or other similar structures which support wireless communication facilities.

Yard: The area of a lot extending from the lot lines inward for a minimum distance as required by this ordinance; this area being open and unobstructed by any structure, with the exception that

architectural features, as herein defined, may extend horizontally up to two (2) feet into the yard; in no case shall any portion of a building foundation or wall encroach into the required yard area.

- ***Yard, Front:*** A yard extending along the entire front lot line, and extending to the minimum depth as required by the development standards section of each zoning district, such depth being measured perpendicular to the front lot line.
- ***Yard, Lakefront:*** A yard extending along the entire water frontage of a lot and extending to the minimum depth as required by the development standards of applicable zoning districts, such depth being measured perpendicular to the ordinary high water mark of the lake or water body.
- ***Yard, Rear:*** A yard extending along the entire rear lot line, and extending to the minimum depth as required by the development standards section of each zoning district, such depth being measured perpendicular to the rear lot line.
- ***Yard, Side:*** A yard extending along the entire side lot line, and extending to the minimum depth as required by the development standards section of each zoning district, such depth being measured perpendicular to the side lot line.

Zoning Administrator: The person appointed by the Alganssee Township Board to assist the Township Board, Planning Commission, and Zoning Board of Appeals in administrating and enforcing the provisions of this Ordinance.

Zoning Permit: The written authority issued by the Zoning Administrator permitting the construction, removal, moving, alteration, or use of a building in conformity with this Ordinance. The Zoning Administrator is not authorized to amend or in any way alter the terms of this Ordinance, and any permit issued by the Zoning Administrator in contradiction to the requirements of this Ordinance is hereby declared to be null and void.

Chapter 3

Zoning Districts Generally and the Zoning Districts Map

Section 3.01 Establishment of Zoning Districts

Alganssee Township, Branch County, Michigan is hereby divided into the following zoning districts, which are described in subsequent chapters:

- AG Agricultural District
- R-1 Lake Residential District
- R-2 Urban Residential District
- R-3 Multi-Family Residential District
- C-1 Commercial District
- I-1 Industrial District
- RO Restricted Development Overlay District
- EO Environmental Protection Overlay District

Section 3.02 Zoning Districts Map

The location and boundaries of the zoning districts set forth in Section 3.01 are shown on the Alganssee Township Zoning Districts Map, which map is attached to, and hereby made a part of this Ordinance.

Section 3.03 Interpretation of District Boundaries

- A. Unless otherwise shown, the boundaries of the districts are lot lines, the center lines of streets or alleys, or such lines extended, and the limits of Alganssee Township.
- B. When due to the scale, the lack of detail, or legibility of the Zoning Districts Map, there is any uncertainty, contradiction, or conflict as to the intended location of any district boundary lines, said lines shall be interpreted by the Zoning Board of Appeals.
- C. Boundaries indicated as approximately following platted lot lines, property lines, section lines or other lines of a government survey, as they exist as of the effective date of this Ordinance or applicable amendment thereto, shall be construed as following such lines.
- D. Whenever any street, alley or other public way within the Township shall be vacated, such street, alley or other public way or portion thereof, shall automatically be classified in the same zoning district as the property to which it is attached.

Section 3.04 Permissive Zoning

Uses are specifically permitted, either by right or by special use permit as described below, by the regulations established for each of the zoning districts in Chapters 4 through 12. Any use that is not specifically permitted is hereby specifically prohibited.

Section 3.05 Uses Permitted by Right

Within each zoning district certain uses are permitted by right. These uses and any structures must meet and comply with all applicable provisions of this Ordinance. The erection or alteration of any structure requires a zoning permit, in accordance with Chapter 21.

Section 3.06 Uses Permitted by Special Use Permit

Within each zoning district certain uses are permitted by special use permit. Such uses shall be permitted only after the approval of a Special Use Permit by the Planning Commission in accordance with the requirements of Chapter 18, Special Use Permits, of this Ordinance.

Section 3.07 Uses Not Otherwise Provided For

When a person desires a use which is not specifically permitted under the terms of this Ordinance, but which use is essentially the same in nature as other uses, by right or by special use permit, within a zoning district, that person may petition the Zoning Board of Appeals for an interpretation of the Ordinance that the use is permitted, by right or by special use permit, within a particular zoning district, in accordance with the requirements of Chapter 20.

When the Zoning Board of Appeals refuses to so interpret the Ordinance, or when a desired use is not essentially the same in nature as other uses recognized by this Ordinance, a person desiring such use may petition the Alganssee Township Board to amend this Ordinance to permit the use, in accordance with the requirements of Chapter 21.

Section 3.08 Principal Use and Structure

Every lot shall contain no more than one (1) principal use.

Chapter 4

Agricultural (AG) Zoning District Regulations

(See the Zoning Districts Map for the location and boundaries of the AG zoning district.)

Section 4.01 Description and Purpose

This zoning district is intended to accommodate and protect the strict use of land for agricultural purposes for those areas that are currently under cultivation, and to preserve wetlands, woodlands, and other lands in an open and undisturbed state. Farming, crop cultivation, dairy and livestock operations, and limited rural estate single family dwellings are suitable uses in this district. Wetlands, woodlots, and other sensitive natural features may be protected through the use of strict enforcement of this ordinance, the creation of environmental overlay districts, and purchase of development rights of prime agricultural lands and natural areas.

Section 4.02 Uses Permitted by Right

The following uses and structures are permitted by right in the AG zoning district in accordance with Section 4.04 and any other applicable provisions of this Ordinance (*see also Section 17.02*):

- A. Accessory uses and structures, except Accessory Dwelling Units (*see also Section 13.11*)
- B. Adult foster care family home (*see also Section 14.10*)
- C. Agriculture
- D. Minor home occupations (*see also Section 14.02*)
- E. Roadside stands
- F. Single family dwellings on 40 acres of land or more with a minimum road frontage of 100 feet.

- G. Family Day Care Home (*see also Section 14.10*)
- H. Foster Family Home (*see also Section 14.10*)
- I. Foster Family Group Home (*see also Section 14.10*)
- J. Accessory solar energy systems capable of producing a maximum of 5,000 kWh per month, subject to the standards in Section 14.13.

Section 4.03 Uses Permitted by Special Use Permit

The following uses and structures are permitted in the AG zoning district only after the approval of a Special Use Permit in accordance with the requirements of Chapter 18, and in accordance with Section 4.04 and any other applicable provisions of this Ordinance (*see also Section 17.02*):

- A. Bed and breakfast inn
- B. Campground
- C. Cemeteries
- D. Churches and other religious facilities and buildings customarily incidental thereto
- E. Golf courses and country clubs
- F. Kennels
- G. Major home occupations (*see also Section 14.02*)
- H. Mining
- I. Municipal, county, township, regional and state owned buildings and service facilities when in character with the surrounding residential and agricultural area
- J. Public utility buildings, telephone exchange buildings, electric transformer stations and sub-stations, and gas regulator stations, but not including service or storage yards, when

operating requirements necessitate the locating within the district in order to serve the immediate vicinity

K. Public stables

L. Single-family dwellings and/or non-public schools on less than forty (40) acres provided the following conditions are all satisfied:

1. **Minimum Lot Size:** The minimum lot size for a single-family dwelling shall be one (1) acre in area. The minimum lot size for non-public schools shall be four (4) acres in area. [Amended 4/7/14; Ord. #107]

2. **Density:** The number of dwellings permitted on the site shall be based on the overall size of the site, as of the effective date of this Ordinance, June 13, 2008 .Dwellings existing on the site shall count towards the total number of dwellings permitted to be located on the site. Dwellings not located on the site or lot splits that occurred prior to June 13, 2008 shall not be considered when calculating the permitted density. For each whole 10 acres of land, not more than one dwelling shall be permitted. (Sites less than 10 acres in size shall be permitted one dwelling unit.) [Amended 8/3/09; Ord. #105]

A non-public school may be built on a lot in lieu of a dwelling unit. A school and a dwelling unit may not be located on the same lot. An applicant wishing to build a school must split a minimum of 4 acres into a new lot in order to build the school. All minimum lot size, setback, and other dimensional requirements must be met for both the school lot and the parent lot. [Amended 4/7/14; Ord. #107]

- a. With approval of the special land use permit, a 50 acre parcel would be permitted a dwelling unit and four additional lots with dwelling units. A 30 acre parcel would be permitted a dwelling unit and two additional lots with dwelling units.

- b. If a non-public school is built, the number of permitted dwelling units shall be reduced by one. For instance, a 50 acre parcel would be permitted one school and four dwelling units. A 30 acre parcel would be permitted one school and two dwelling units. A 10 acre parcel (or less) would be permitted one dwelling unit or one non-public school, but not both. [Amended 4/7/14; Ord. #107]

- c. As a condition of approval of the special land use permit, the Planning Commission shall require an affidavit to be submitted to the Township including the following information: [Amended 4/7/14; Ord. #107]
 - (1) This section of the Ordinance and the date of approval of the Planning Commission;

 - (2) The size of the original parent parcel as of the date of application

 - (3) The number of parcels being created

 - (4) The number of additional parcels for dwellings or non-public schools that may be created under the required density formula. [Amended 4/7/14; Ord. #107]

 - (5). These items must be shown on the deed submitted to the Township with the land division approval and reviewed for compliance with the

requirements of this section prior to approval of the land division by the Township Supervisor.

3. When new lots are created through the special land use permit approval that are four acres in size or smaller, the lots shall be clustered together to minimize the loss of farmland and to maintain large, contiguous areas of open space and farmland.
 - a. To be clustered together, lots shall be located adjacent to one another with shared property lines.
 - b. Where there is an existing dwelling on the property, the new lots shall be located adjacent to the existing dwelling to include it in the cluster. Where there is not an existing dwelling, the new lots shall be located adjacent to the side property line, particularly one where dwellings may already exist.
 - c. In order to maintain vast areas of open space and farmland in the Township and rural vistas from the roadways, the lot size of the new parcels created shall be minimized. The Planning Commission shall consider the existing use of the property, the viability of the land for agricultural use, and the intention of the application for the use of the property when reviewing the application. The Planning Commission may require the reduction of lot sizes if the application is contrary to the intent of the Master Plan and Zoning Ordinance.
 - d. The cluster of lots should be located along the adjacent public road.

- e. New dwellings created as a result of this process should be accessible to the adjacent public road by a shared driveway or common access point.
 - f. Where natural features or other external characteristics prevent these standards from being satisfied or create situations where alternative designs would provide higher quality development satisfying the goals and intent of this district, the Planning Commission may modify the above standards.
4. In addition to the above, the following regulations shall apply to non-public schools in the Agriculture District: [Amended 4/7/14; Ord. #107]
- a. A non-public school may be located on the same lot as agricultural uses, but not on the same lot as any other use.
 - b. In no instance shall a non-public school and a dwelling unit share the same lot.
 - c. Buildings associated with a non-public school shall be set back a minimum of 100 feet from all lot lines.
 - d. Multiple school buildings may be built on a single lot. However, all buildings must be used together as one school institution. Additional buildings shall not require an additional Special Use permit, but shall require Site Plan Approval by the Planning Commission.
 - e. The proposed development shall satisfy the standards for approval of a special land use.

f. Unless otherwise modified above, the dwelling(s) or non-public school and the lot(s) shall comply with the Development Standards set forth in Section 4.04 below.”

- L. Wireless communication facilities and support structures
- N. Group Day Care Home (*see also section 14.10*)
- O. Accessory Dwelling Units (*see also section 14.11*)
- P. Solar Farms, subject to the standards in Section 14.13.
- Q. Wind energy conversion systems subject to the standards in Section 14.12.

Section 4.04 Development Standards

All lots, building and structures in the AG zoning district shall comply with the minimum standards set forth in this section. Furthermore, no zoning permit shall be issued for any development unless and until it has been demonstrated that the proposed development shall be in compliance with the development standards set forth below.

A. *Minimum Lot Dimensions*

1. LOT AREA – The minimum lot area shall be 40 acres, unless otherwise approved as provided above.
 - a. Each dwelling shall be located on a lot of record.
 - b. Each lot of record shall have no more than one (1) dwelling.
 - c. There shall be no minimum lot area for one (1) single family dwelling on any lot that was a lot of record as of November 1980, provided that the minimum yard requirements are met.

- d. A lot less than 40 acres may be created and/or a dwelling or non-public school may be located on a lot that is less than 40 acres without a special land use permit if that lot is an entire quarter-quarter section or a half of a half of a section. [Amended 4/7/14; Ord. #107]
2. LOT WIDTH – The minimum lot width shall be one-hundred (100) feet.
3. MINIMUM FRONTAGE – Each lot shall have a minimum lot frontage of at least one-hundred (100) feet along the road.

B. *Minimum Yard Requirements*

1. FRONT YARD – Any and all front yards shall be at least fifty (50) feet in depth from the front lot line. (See also Section 13.13)
2. REAR YARD – Any and all rear yards shall be at least twenty (20) feet in depth from the rear lot line.
3. SIDE YARD – Any and all side yards shall be at least twenty (20) feet in depth from the side lot line.

C. *Building and Structure Standards*

1. HEIGHT – No building or structure shall exceed thirty-five (35) feet in height with the exception of structures used solely for agriculture.
2. MINIMUM FLOOR AREA – Each dwelling unit shall have a minimum floor area of one-thousand (1000) square feet.

Chapter 5

Lake Residential (R-1) Zoning District Regulations

(See the Zoning Districts Map for the location and boundaries of the R-1 zoning district.)

Section 5.01 Purpose and Intent

This zoning district is intended to support residential development around lakes in Alganssee Township. This district recognizes that lake residential areas differ in character from other residential developments. To accommodate the unique relationship between development and a lake, the regulations of this district seek to provide for greater flexibility in the location and use of lands, buildings, and structures around inland lakes and waterways as compared to other residential districts in Alganssee Township.

Section 5.02 Uses Permitted by Right

The following uses and structures are permitted by right in the R-1 zoning district in accordance with Section 5.04 and any other applicable provisions of this Ordinance *(see also Section 17.02)*:

- A. Accessory uses and structures, except Accessory Dwelling Units *(see also Section 13.11)*
- B. Minor home occupations *(see also Section 14.02)*
- C. Single family dwellings
- D. Family Day Care Home *(see also section 14.10)*
- E. Adult Foster Care Family Home *(see also section 14.10)*
- F. Foster Family Home *(see also section 14.10)*
- G. Foster Family Group Home *(see also section 14.10))*
- H. Accessory solar energy systems located on the roof of a previously existing building, and capable of producing a maximum of 5,000 kWh per month, subject to the standards in Section 14.13.

Section 5.03 Uses Permitted by Special Use Permit

The following uses and structures are permitted in the R-1 zoning district only after the approval of a Special Use Permit, in accordance with the requirements of Chapter 18, and in accordance with Section 5.04 and any other applicable provisions of this Ordinance (*see also Section 17.02*):

- A. Major home occupations (*see also Section 14.02*)
- B. Group day care home (*see also section 14.10*)
- C. Accessory Dwelling Units (*see also section 14.11*)
- D. Freestanding accessory solar energy systems that meet the following requirements:
 - 1. Capable of producing no more than 5,000 kWh per month
 - 2. Located on a lot of at least two acres in area
 - 3. Meet the standards in Section 14.13.

Section 5.04 Development Standards

All lots, buildings, and structures in the R-1 zoning district shall comply with the minimum standards set forth in this section. Furthermore, no zoning permit shall be issued for any development unless and until it has been demonstrated that the proposed development shall be in compliance with the development standards set forth below.

A. *Minimum Lot Dimensions*

- 1. Existing Lots of Record.
 - a. Lots of record existing prior to June 13, 2008 with frontage, either road or water, less than 50 feet or net lot area less than 5,000 square feet shall be considered nonconforming lots and may be developed and used only in accordance with the standards in Article 19 and Section 19.03.
 - b. Lots of record existing prior to June 13, 2008 with frontage, both road and water, of 50 feet or more and net lot area of 5,000 square feet or more

shall be considered conforming lots of record. All such lots may be developed in accordance with the standards (i.e. uses and setbacks) set forth in this chapter and ordinance. Conforming lots of record may be split into new lots or parcels if the new lots or parcels are in conformance with the standards of Section 5.04.A.2 and this ordinance.

2. New Development. Any lot, parcel, or unit created within the R-1 zoning district through land division, subdivision, condominium, site condominium, or similar procedures shall meet the following standards:
 - a. Minimum lot area shall be 21,780 square feet.
 - b. Minimum frontage, both road and water, shall be 80 feet.
 - c. All other standards of this chapter and ordinance shall apply.
 - d. New lots or parcels created through the combination of existing adjacent lots or parcels within the R-1 district that bring the resulting parcel closer to conformance with the requirements of this section and reduce the density of the subject area shall not be considered “new development” for the purposes of the standards above.

B. *Minimum Yard Requirements*

1. FRONT YARD (road front)
 - a. Each front yard shall be a minimum of twenty (20) feet in depth from the front lot line. (See Section 13.13.)
 - b. If the average of the front yards (distance from the front lot line to the nearest point of the principal structure) extending for 250 feet (measured from the side property line) to either side of the subject property on the same side of the street is less than the minimum required in subsection 1.a

above, then the required front yard shall be the same as the average of those adjacent properties.

- c. The same setbacks identified above for principal structures shall apply to accessory structures.
 - i. However, when calculating the average of front yards of adjacent properties for purposes of determining the front yard setback for an accessory structure, the measurement shall be taken from the front lot line to the nearest point of the closest accessory structure to the road.
 - ii. In the event there is no accessory structure on the adjacent property or if the dwelling on the adjacent property is closer to the road than the closest accessory structure, the measurement shall be taken from the front lot line to the dwelling.
 - iii. In no case shall the structure be located closer than 10 feet to the edge of the road surface nor shall it be permitted to be located in the road right of way.

[Ord. #106; 2/7/11]

- 2. REAR YARD – Any and all rear yards shall be at least twenty (20) feet in depth from the rear lot line.
- 3. SIDE YARD – The total of the side yards shall be twenty (20) feet in depth, but no side yard shall be less than seven (7) feet from the side lot line. For parcels 70 feet or less in lot width and water frontage, the minimum side yard requirement shall be seven (7) feet.

4. LAKE FRONT – The preceding requirements notwithstanding, in order to preserve views of lakes, to preserve and enhance property values, and to protect air circulation, no structure shall be constructed within the minimum required lakefront yard. The minimum lakefront yard requirement shall be determined by taking the average lakefront setback of the principal structures on the properties located 250 feet to either side of the subject property. Where there are no principal structures within 250 feet of the subject property, the minimum required lakefront yard shall be 50 feet. Distances from the water shall be measured from the ordinary high water mark of any lake, channel, or stream.

Except as indicated below, accessory structures developed on waterfront property shall also comply with the Lakefront Yard requirement. (The requirement shall be determined in the same manner described in the paragraph above.) Docks, boat storage structures for the use of the property owner, and other accessory structures less than eight (8) inches in height may be located in the Lakefront Yard. Railings up to 36 inches in height may also be provided within the Lakefront Yard provided there is at least 50% transparency between the supports holding up the railings. [Amended 8/3/09; Ord. #105 / 2/7/11; Ord. #106]

C. ***Building and Structure Standards***

1. HEIGHT – No building or structure shall exceed thirty-five (35) feet in height.
2. MINIMUM FLOOR AREA – Each dwelling unit shall have a minimum floor area of one-thousand (1,000) square feet.

Chapter 6

Urban Residential (R-2) Zoning District Regulations

(See the Zoning Districts Map for the location and boundaries of the R-2 zoning district.)

Section 6.01 Description and Purpose

This district is intended for general residential uses for single-family dwellings. In addition to single family residential uses, limited commercial activities with a direct relationship to the area's marine and recreational quality of life may also be permitted.

Section 6.02 Uses Permitted by Right

The following uses and structures are permitted by right in the R-2 zoning district in accordance with Section 6.04 and any other applicable provisions of this Ordinance *(see also Section 17.02)*:

- A. Accessory uses and structures, except Accessory Dwelling Units *(see also Section 13.11)*
- B. Adult foster care family homes *(see also Section 14.10)*
- C. Churches
- D. Minor home occupations *(see also Section 14.02)*
- E. Single-family dwellings
- F. Two-family dwellings
- G. Family Day Care Home *(see also Section 14.10)*
- H. Foster Family Home *(see also Section 14.10)*

- I. Foster Family Group Home (*see also Section 14.10*)
- J. Accessory solar energy systems located on the roof of a previously existing building, and capable of producing a maximum of 5,000 kWh per month, subject to the standards in Section 14.13.

Section 6.03 Uses Permitted by Special Use Permit

The following uses and structures are permitted in the R-2 zoning district only after the approval of a Special Use Permit in accordance with the requirements of Chapter 18 and in accordance with Section 6.04 and any other applicable provisions of this Ordinance (*see also Section 17.02*):

- A. Bed and breakfast inns
- B. Cemeteries
- C. Major home occupations (*see also Section 14.02*)
- D. Marine Storage
- E. Private open space, and Recreational establishments, indoor only
- F. Convenience stores, provided they shall be located in the R-2 zoning district and shall be located within five-hundred (500) feet of one of the following intersections:
 - 1. Fisher Road and Brocklebank Road
 - 2. Fisher Road and Cornell Road
 - 3. Central Road and Brocklebank Road
 - 4. Central Road and Fremont Road
 - 5. Corless Road and Fremont Road
 - 6. Cornell Road and Fremont Road
- G. Group day care homes (*see also Section 14.10*)
- H. Accessory Dwelling Units (*see also section 14.11*)

- I. Freestanding accessory solar energy systems that meet the following requirements:
1. Capable of producing no more than 5,000 kWh per month
 2. Located on a lot of at least two acres in area
 3. Meet the standards in Section 14.13.

Section 6.04 Development Standards

All lots, buildings and structures in the R-2 zoning district shall comply with the minimum standards set forth in this section. Furthermore, no zoning permit shall be issued for any development unless and until it has been demonstrated that the proposed development shall be in compliance with the development standards set forth below.

A. ***Minimum Lot Dimensions***

1. LOT AREA – The minimum lot area shall be two (2) acres. Each dwelling shall be located on a lot of record. Each lot of record shall have no more than one (1) dwelling.
2. LOT WIDTH – The minimum lot width shall be one-hundred-fifty (150) feet.
3. LOT FRONTAGE – Each lot shall have a minimum lot frontage of one-hundred-fifty (150) feet along the road.

B. ***Minimum Yard Requirements***

1. FRONT YARD – Any and all front yards shall be at least fifty (50) feet in depth from the front lot line. (See also Section 13.13)
2. REAR YARD – Any and all rear yards shall be at least twenty (20) feet in depth from the rear lot line.
3. SIDE YARD – Any and all side yards shall be at least ten (10) feet in depth from the side lot line.

C. ***Building and Structure Standards***

1. HEIGHT – No structure shall exceed thirty-five (35) feet in height.
2. FLOOR AREA – Each principal building shall have a minimum floor area of one thousand (1,000) square feet.

Chapter 7

Multi-family Residential (R-3) Zoning District Regulations

(See the Zoning Districts Map for the location and boundaries of the R-3 zoning district.)

Section 7.01 Description and Purpose

This district is intended to allow for more intensive residential land use, by permitting multi-family dwellings and residential care facilities. At the time of the adoption of this Ordinance, no areas within Alganssee Township have been zoned R-3 because there are no existing multi-family dwellings. In general, those areas zoned R-2 are suitable for rezoning to R-3, in accordance with Chapter 21, when public water and sanitary sewer systems are available.

Section 7.02 Uses Permitted by Right

The following uses and structures are permitted by right in the R-3 zoning district in accordance with Section 7.04 and any other applicable provisions of this Ordinance *(see also Section 17.02)*:

- A. Accessory uses or structures, except Accessory Dwelling Units *(see also Section 13.11)*
- B. Dwellings: single-family, two-family, and multi-family
- C. Minor home occupations *(see also Section 14.02)*
- D. Nursing home, convalescent home, or rest home
- E. Family day care home *(see also Section 14.10)*
- F. Adult foster care family home *(see also Section 14.1010)*
- G. Foster family home *(see also Section 14.10)*
- H. Foster family group home *(see also Section 14.10)*
- I. Accessory solar energy systems located on the roof of a previously existing building, and capable of producing a maximum of 5,000 kWh per month, subject to the standards in Section 14.13.

Section 7.03 Uses Permitted by Special Use Permit

The following uses and structures are permitted in the R-3 zoning district only after the approval of a Special Use Permit, in accordance with the requirements of Chapter 18, and in accordance with Section 7.04 and any other applicable provisions of this Ordinance (*see also Section 17.02*):

- A. Major home occupations (*see also Section 14.02*)
- B. Manufactured housing development (*see also Section 14.07*)
- C. Group day care home (*see also Section 14.10*)
- D. Adult foster care small group home (*see also Section 14.10*)
- E. Adult foster care large group home (*see also Section 14.10*)
- F. Adult foster care congregate facility (*see also Section 14.10*)
- G. Accessory Dwelling Units (*see also section 14.11*)
- H. Freestanding accessory solar energy systems that meet the following requirements:
 - 1. Capable of producing no more than 5,000 kWh per month
 - 2. Meet the standards in Section 14.13.

Section 7.04 Development Standards

All lots, building and structures in the R-3 zoning district shall comply with the minimum standards set forth in this section. Furthermore, no zoning permit shall be issued for any development unless and until it has been demonstrated that the proposed development shall be in compliance with the development standards set forth below.

A. *Minimum Lot Dimensions*

- 1. LOT AREA – The minimum lot area shall be two (2) acres. Each dwelling shall be located on a lot of record. Each lot of record shall have no more than one (1) dwelling.
- 2. LOT WIDTH – The minimum lot width shall be one-hundred-fifty (150) feet.

3. LOT FRONTAGE – The minimum lot frontage shall be one-hundred-fifty (150) feet along the road.

B. *Minimum Yard Requirements*

1. FRONT YARD – Any and all front yards shall be at least fifty (50) feet from the front lot line. (See also Section 13.13.)
2. REAR YARD – Any and all rear yards shall be at least fifty (50) feet from the rear lot line.
3. SIDE YARD – Any and all side yards shall be at least fifty (50) feet from the side lot line.

C. *Building and Structure Standards*

1. HEIGHT – No structure shall exceed thirty-five (35) feet in height.
2. FLOOR AREA
 - a. Single-family dwellings shall have a minimum floor area of one thousand (1,000) square feet.
 - b. Two-family dwellings shall have a minimum floor area of nine-hundred-sixty (960) square feet for each dwelling unit.
 - c. Multi-family dwellings shall have a minimum floor area for each dwelling unit of six-hundred (600) square feet plus one-hundred-twenty-five (125) square feet for each bedroom.
 - d. All other principal buildings shall have a minimum floor area of two-thousand-five-hundred (2500) square feet.
3. DENSITY – The maximum density for multi-family dwellings shall be eight (8) dwelling units per acre of land.
4. LOT COVERAGE – Lot coverage shall not exceed thirty-five (35) percent.

Chapter 8

Commercial (C-1) Zoning District Regulations

(See the Zoning Districts Map for the location and boundaries of the C-1 zoning district.)

Section 8.01 Description and Purpose

This district is intended to preserve the existing small scale retail operations in existence at the time of adoption of this Ordinance and to accommodate additional such businesses. This district is also intended to allow for new types of businesses that are considered likely to locate in Alganssee Township during the next ten to fifteen years. However, the master plan=s intent is that the Village of Quincy continue to be the residential, educational, commercial and industrial center of the region while Alganssee Township serves to fill important agricultural, recreational and residential needs within the community in general. In keeping with that vision, the types and scale of permitted businesses are limited and are generally intended to only serve the immediate needs of the residents of the Township.

Section 8.02 Uses Permitted by Right

The following uses and structures are permitted by right in the C-1 zoning district, after approval of Site Plan Review in accordance with Chapter 17:

- A. General retail goods stores and shops intended to cater exclusively to the residents of Alganssee Township and limited to the following specific uses:
 - 1. Convenience store with or without gasoline sales
 - 2. Gas stations
 - 3. Grocery stores

4. Hardware stores
 5. Municipal services
 6. Restaurants
- B. General retail services intended to cater exclusively to the residents of Alganssee Township and limited to the following specific uses:
1. Banks, insurance and real estate
 2. Beauty and barber shops
 3. Carwashes
 4. Postal services
- C. Accessory solar energy systems (rooftop or freestanding) capable of producing a maximum of 5,000 kWh per month, subject to the standards in Section 14.13.

Section 8.03 Uses Permitted by Special Use Permit

The following uses and structures are permitted in the C-1 zoning district only after the approval of a Special Use Permit in accordance with the requirements of Chapter 18, and after approval of Site Plan Review in accordance with Chapter 17:

- A. Bars, nightclubs, and taverns
- B. Campground
- C. Marina, commercial
- D. Minor motor vehicle repair
- E. Child day care center
- F. Solar Farms, subject to the standards in Section 14.13.
- G. On-site wind energy conversion systems subject to the standards in Section 14.12.

Section 8.04 Development Standards

All lots, building and structures in the C-1 zoning district shall comply with the minimum standards set forth in this section. Furthermore, no zoning permit shall be issued for any development unless and until it has been demonstrated that the proposed development shall be in compliance with the development standards set forth below.

A. *Minimum Lot Dimensions*

1. LOT AREA – The minimum lot area shall be one (1) acre.
2. LOT WIDTH – The minimum lot width shall be one-hundred-fifty (150) feet.
3. LOT FRONTAGE – The minimum lot frontage shall be one-hundred-fifty (150) feet along the road, and must lie on a public road.

B. *Minimum Yard Requirements*

1. FRONT YARD – Any and all front yards shall be at least fifty (50) feet in depth from the front lot line. (See also Section 13.13.)
2. REAR YARD – Any and all rear yards abutting a lot in a Residential (R-1, R-2, or R-3) zoning district shall be at least fifty (50) feet in depth from the rear lot line. All other rear yards shall be at least thirty-five (35) feet in depth from the rear lot line.
3. SIDE YARD – Any and all side yards abutting a lot in a Residential (R-1, R-2, or R-3) zoning district shall be at least fifty (50) feet in depth from the side lot line. All other side yards shall be at least twenty (20) feet in depth from the side lot line.

C. *Building and Structure Standards*

1. HEIGHT – No structure shall exceed thirty-five (35) feet in height.
2. LOT COVERAGE – Lot coverage shall not exceed thirty-five (35) percent of any lot.

Chapter 9

Industrial (I-1) Zoning District Regulations

(See the Zoning Districts Map for the location and boundaries of the I-1 zoning district.)

Section 9.01 Description and Purpose

This district is intended for intensive uses that are unsuitable in any of the other zoning districts. The regulations are designed to assure that any industrial uses are situated so as to minimize or even eliminate any possibility of negative externalities affecting neighboring or nearby properties; to protect the general health and safety of the residents of the Township; and to protect, preserve and enhance the environment of the Township.

In general, areas suitable for rezoning to I-1 should be isolated agricultural areas, with existing natural buffers between proposed industrial uses and any existing dwellings, and with frontage on a public road, in accordance with the requirements of Chapter 21.

Section 9.02 Uses Permitted by Right

The following uses and structures are permitted by right in the I-1 zoning district, after approval of Site Plan Review in accordance with Chapter 17:

- A. Light industrial fabrication
- B. Warehouse
- C. Accessory solar energy systems capable of producing a maximum of 5,000 kWh per month, subject to the standards in Section 14.13.

Section 9.03 Uses Permitted by Special Use Permit

The following uses and structures are permitted in the I-1 zoning district only after the approval of a Special Use Permit in accordance with the requirements of Chapter 18, and after approval of Site Plan Review in accordance with Chapter 17:

- A. Adult uses
- B. Major motor vehicle repair
- C. Junkyard
- D. Open storage
- E. Salvage operation
- F. Sawmill
- G. Solar Farms, subject to the standards in Section 14.13.
- H. On-site wind energy conversion systems subject to the standards in Section 14.12.

Section 9.04 Development Standards

All lots, building and structures in the I-1 zoning district shall comply with the minimum standards set forth in this section. Furthermore, no zoning permit shall be issued for any development unless and until it has been demonstrated that the proposed development shall be in compliance with the development standards set forth below.

- A. ***Minimum Lot Dimensions***
 - 1. LOT AREA – The minimum lot area shall be ten (10) acres.
 - 2. LOT WIDTH – The minimum lot width shall be two-hundred-fifty (250) feet.
 - 3. LOT FRONTAGE – Each lot shall have a minimum lot frontage of two-hundred-fifty (250) feet and such frontage shall be along a public street or road right-of-way.

B. *Minimum Yard Requirements*

1. FRONT YARD – Any and all required front yards shall be at least fifty (50) feet in depth from the front lot line. (See also Section 13.13.)
2. REAR YARD – Any and all required rear yards shall be at least fifty (50) feet in depth from the rear lot line.
3. SIDE YARD – Any and all required side yards shall be at least fifty (50) feet in depth from the side lot line.

C. *Building and Structure Standards*

1. HEIGHT – No building shall exceed thirty-five (35) feet in height.
2. LOT COVERAGE – Lot coverage shall not exceed thirty-five (35) percent.

Chapter 10

Restricted Development Overlay (RO) Zoning District Regulations

(See the Zoning Districts Map for the location and boundaries of the RO zoning district.)

Section 10.01 Description and Purpose

This district is intended to provide additional protection to certain sensitive land uses that, in the sole opinion of the Algansee Township Board, are likely to suffer from inappropriate development nearby. Its purpose is to impose additional setback restrictions and to require site plan review.

Section 10.02 Application

The RO zoning district applies to all property located within one-thousand (1000) feet of the property on which is located any cemetery or church. The Required Conditions shall apply in addition to all of the zoning district regulations of the underlying zoning district. When there is a conflict between the requirements of an underlying zoning district and the requirements of this overlay district, the more stringent or restrictive requirements shall apply. [Amended 4/7/14; Ord. #107]

Section 10.03 Required Conditions

- A. Barns or other agriculturally-oriented accessory structures and the keeping of animals and livestock in excess of ten animal units (as defined by the Michigan Department of Agriculture) is prohibited within five-hundred (500) feet of any building used as a church. [Ord. #106; 2/7/11] [Amended 4/7/14; Ord. #107]

- B. No structure or building shall be erected or altered in the Restricted Development Overlay Zoning District until and after the site plan has been approved in accordance with Chapter 17.

Chapter 11

**Environmental Preservation Overlay (EO) Zoning District
Regulations**

(See the Zoning Districts Map for the location and boundaries of the EO zoning district.)

Section 11.01 Description and Purpose

This district is intended to preserve the existing natural waterways and surface water quality by requiring additional setbacks from water courses.

Section 11.02 Application

The EO zoning district shall apply to all property located within one-hundred (100) feet of any perennial stream as depicted on the most recent 7.5 minute quadrangle map published by the United States Geological Survey. The required conditions in Section 11.03 shall not apply to those lots that are zoned residential (R-1, R-2, or R-3) at the time of the adoption of this Ordinance, but shall apply, as applicable, to any lots that are rezoned to one of those residential districts after the adoption of this Ordinance.

Section 11.03 Required Conditions

A 100-foot setback shall be provided from the ordinary high water mark of all streams and surface water located within the EO zoning district. No structure(s) shall be constructed in or moved into this setback area.

Chapter 12

Reserved for Future Use

Chapter 13

General Conditions

Section 13.01 Purpose and Intent

The purpose of this section of the Zoning Ordinance is to establish certain conditions and requirements that apply, generally, throughout all of the zoning districts. All uses and structures shall be subject to the provisions of this section in addition to the requirements of the specific zoning districts in which they are located.

Section 13.02 General Exceptions

- A. **Essential Services.** Essential services are hereby exempted from the provisions of this Ordinance when properly permitted and in accordance with all other applicable laws and regulations. Any building to be used, in whole or in part, for essential services shall be subject to site plan review in accordance with Chapter 17.
- B. **Voting Place.** The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.
- C. **Height Limits.** The height limits of this Ordinance shall not apply to radio transmitting and receiving or television antennae, chimneys, flagpoles, church spires, belfries, cupolas, domes, water towers, observation towers, power transmission towers, radio towers, masts, aerials, smokestacks, ventilators, skylights, derricks, conveyors, cooling towers, and other similar and necessary mechanical appurtenance pertaining to the permitted uses of the districts which they are located. Structures hereby exempted shall be subject to the following conditions:
 - 1. No structure shall be erected to more than three times the applicable height limits of the district in which it is located;

2. No structure shall have a total area greater than twenty-five (25) percent of the roof area of the building; and
3. Unless such structure is permitted as a use in the zoning district in which it is located, it shall be accessory to a permitted and lawful principal use.
4. The provisions of this section notwithstanding, the height requirements and restrictions for wireless communication facilities shall be governed by the provisions of Section 14.05.

Section 13.03 Obstructions to Motor Vehicle Site Lines

No structure, wall, fence, shrubbery, parked vehicle, stored material, or trees shall be placed, erected, planted or maintained in any street or road right-of-way or in any site triangle in excess of thirty (30) inches from natural grade. This section is intended to preserve the view of drivers of motor vehicles. This section shall not apply to mail boxes that are erected in accordance with the requirements of the US Postal Service.

Section 13.04 Fences

Fences may be constructed without a zoning permit in all zoning districts. Fences in all zoning districts except the AG zoning district shall be subject to the following conditions:

- A. Fences shall not exceed six (6) feet in height and may be constructed in any side or rear yard and within the setback area.
- B. Fences not exceeding three (3) feet in height may be constructed in a front yard.
- C. Fences with barbed wire or razor wire are prohibited in all residential zoning districts.
- D. The preceding provisions notwithstanding, no fence shall be permitted within fifty (50) feet of any lake, channel, or stream.

Section 13.05 Parking of Commercial Vehicles

- A. **Purpose.** The purpose of restrictions on commercial vehicles is to preserve the health, safety and general welfare of persons and property in areas designed and utilized for residential development. The parking of large commercial vehicles is frequently an impediment to the ingress and egress of emergency vehicles and equipment, and is frequently unsafe when operated on residential streets. The noise, exhaust emissions and appearance of commercial vehicles tend to impair the health, safety and general welfare of the people of the Township.
- B. **Parking Prohibited.** No commercial vehicle over one ton in gross vehicle weight shall be parked in a residentially zoned area. This provision shall not apply to commercial vehicles temporarily parked in a residential area in conjunction with the maintenance or service to a property in a residentially zoned area.
- C. **Violations.** In any proceeding for violation of this section, either the person to whom a commercial vehicle is registered or the owner(s) of the property on which the vehicle is parked may be held fully liable for the violation.

Section 13.06 Storage of Certain Vehicles

The provisions of this section apply to recreational vehicles, boats, and self-propelled vehicles that do not display a valid and current license plate. The provisions of this section apply to all lots that are located, in whole or in part, in any agricultural or residentially zoned area. The provisions of this section shall not apply to vehicles and machinery that are intended for and used for agricultural operations. The provisions of this section shall not apply to boats and marine equipment on a property that is lawfully and fully permitted as a marine storage operation.

- A. Vehicles subject to this section may be stored in a fully enclosed, properly permitted and lawful accessory building.
- B. Up to two (2) such vehicles may be stored outside of a fully enclosed building in accordance with the following requirements:

1. Such vehicles shall not be located in any front yard;
2. Such vehicles may be located in a side or rear yard, provided they are not located within five (5) feet of a side property line;
3. Such vehicles shall be in a fully operable condition;
4. Such vehicles shall be located on a lot with an existing, permitted and lawful principal structure; and.
5. Such vehicles shall not be used for temporary living quarters or for any other use, except as allowed pursuant to Section 13.07.

Section 13.07 Use of Recreational Vehicles

The provisions of this Section apply to the use of recreational vehicles in all zoning districts.

The provisions of this section shall not apply to properties that are lawfully and fully permitted for use as a campground. The use of a recreational vehicle for temporary living quarters or other use, except in a lawful and fully permitted campground is prohibited except in accordance with the following requirements:

- A. The use of a recreational vehicle for temporary living quarters or other use shall be allowed only after the issuance of a zoning permit in accordance with the requirements of this Section, and in accordance with Section 21.03. The requirements of this Section supercede any conflicting requirements in Section 21.03.
- B. A zoning permit for the use of a recreational vehicle for temporary living quarters or other use shall be valid for a single period consisting of between four (4) and seven (7) consecutive calendar days. Shorter periods of use shall not require a permit, and longer periods of use shall not be permitted. The requirements of this Section supercede the requirements of Section 21.03.D.

- C. A zoning permit for the use of a recreational vehicle for temporary living quarters or other use shall permit the use of one (1) recreational vehicle. Additional zoning permits are required for each additional recreational vehicle.
- D. No more than three (3) zoning permits shall be issued for the use of recreational vehicles on any single lot in one (1) calendar year.

Section 13.07A Keeping of Certain Animals, including Horses

- A. The keeping of livestock, exotic animals and any other animals except pets is prohibited in all zoning districts except in the Agricultural zoning district, unless otherwise stated below. Chapter 19, Nonconforming Uses, establishes certain nonconforming rights for agricultural livestock operations.
- B. These standards shall not apply to households raising animals for educational purposes such as 4-H or similar activities in the R-2 district (not including horses-see paragraph C below). Accessory structures used to house these animals shall not be located in the front yard and must be set back a minimum 20 feet from all property lines.
- C. Facilities with 25 or more horses or equine shall be subject to GAAMP standards for site selection. Facilities with fewer than 25 horses or equine shall be permitted in the R-2 district according to the following table of density and lot sizes:

	Horses, Equine
	<i>R-2</i>
<i>Min. acreage for animals</i>	2
<i>Animals allowed on minimum</i>	1
<i>Animals allowed per additional acre</i>	1

- D. Disposal or slaughtering of animals for commercial purposes shall be prohibited.

- E. Any animal use shall comply with all other Township, County, State, and Federal regulations and guidelines regarding the health and care of the animal(s), the disposal of the manure, licensing and vaccinations, and other similar issues.

[Amended 2/7/11; Ord. #106]

Section 13.08 Performance Standards

No activity, operation, or use shall be permitted on any property which by reason of the emission of odor, fumes, smoke, vibration, radiation, noise or disposal of waste is harmful or potentially harmful to other permitted activities in the zoning district or is obnoxious or offensive to uses permitted in neighboring districts, or is harmful to the general health, safety or welfare of the community. The following standards shall apply to all uses and structures in all zoning districts:

- A. **Vibration.** Vibration is the oscillatory motion of a solid body. No machine or operation shall generate any ground- or structure-borne vibrational motion that is perceptible to the human sense of touch beyond the property line of the site on which the operation is located. Vibrations resulting from temporary construction activity that occurs between 7:00 AM and 7:00 PM. shall be exempt from this restriction, provided that such activity occurs in a legally accepted manner.

- B. **Particulates.** The drifting of air-borne matter beyond the lot line, including wind-blown dust, particles or debris from open stock piles, shall be prohibited. Dust, smoke, soot, dirt, fly ash, and products of wind erosion shall be subject to the regulations established in conjunction with the Air Pollution Act, Michigan Public Act 348 of 1965, as amended, and other applicable state or federal regulations.

- C. **Odor.** Offensive, noxious, or foul odors shall not be allowed to escape into the atmosphere in concentrations which are offensive, which produce a public nuisance or

hazard on adjoining property, or which could be detrimental to human, plant, or animal life.

- D. **Glare and Heat.** Any operation or activity which produces glare shall be conducted so that direct and indirect illumination from the source of light does not exceed one-half (2) of one (1) footcandle when measured at any point along the property line of the site on which the operation is located. Any operation which produces intense glare or heat shall be conducted within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot lines. If heat is a result of an industrial operation, it shall be so insulated as to not raise the temperature at any property line at any time.
- E. **Sewage Wastes and Water Pollution.** Sewage disposal and water pollution shall be subject to the standards and regulations established by federal, state, county and local regulatory agencies, including the Michigan Department of Health, the Michigan Department of Natural Resources, the Branch County Health Department, and the U. S. Environmental Protection Agency.
- F. **Gases.** The escape of or emission of any gas which is injurious or destructive to life or property, or which is explosive, is prohibited. Gaseous emissions shall be subject to regulations established in conjunction with the Air Pollution Act, Michigan Public Act 348 of 1965, as amended, the Federal Clean Air Act of 1963, as amended, and any other applicable state or federal regulations.
- G. **Electromagnetic Radiation and Radio Transmission.** Electronic equipment required in an industrial, commercial, or other operation shall be designed and used in accordance with applicable rules and regulations established by the Federal Communications Commission (FCC). The operation of such equipment shall not interfere with the use of radio, television, or other electronic equipment on surrounding or nearby property.
- H. **Radioactive Materials.** Radioactive materials, wastes and emissions, including electromagnetic radiation such as from an x-ray machine, shall not exceed levels established by federal agencies which have jurisdiction.

Section 13.09 Restoration of Unsafe Buildings

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of a building or structure declared unsafe by the County Building Official or required compliance with his or her lawful order, unless Sections 19.02 and 19.04 pertaining to nonconforming uses and structures applies to the particular building or structure, in which case the building may have to be restored in conformance with the requirements of this Ordinance. Furthermore, upon the determination of the County Building Inspector and official notification thereof to the property owner, the Township Board may order the demolition and removal of any designated unsafe building. In addition, the cost of said removal shall be borne by the property owner. If the property owner fails to pay for the cost of the removal within 60 days of the date the building was removed, the Township may either place a lien on the property or place the cost of said removal on the next available tax bill as a special assessment against the property.

Section 13.10 Exceptions to Yard Requirements

- A. **Fire Escape.** A fire escape may extend or project into any front, side, or rear yard not more than four (4) feet.
- B. **Wheelchair Ramp.** A wheelchair ramp required for compliance with the Americans with Disabilities Act may be constructed in a required yard space provided the ramp is the minimum size required and provided that it located within twenty (20) feet of the front property line and five (5) feet of any side or rear property line.

Section 13.11 Accessory Structure

- A. No accessory structure shall be used until the principal structure to which it is accessory has been constructed and used. Except as permitted in paragraph D below, no accessory

structure shall be located on a lot or parcel without a principal structure. [Amended 8/3/09; Ord. #105]

- B. No accessory structure shall be located in the front yard nor closer to the front property line than the principal structure is located. In the R-1 district, accessory structures may be located in the front yard provided they satisfy the minimum front yard setback requirements. [Amended 8/3/09; Ord. #105]
- C. Only one accessory structure that is less than one-hundred (100) square feet in size, and that is no more than twelve (12) feet in height may be located on a lot without a zoning permit in any side or rear yard or in the buildable area. All such structures are prohibited in any and all front yards. On any lot that contains one such accessory structure, any and all additional accessory structures shall require a zoning permit and shall be located in the buildable area of the lot.
- D. For principal structures on lots with water frontage, accessory garage structure(s) may be placed on a separate lot of record than the principal structure if the following provisions are met and the Zoning Administrator has issued a permit.
1. There shall be common ownership between the principal building or residence and the lot being used for the accessory structure(s).
 2. A maximum of two (2) accessory structures may be constructed on the separate parcel. However, one (1) structure may be no larger than 100 square feet.
 3. Total combined area of the accessory structures on the separate parcel may not exceed the smaller of the following:
 - a. 25% of the gross lot area of the parcel on which they are located, or
 - b. The gross floor area of the primary structure to which they are accessory.
 - c. In order to construct an accessory structure that is larger than the primary structure in this situation, a special use permit must be approved by the Township. It must be demonstrated that the additional area is necessary

and will lead to the visual improvement of the area (primarily through the storage of items presently stored outdoors) without negatively impacting the surrounding properties.

4. The lot upon which the principal building is located must be within 480 feet of the lot being used for the accessory structure(s).
5. The accessory structure(s) shall maintain all required front, side, rear yard, and lakefront yard setbacks, and lot coverage regulations associated with a principal structure in the specified zoning district.
6. If located by itself on a lot (without a principal structure), an accessory structure(s) shall not be located on a waterfront lot. If located on a portion of a lot bisected by a road, the accessory structure(s) shall not be on the waterfront side of the road.
7. If the proposed accessory structure is located in an area characterized primarily by single family detached dwellings (as opposed to similar accessory structures on independent lots), the Planning Commission may require that the accessory structure be located to the rear of the site to provide adequate space within the building envelope to construct a primary structure on the site in the future.
8. The proposed accessory structure(s) shall not have a negative impact on the surrounding neighborhood or adjacent properties.

[Amended 8/3/09; Ord. #105]

- E. Semi-truck trailers and single-axle vans shall not be used, for storage or otherwise. The following requirements shall apply within all zoning districts:
1. Semi-truck trailers that are not properly licensed for travel on public roads shall not be located on any lot except within a fully enclosed structure.

2. Semi-truck trailers that are not in sufficient operating condition to travel on public roads, regardless of whether or not they are currently licensed or registered, shall not be located on any lot except within a fully enclosed structure.
3. The use of any semi-truck trailer, other than one that is both properly licensed and registered and that is in a fully operating condition, for storage or any other use, is hereby prohibited.
4. The use of any single-axle van body, other than one that is both properly licensed and registered and that is in a fully operating condition, for storage or for any other use, is hereby prohibited.

Section 13.12 Signs

- A. **Purpose and Intent.** It is hereby determined that regulation of the location, size, placement and certain features of signs is necessary to enable the public to locate goods, services and facilities without difficulty and confusion, to promote traffic safety, safeguard public health and welfare, and facilitate police and fire protection. In addition, it is the intent of this Ordinance to assure the continued attractiveness of the total community environment through the adoption of discretionary controls designed to preserve scenic, aesthetic and economic values within the Township.

These regulations are designed to permit maximum legibility and effectiveness of signs and to prevent their over-concentration, improper placement and excessive height, bulk and area. In general, it is intended that signs of a general commercial or industrial nature be prohibited in districts where commercial or industrial activities are prohibited. Signs in residential districts shall be limited to those directly related to activities on the premises.

- B. **Computation of Sign Area.** For the purposes of this Ordinance, the total area of a sign shall be the area of that portion of the sign that is designed to or is capable of conveying a message as measured in square feet.

C. Zoning Permit Required.

1. It shall be unlawful for any person to construct, erect, re-erect, move, alter, enlarge, or illuminate, any sign until the Zoning Administrator shall have issued a zoning permit in accordance with Chapter 21.
2. No permit shall be required for ordinary servicing, repainting of existing sign message, or cleaning of a sign. No permit is required for change of message of a sign designed for periodic message change without change of structure, including a bulletin board or billboard, but not including a sign to which a new permanent face may be attached.

D. General Sign Provisions. No zoning permit shall be issued for a sign unless it complies with all of the following provisions. Any sign that does not comply with all of the following provisions shall be deemed to be in violation of this Ordinance.

1. No sign, except those established and maintained by the Township, County, State, or Federal Governments, shall be located in, project into, or overhang a public right-of-way or dedicated public easement, unless otherwise authorized in this Ordinance.
2. The highest point of any sign shall not exceed thirty-five (35) feet above the ground or grade level.
3. No advertising device shall be erected or maintained which simulates or imitates in size, color, lettering, or design any traffic sign or signal in such manner as to interfere with, mislead, confuse or create a visual impediment or safety hazard to pedestrian or vehicular traffic.
4. No portion of any sign that is thirty (30) inches or higher shall be located in the sight triangle.
5. No sign shall be erected so that any part including cables, guys, etc., will be within ten (10) feet of any electrical conductor, electric light pole, street lamp, traffic light, or other public utility pole or standard.

6. All illuminated signs shall be so arranged or shielded so as not to interfere with the vision of persons on adjacent thoroughfares. In no event shall light from an illuminated sign shine on adjacent property which is zoned for or used for residential purposes.
7. No signs of any kind shall be attached to or placed upon a building in such a manner as to obstruct any fire escape.
8. No wall sign shall project beyond or overhang the wall or any permanent architectural feature and shall not project above or beyond the highest point of the roof or parapet.
9. If the height of a proposed or existing sign is such that if it fell or could fall into the public right-of-way or adjacent property, the owner of said sign shall carry sufficient liability insurance to protect the public and adjacent property owners from damage and injury from the fallen sign.
10. Maintenance. All signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. Peeling or missing paint, holes, broken, cracked, bent, warped, rotted, discolored, sagging, out-of-plumb, worn, rusted or missing material parts shall be repaired within fifteen (15) days of written notification of the Township Zoning Administrator or County Building Official.
11. Signs that are not exempt from permit requirements pursuant to Paragraph E, below, are prohibited in the Agricultural (AG) zoning district and in all Residential zoning districts.
12. Signs that are not exempt from permit requirements pursuant to Paragraph E, below, are permitted in the Commercial C-1 and the Industrial I-1 zoning districts provided that the total sign area on any lot does not exceed one-hundred-fifty (150) square feet.

- E. **Signs Exempt from Permit Requirements.** The following signs are hereby exempted from paragraph C of this Section and therefore do not require a zoning permit, provided that such signs comply fully with all of the other provisions of this Section.
1. *Government Signs.* Signs erected by or on behalf of or pursuant to the authorization of a government body, including legal notices, informational signs, directional, street names, traffic control or regulatory signs
 2. *Flags.* Flags, pennants or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.
 3. *Address Signs.* Signs not exceeding two (2) square feet in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
 4. *Private Traffic Signs.* Signs directing and guiding traffic and parking on private property that do not exceed four (4) square feet each and bear no advertising matter.
 5. *Handicapped Signs.* Not exceeding four (4) square feet each and bearing no advertising matter.
 6. *Architectural Features/Artwork.* Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.
 7. *Small Accessory Signs.* Any accessory sign erected on a premise which is no more than two (2) square feet in area, such as no trespassing signs, and signs warning of animals.
 8. *Temporary Signs, Banners, Flags.* Temporary Signs, not specifically regulated in any other section of this Ordinance, including but not limited to: political or campaign signs, real estate signs, signs for special events or activities, banners, flags, and the like shall be subject to the following additional conditions:

- a. No temporary sign or devices shall be located in the public right-of-way, attached to any utility pole, or located within five (5) feet from any street right-of-way.
 - b. All temporary signs must be removed within fourteen (14) days of the conclusion of the event, activity, election, sale, etc., for which the temporary sign is displayed.
 - c. The total area and height of temporary signage shall be limited to thirty-two square feet in area and six (6) feet in height.
9. Customary farm and crop signs on active farms.
- F. **Signs Prohibited Throughout the Township.** The following signs are prohibited throughout the Township:
1. *Moving Signs.* Signs that revolve, are animated, or utilize movement or apparent movement to attract attention. No sign shall have blinking, flashing, or fluttering lights or other illuminated devices such as a changing light intensity, brightness or color. No sign shall utilize moving patterns of light so as to convey an illusion of motion or animation. Electronic message boards or changeable copy signs in which the copy consists of an array of light, are permitted, provided that the frequency of message change is not less than five (5) seconds. All lights in a display shall activate simultaneously, remain activated for not less than five (5) seconds, and deactivate simultaneously. Beacon lights and search lights are not permitted.
 2. *Banners, Streamers.* Exterior banners, pennants, spinners, other than a banner or pennant used as a temporary sign under provisions of Paragraph E.8 above.
 3. *String Lights.* Exterior string lights used in connection with a commercial premises, other than holiday decorations, which shall be removed within fifteen (15) days after the event.
 4. *Unsafe Signs.* Any sign which is structurally or electrically unsafe.

5. *Utility Poles and Landscaping.* Any sign erected on a utility pole, directional sign post, or landscaping including trees. Prohibited signs shall not include street signs erected by the township, county, state, or federal government or a public transit agency.
6. *Businesses No Longer Existing (Abandoned Signs).* Any business sign or sign structure now or hereafter existing which advertises a business conducted or a product sold, which no longer exists or is no longer in business on the premises on which the sign is located. Such sign shall be considered abandoned and shall, within 30 days after such abandonment, be removed by the sign owner, owner of the property where the sign is located, or other party having control over such sign.
7. *Sign Structure Without Sign.* Any sign structure or frame no longer supporting or containing a sign. The owner of the property where the sign is located shall, within 30 days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign.
8. *Roof-mounted Signs*
9. *Billboards*
10. *Air-Filled or Gas-Filled Balloon Signs*
11. *Other Signs Prohibited:* Other signs not expressly permitted shall be prohibited.

Section 13.13 Front Yard Setback Determination

As defined in Chapter 2, the front yard is measured from the front lot line to the building. The front yard setback is the minimum required depth of the front yard. The front lot line is defined as either the right of way line or easement boundary or as the property line separating the lot from the right of way or easement. It is from this line that the setback distance is measured.

In order to accurately determine the front setback, one must be able to accurately locate the front lot line. To do so requires a survey of the property. For most applications in Algansee Township, a survey is not required. However, as indicated, without a survey, the accuracy of determining setback location diminishes. Other reliable sources include survey stakes, benchmarks, monuments, and similar devices that can be tied to documentation related to the property. In instances where these sources are not reliable, where there are disputes over property lines, where questions or concerns exist about the information presented on a plan or drawing, where the required distance is too close to make a decision without the accuracy of a survey, or other similar instances, then the Township may require a survey be submitted.

In the absence of any of these resources and if the applicant elects not to submit a survey, the Township will determine the setback by measuring the distance from the centerline of the road. It is assumed in these instances that the road is located in the middle of the right of way or easement. Half of the width of the right of way or easement is added to the setback requirement and this distance is measured from the centerline to determine the setback location. The Township shall not be held responsible for development that results in nonconforming structures or for enforcing standards in excess of the required setback distances as a result of measurements from the centerline of the road due to the fact that the road may not be located in the center of the right of way or easement.

Section 13.14 Dwelling Unit – Qualifying Provisions

- A. The following standards shall apply to the AG, R-1, R-2, and R-3 zoning districts only. Mobile Homes in an approved Manufactured Home Park shall be exempt from these requirements.

- B. All dwellings shall satisfy the minimum floor area standards provided for each district.

- C. Dwellings must be firmly attached to a permanent foundation. Foundations must be frost resistant and be in accordance with the State of Michigan (BOCA) Building Codes and other applicable Township Codes, as approved by the County Building Official. Wheels, Towing Mechanisms, Undercarriages, etc., required solely to transport the Dwelling to the Building Site shall be removed prior to attachment to the foundation.

- D. Connections to Private or Public Water and Sanitary Facilities as approved by the Health Dept. and this Ordinance must be provided.

Chapter 14

Specific Development Standards

Section 14.01 Purpose

The purpose of this Chapter is to set forth additional regulations for certain recognized uses. These additional regulations are required to minimize potential adverse impacts and to protect the general health, safety and welfare of the citizens of the Township.

Section 14.02 Home Occupations

Generally, commercial uses are found to be incompatible with residential uses. However, under certain restrictions, the adverse impacts from very small commercial uses can be minimized. The Township's purpose in allowing for home occupations is to promote economic development by facilitating the start-up of new businesses, to provide for the convenience of residents in accessing needed goods and services, and to protect property values and the health, safety and welfare of the Township residents. Home occupations are permitted according to the various zoning district regulations and are subject to the provisions of this Section.

- A. **Minor Home Occupations.** A minor home occupation is a home occupation in which there are no outward indications of the business, which does not have customers or clients coming to the residence in which it is located and in which there are no employees other than the residents of the dwelling. Minor home occupations do not require a zoning permit and are subject to each of the following conditions:
1. The dwelling in which the home occupation is operated shall be the principle residence or associated accessory building of the owner of the home occupation business. The accessory building shall not be built or expanded solely for the purpose of hosting the home occupation.

2. There shall be no employees at the dwelling other than actual residents for whom the dwelling is their principle residence.
3. No customers or clients shall be allowed at the dwelling.
4. There shall be no signs for the business.
5. There shall be no deliveries to or from a minor home occupation with a vehicle larger than a 15,000 pound truck or with more than two (2) axles.
6. All operations of the home occupation shall take place within fully enclosed buildings. There shall be no outside storage.

B. Major Home Occupations. A major home occupation is a home occupation in which the impacts of the business on adjacent and nearby residences are minimal and there are no adverse impacts. Major home occupations are permitted by Special Use Permit according to the various Zoning District Regulations. In granting a Special Use Permit additional conditions and restrictions may be imposed as deemed appropriate by the Township to further minimize impacts. In all cases, a major home occupation shall comply fully with the following conditions:

1. The dwelling in which the home occupation is operated shall be the principle residence or associated accessory building of the owner of the home occupation business.
2. There shall be no more than two (2) employees at the dwelling, other than actual residents for whom the dwelling is their principle residence, at any time.
3. No more than two (2) customers shall be allowed at the dwelling at any one time.
4. There shall be no more than one (1) sign for the business. Such sign shall not exceed six (6) square feet in size and shall not exceed six (6) feet in height.
5. There shall be no deliveries to or from a major home occupation with a vehicle larger than a 15,000 pound truck or with more than two (2) axles.

6. The Planning Commission shall assure that there will be adequate parking and shall require one (1) or more off-street parking spaces as a condition of the Special Use Permit.
7. Notwithstanding the requirements of item 6 above, the owner of the home occupation business shall be responsible for providing adequate off-street parking for all vehicles associated with the business use and the residential use. If the operation of the home occupation business results in any vehicles being parked anywhere other than on the lot for the dwelling, the owner of the business shall be deemed to be in violation of this Ordinance and shall be subject to the enforcement provisions provided in Chapter 21.
8. All operations of the home occupation shall take place within fully enclosed buildings. There shall be no outside storage.

Section 14.03 Riparian Lot Regulations

- A. **Intent.** It is the intent of this section to promote the integrity of the lakes within the Township while preserving the quality of recreational use of the inland waters; to protect the quality of the lakes by discouraging excessive use; to promote the ecological balance of the waters by limiting incompatible land use of the wetlands associated with the lakes; and to maintain the natural beauty of the lakes by minimizing man-made adjustments to the established shorelines. Nothing in this Ordinance shall be construed to limit access to lakes or waterways by the general public by way of a public park or public access site provided or maintained by any unit of state, county or local government.
- B. **Regulations.** In any zoning district where a parcel of land is contiguous to a lake or pond, either natural or man-made, such parcel of land may be used as access property or as common open space held in common by a subdivision, association or any similar agency; or held in common by virtue of the terms of a plat of record; or provided for common use under deed restrictions of record; or owned by two or more dwelling units located away from the waterfront only if the following conditions are met:

1. That said parcel of land shall contain at least 70 linear feet of water frontage and a lot depth of at least 100 feet for each dwelling unit or each single-family unit to which such privileges are extended or dedicated. Frontage shall be measured by a straight line which intersects each side lot line at the water's edge.
2. That in no event shall water frontage of such parcel of land consist of a swamp, marsh, or bog as shown on the most recent U.S. Geological Survey Maps, or the Michigan Department of Natural Resources MIRIS Map, or have otherwise been determined to be wetland by the Michigan DNR; and that in no event shall a swamp, marsh, or bog be altered by the addition of earth or fill material or by the drainage of water for the purpose of increasing the water frontage required by this regulation.
3. That in no event shall such parcel of land abut a man-made canal or channel, and no canal or channel shall be excavated for the purpose of increasing the water frontage required by this regulation.
4. That access property, as provided for in and meeting the conditions of this Ordinance, regardless of total area, shall not be used as a residential lot for the purpose of constructing a dwelling and/or accessory structure(s), or for any commercial or business use.
5. If such parcel of land was platted for access purposes prior to November, 2003 and has not been reduced in size nor expanded in terms of the number of lots or units served but does not meet the standards presented above, such parcel may continue to serve as an access parcel but may not be reduced in size or expanded in terms of lots or units serviced without coming into compliance with the standards presented above.

Section 14.04 Adult Uses and Sexually Oriented Businesses

- A. **Authorization.** In the preparation, enactment, and enforcement of this section, it is recognized that there are some uses relating to sexual material which, because of their very nature have serious operational characteristics that have a harmful or potentially harmful effect upon residential, office, and commercial areas. Because certain forms of expression relating to sexual material have particular functional and inherent characteristics with a high potential of being injurious to surrounding properties by depreciating the quality and value of such property, it is the intent of this section to provide a framework of reasonable regulatory standards which can be used for approving or disapproving the establishment of this type of use in a viable and accessible location, where the adverse impact of their operations may be minimized.

However, it is recognized that these specified controlled uses have legitimate rights under the United States Constitution as well as locational needs similar to many other retail establishments. Special designation and regulation in the I-1 District is therefore necessary to ensure that adverse effects of such uses will not contribute to the degradation of adjacent parcels and the surrounding area. Furthermore, these controls are intended to provide commercially viable locations within the Township where these uses are considered more compatible and less harmful.

- B. **Uses Specified.** Uses subject to these controls as defined herein as adult uses include the following:
1. Adult related businesses
 2. Adult motion picture theaters
 3. Adult book and video stores
 4. Adult cabarets
 5. Nude artist and photography studios

C. **Site Location Principles.** The following principles shall be utilized to evaluate the proposed location of any such use. These principles shall be applied by the Planning Commission as general guidelines to help assess the impact of such a use upon the neighborhood and area in which it is proposed:

1. No adult use business shall be located within five-hundred (500) feet, measured from the outer most boundaries of the lot or parcel upon which the proposed adult use will be situated, of a residential zoning district, church as herein defined, cemetery, school, library, public park or playground, non-commercial assembly facility, public office building, licensed day care facility as defined in Act 116 of the Public Acts of 1973, as amended (MCLA 722.111 et seq.), or arcade.
2. An adult use business shall be located as a special use in the I-1 Industrial District.
3. No adult only business shall be permitted within a one-thousand (1,000) foot radius of an existing adult only business. Measurement of the one-thousand (1,000) foot radius shall be made from the outer most boundaries of the lot or parcel upon which the proposed adult use will be situated.

D. **Site Development Requirements.**

1. The site layout, setbacks, structures, function, and overall appearance shall be compatible with adjacent uses and structures.
2. Windows, displays, signs, and decorative structural elements of buildings shall not include or convey examples of a sexual nature.
3. All building entries, windows, and other such openings shall be located, covered, or screened in such a manner as to prevent viewing into the interior from any public or semi-public area.
4. No loud speakers or sound equipment shall be used by an adult only business that projects sound outside of the adult only business so that sound can be discerned by the public from public or semi-public areas.

5. An adult only business shall clearly post at the entrance to the business, or that portion of the business utilized for adult only purposes, that minors are excluded.

E. Use Regulations.

1. No person shall reside in or permit a person to reside in the premises of an adult only business.
2. No person shall operate an adult only business unless a notice indicating the process for all services performed therein is conspicuously placed in the room where such business is carried on. No person operating or working at such a place of business shall solicit or accept any fees except those indicated on any such notice.
3. The owners, operators, or persons in charge of an adult only business shall not allow entrance into such building or any portion of a building used for such use, to any minors as defined by MCL 722.51 et seq., as amended.
4. No adult only business shall possess or disseminate or permit persons therein to possess or disseminate on the premises any obscene materials as defined by MCL 752.361 et seq., as amended.
5. No person shall operate an adult personal service business without obtaining a current zoning certificate and current building occupancy permit. Such licenses shall be issued by the Zoning Administrator, Building Inspector, or duly appointed designee following an inspection to determine compliance with the relevant ordinances of Algansee Township. Such license shall be subject to all regulations of federal, state, and local governments.
6. No person shall lease or sublease, nor shall anyone become the lessee or sub-lessee of any property for the purpose of using said property for an adult entertainment business without the express written permission of the owner of the property for such use and only upon having obtained the appropriate licenses and permits from Algansee Township, County of Branch, and State of Michigan.

- F. **Conditions and Limitations.** In granting a Special Use Permit the Planning Commission may impose any such conditions or limitations upon the location, construction, maintenance or operation of the establishment or regulated use, as may in its judgment, be necessary for the protection of the public interest and the public health, safety and welfare.

Section 14.05 Wireless Communication Facilities

- A. **Intent.** Regulation of commercial wireless communication service towers is necessary to protect the public health, safety and welfare while meeting the communication needs of the public. The intent of the Ordinance is to minimize adverse visual effects of towers and to avoid interference with adjacent property while adequately serving the community.
- B. **Permitted as Principal Use.** In the following circumstances, a new wireless communication facility shall be a principal permitted use, or a permitted accessory use, subject to site plan approval in accordance with Chapter 17, and subject to the approval of a Special Use permit in accordance with Chapter 18:
1. Collocation of an attached wireless communication facility which has been previously approved for collocation by the Planning Commission;
 2. Wireless communication facilities attached to a utility pole located within a right-of-way, where the existing pole is not modified to materially alter the structure and/or result in an impairment of sight lines or other safety interests; or
 3. Wireless communication facilities with monopole support structures of one-hundred-fifty (150) feet or less in height within the Industrial (I-1) and Agricultural (AG) zoning districts.
 4. Wireless communication facilities with support structures that are greater than one-hundred-fifty (150) feet in height within the Industrial (I-1) and Agricultural (AG) zoning districts provided they are located five-hundred (500) or more feet from any residentially zoned area.

- C. **Special Use Permit Application.** The application for a Special Use Permit for a wireless communication facility shall contain, in addition to the requirements of Chapter 18, the following information:
1. *Demonstration of Need.* Demonstration of the need for the proposed wireless communication support structure due to a minimum of one of the following:
 - a. Proximity to an interstate or limited-access highway or major thoroughfare.
 - b. Proximity to areas of population concentration.
 - c. Proximity to commercial or industrial business centers.
 - d. Avoidance of signal interference due to buildings, woodlands, topography, or other obstructions.
 2. *Service Area and Power.* As applicable, a description of the planned, proposed, or existing service area of the facility, and wireless communication support structure height and type, and signal power expressed in effective radiated power (ERP) upon which the service area has been planned.
 3. *Map of Other Facilities Nearby.* A map showing existing or proposed wireless communication facilities within Algansee Township and Branch County, and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the Township, which are relevant in terms of potential collocation or in demonstrating the need for the proposed facility. A written request for confidentiality must be prominently stated by the applicant.
 4. *Data on Other Facilities Nearby.* For each location identified by the applicant/provider, the application shall include the following data, if known, with the applicant/provider expected to exercise reasonable diligence to obtain information:

- a. The structural capacity and whether it can accommodate the applicant's facility, as proposed or modified.
 - b. Evidence of property owner approvals.
 - c. Whether the location could be used by the applicant/provider for placement of its attached wireless communication facility; if the location cannot be used, a disclosure of the technological considerations involved, with specific reference to how use of the location would prohibit the applicant/provider from providing services.
5. *Collocation.* All wireless communication support structures shall provide for collocation and shall accommodate no more than six (6) attached wireless communication facilities. Support structures shall allow for future rearrangement of attached wireless communication facilities to accept other attached facilities mounted at varying heights. The application shall indicate the applicant's commitment to allow for future collocations. The owner of any communication support structure who does not allow for a feasible collocation shall be deemed to be in violation of this Ordinance and subject to the enforcement provisions of Chapter 21.
- a. *Determining Feasibility of Collocation.* Collocation shall be deemed to be "feasible" when all of the following are met:
 - i. The applicant/provider will pay market rent or other market compensation for collocation.
 - ii. The site is able to provide structural support, considering reasonable modification or replacement of a facility.
 - iii. The collocation being considered is technically reasonable and will not result in unreasonable interference, given appropriate physical adjustments.

iv. The height of the structure necessary for collocation will not be increased beyond maximum height limits.

b. When Collocation is Not Feasible. Wireless communication support structures that do not allow for collocation shall not be approved unless the applicant documents that its attached wireless communication facilities cannot be feasibly collocated or accommodated on an existing support structure or other existing structure due to one or more of the following reasons:

i. The planned equipment would exceed the structural capacity of the existing support structure or other structure, as documented by licensed engineer, and the existing support structure or other structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

ii. The planned equipment would cause interference affecting the function of other equipment on the existing support structure or other structure as documented by a licensed engineer, and the interference cannot be prevented at a reasonable cost.

iii. Support structures and other structures within the search radius cannot accommodate the planned equipment at a height necessary for the coverage area and capacity needs to reasonably function as documented by a qualified and licensed professional engineer.

iv. Other unforeseen reasons that make it not feasible to locate the planned communications equipment upon an existing support structure or other structure.

D. **Special Use Permit Approval.** In addition to the other requirements for approval of a Special Use Permit, the Planning Commission shall not approve a Special Use Permit unless it finds, based on the information submitted in accordance with paragraph C

above, that there is a demonstrable need for the proposed wireless communication facility.

E. **Site Plan Application and Approval Requirements.** The application for Site Plan Approval shall include, in addition to the requirements of Chapter 17, the following information:

1. *Fall Zone Certification.* To determine the required setbacks, a State of Michigan registered engineer shall submit a determination and certification regarding the manner in which the proposed structure will fall. The fall zone or collapse distance as cited in the certification shall therefore be the minimum setback required. However, in the absence of an engineer's certification, the minimum setback shall be equal to the total height of the tower. Furthermore, in no case shall the minimum setback from a property line be less than seventy-five (75) feet.
2. *Description of Security for Removal.* A financial security (Performance Guarantee) may be required for the wireless communication support structure to ensure removal and maintenance, in accordance with the provisions of Chapter 21. The security may be required at the discretion of the Planning Commission.
3. *Data on FCC and FAA Approval.* An application for a wireless communications installation shall have been first submitted for review and have been approved for such facility before the Federal Communications Commission (FCC), Michigan Aeronautics Commission (MAC), and Federal Aviation Administration (FAA). Authorization for the facility shall be submitted to the Township as part of the application packet. Approved facilities shall be subject to all FAA, MAC and FCC requirements for placement, maintenance, and operation.
4. *Lot Size and Access.* All wireless communication facilities shall be located on a minimum of a one-half (2) acre parcel and shall have direct or deeded access to a public road right-of-way. Verification of said access shall be provided with the application.

5. *Landscaping.* All existing vegetation shall be shown on the submitted site plan and shall be preserved during and after installation to the maximum extent possible. Furthermore, additional landscaping may be required by the Planning Commission.
6. *Fencing.* All wireless communication sites shall be fenced with appropriate material with a minimum height of six (6) foot and a maximum height of eight (8) feet. All support structures, wires, and accessory buildings shall be located within the fenced area. The use of barbed wire, electric current or charge of electricity is strictly prohibited.
7. *Compatibility of Support Structures.* Wireless communication support structures shall not be injurious to the neighborhood or detrimental to the public safety and welfare. Support structures shall be harmonious with the surrounding areas, and aesthetically and architecturally compatible with the natural environment. In addition, all structures shall be equipped with an anti-climbing device to prevent unauthorized access.
8. *Maximum Height.* The maximum height of wireless communication support structures shall be the lesser of: a) two-hundred-fifty (250) feet; or b) the minimum height demonstrated to be necessary by the applicant; or c) such lower heights as required and approved by the Federal Aviation Administration. The applicant shall demonstrate a justification for the height and provide an evaluation of alternative designs which might result in lower heights. Accessory buildings shall be limited to the maximum height for accessory structures within the underlying zoning district.
9. *Compatibility of Accessory Structures.* Wireless communication facilities proposed on the roof of a building with an equipment enclosure shall be architecturally compatible with the principal building upon which it is located. The equipment enclosure may be located within the principal building or may be an accessory building, provided the accessory building conforms to all district

requirements for accessory buildings and is constructed of the same or compatible building material as the principal building.

10. *Federal and State Requirements.* The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted on the site plan. Structures shall be subject to any State and Federal regulations concerning non-ionizing electromagnetic radiation. Furthermore, if more restrictive State or Federal standards are adopted in the future, the antenna shall be made to conform to the extent required by such standard or the approval and permit for the structure shall be subject to revocation by the Township. The cost for testing and verification of compliance shall be borne by the operator of the antenna.

- F. **Radio Frequency Emission Standards.** Wireless communication facilities shall comply with applicable Federal and State standards relative to electromagnetic fields and the environmental effects of radio frequency emissions.

Section 14.06 Parking Requirements

In all zoning districts off-street parking shall be provided for the parking of motor vehicles for the use of occupants, employees and patrons of all buildings or structures hereinafter erected or altered after the effective date of this Ordinance, in accordance with the standards set forth in this Section. Whenever the use of a building or structure or lot is commenced, changed or expanded, off-street parking shall be required in accordance with the standards set forth in this Section. If the intensity of use of any building or structure or lot is increased through the addition of dwelling units, increases in floor area, increases in seating capacity, or through other means, additional parking shall be required in accordance with the standards set forth in this Section.

A. **General Requirements**

1. *Single- and Two Family Dwellings:* Off-street parking facilities required for one and two-family dwellings shall consist of a parking strip, driveway, garage, or combination thereof and shall be located on the lot they are intended to serve.

2. *Multi-family Dwellings:* Off-street parking required for multiple-family dwellings shall be a parking lot located on the same lot or parcel as the building or use they are intended to serve, in accordance with the standards set forth in this Section.
3. *All Non-Residential and Non-Agricultural Uses:* Off-street parking required for all other uses shall be a parking lot located on the same lot as the building or use they are intended to serve, in accordance with the standards set forth in this Section.
4. No building or structure, for which a parking lot is required, shall be used and no Certificate of Occupancy shall be issued until and after the Zoning Administrator has inspected and certified that the required parking has been constructed as herein required. In instances where the Planning Commission finds that weather conditions prohibit parking lot construction, the construction may be temporarily waived, pending suitable weather, provided that the property owner provides security in accordance with the requirements of Chapter 21.

B. Parking Space Standards. When off-street parking is required, the number of parking spaces to be provided shall be as follows:

1. Multi-family dwellings:
 - a. One and one-half (1 2) spaces for each one-bedroom unit
 - b. Two (2) spaces for each two-bedroom unit
 - c. Two and one-half (22) spaces for each three bedroom unit
 - d. Three (3) spaces for each four bedroom unit
2. Places of public congregation, such as churches, and private clubs: One (1) space for each three (3) persons allowed within based on the maximum occupancy load as established by the building, fire and health code.
3. Manufacturing and industrial uses: (1) parking space per six-hundred (600) square feet of building floor area.

4. Commercial and office uses: (1) parking space per two-hundred (200) square feet of building floor area.
5. For uses not identified above, and in other cases, the Planning Commission may require more or less parking as part of a Site Plan Review or Special Use Permit, based on data from the *Trip Generation Guide* published by the American Society of Traffic Engineers.

C. **Layout, Construction and Maintenance Standards.** Any parking lot constructed after the effective date of this Ordinance shall comply with the following standards:

1. There shall be provided two-way travel lanes between aisles of parking spaces with a total minimum width of twenty (20) feet.
2. Adequate ingress and egress to the parking lot shall be provided by means of clearly defined and limited drives, in accordance with the requirements of the Branch County Road Commission. No parking space shall back directly out onto a public street or road.
3. The entire parking area, including parking spaces and maneuvering lanes, shall have an asphalt or concrete surface; and shall be graded and drained so as to dispose of surface water which might accumulate on such area. No surface water from such parking area shall be permitted to drain onto adjoining private property or across a public sidewalk. Parking lots shall be continuously maintained with a hard, smooth, dust-proof surface at all times.
4. In all cases where parking lots abut public or private sidewalks, continuous concrete curbing or bumper stops, at least six (6) inches high, shall be placed so that a motor vehicle cannot be driven or parked on any part of the sidewalk. In all cases where necessary for the protection of the public and the adjoining properties, streets or sidewalks, curbs as described above, shall be installed.
5. All spaces shall be outlined with three (3) inch stripes of paint, the color of which contrasts with the parking lot surface.

6. All lighting used to illuminate any off-street area shall not exceed twenty (20) feet in height above the parking surface grade and shall be directed or shielded so as not to shine onto any adjacent properties or public right-of-ways.
7. Accessory directional signs shall be permitted in parking areas provided that no sign exceed five (5) feet in height and four (4) square feet in sign area. Such signs shall not count towards the maximum total sign area allowed for the lot.
8. The Planning Commission may impose additional requirements as part of a Site Plan Review or Special Use Permit approval.

Section 14.07 Manufactured Housing Development

- A. **Statement of Intent.** This section is intended to provide for the location and regulation of manufactured housing parks as an affordable housing alternative where appropriate and consistent with the general character of Algansee Township. It is intended that manufactured housing parks be provided with necessary community services in a setting that provides a high quality of life for its residents. These districts should be located in areas where they will be compatible with adjacent land uses. Accordingly, manufactured housing parks shall be permitted, by special exception in the Urban Residential R-2 zoning district.

The regulations established by state law (Michigan Public Act 96 of 1987, as amended) and the Manufactured Housing Commission Rules govern all manufactured housing parks. When regulations in this Section exceed the state law or the Manufactured Housing Commission Rules they are intended to insure that manufactured housing parks meet the development and site plan standards established by this Section for other comparable residential development and to promote the health, safety and welfare of the Township's residents.

These specific standards reflect the nature of Algansee Township in contrast with some other areas of Michigan where the universal rules of the Manufactured Housing

Commission may be appropriate. These standards encourage development which compliments and protects the investment on adjacent properties, and promotes preservation of important natural features.

B. Development Standards and Requirements.

1. *Preliminary Plan Review.* Pursuant to Section 11 of Michigan Public Act 96 of 1987, as amended, a preliminary plan shall be submitted to the Township for review by the Planning Commission. The preliminary plan shall include the location, layout, general design, and general description of the project. The preliminary plan shall not include detailed construction plans.

In preparing the preliminary plan and when reviewing the plan, the applicant and Planning Commission shall follow the procedures and requirements in Chapter 17, Site Plan Review, where applicable, except where said procedures and requirements are superseded by requirements in Public Act 96 of 1987, as amended, or the Manufactured Housing Commission Rules. Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Planning Commission shall take action on the preliminary plan within sixty (60) days after the Township officially receives the plan.

Applicants may request to meet with Township officials, including any consultants designated by the Township Board of Trustees, to preliminarily review applications prior to filing. Such pre-filing conferences are intended to assist the applicant and facilitate the future review and approval of the application. However, no suggestions, recommendations, or other comments made by Township officials, staff or consultants at such conferences shall constitute approval of any application.

2. *Minimum Requirements.* Manufactured housing parks shall be subject to all the rules and requirements as established and regulated by Michigan law including, by the way of example, Act 96 of 1987, as amended, and the Manufactured

Housing Commission Rules and, in addition, shall satisfy the following minimum requirements.

3. *General Authority.* Manufactured housing parks shall be constructed, licensed, operated, and managed in accordance with the provisions of the Manufactured Housing Commission Act, Act 96 of 1987, and subsequently adopted rules and regulations governing manufactured housing parks. Application for permit to construct a manufactured housing park shall be submitted to the Michigan Bureau of Construction Codes. The Department of Consumer and Industry Services is the agency charged with licensing of manufactured housing parks. Preparation of the application, support data, and local agency review of the above mentioned materials shall conform to the requirements of Act 96.
4. *Codes.* All structures and utilities to be constructed, altered, or repaired in a manufactured housing parks shall comply with all applicable codes of the Township, the State of Michigan, the U.S. Department of Housing and Urban Development and the Manufactured Housing Commission, including building, electrical, plumbing, liquefied petroleum gases and similar codes, and shall require permits issued therefore by the appropriate offices. However, a manufactured housing unit built prior to June 15, 1976 which otherwise meets HUD certification requirements and standards for construction shall be permitted. All structures and improvements to be constructed or made under the County Building Code shall have a building permit issued therefore by the County Building Inspector prior to construction.
5. *Parcel Size.* The minimum parcel size for manufactured housing parks shall be fifteen (15) acres.
6. *Site Size.* The manufactured housing parks shall be developed with sites having a minimum size of five-thousand-five-hundred (5,500) square feet per manufactured housing unit. This square foot minimum for any one site may be reduced twenty percent (20%) provided that the individual site shall be equal to at

least four-thousand-four-hundred (4,400) square feet. For each square foot of land gained through the reduction of a site below the required standard, at least an equal amount of land shall be dedicated as open space for the collective use and enjoyment of all manufactured housing park residents. This open space shall be in addition to the open space required by this Section and under R125.1946, Rule 46 and R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code. However, in no case shall the open space and distance requirements be less than that required under R125.1946, Rule 46 and R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code.

7. *Dimensional Requirements.* Manufactured housing units shall comply with the following minimum distances and setbacks:
 - a. Twenty (20) feet from any part of adjacent manufactured housing units.
 - b. Ten (10) feet from any on-site parking space of an adjacent manufactured housing unit site.
 - c. Ten (10) feet from any accessory attached or detached structure of an adjacent manufactured housing unit.
 - d. Fifty (50) feet from any permanent building.
 - e. One hundred (100) feet from any baseball, softball, or similar recreational field.
 - f. Fifteen (15) feet from the edge of an internal road.
 - g. Seven (7) feet from any parking bay.
 - h. Seven (7) feet from a common pedestrian walkway.
 - i. All manufactured housing units shall be set back not less than twenty-five (25) feet from any park boundary line, including the existing and future rights-of-way lines of abutting streets and highways. Accessory buildings

shall meet the setback requirements as established by this Ordinance for residential districts.

- j. Forty (40) feet from the edge of any railroad right-of-way.
8. *Building Height.* Buildings in a manufactured housing development shall not exceed two-and-one-half (22) stories or thirty-five (35) feet, except that storage sheds shall not exceed fifteen (15) feet in height.
9. *Roads.* Roads shall satisfy the minimum dimensional, design, and construction requirements as set forth in the Manufactured Housing Commission Rules except as follows:
- a. Two-way streets shall have a minimum width of twenty-one (21) feet where no parallel parking is permitted, thirty-one (31) feet where parallel parking is permitted on one side only, and forty-one (41) feet where parallel parking is permitted on both sides of the street. Roads not permitting parking shall be clearly marked or signed.
 - b. One-way streets shall have a minimum width of thirteen (13) feet where no parallel parking is permitted, twenty-three (23) feet where parallel parking is permitted on one side only, and thirty-three (33) feet where parallel parking is permitted on both sides of the street. Roads not permitting parking shall be clearly marked or signed.
 - c. The alignment and gradient of a road shall be adapted to the topography and shall be graded for its full width to drain surface water. Internal road gradient and drainage construction phase features shall meet the requirements of the Manufactured Housing Commission Rule 908 and Rule 47 of the Michigan Department of Environmental Quality standards.
 - d. Cul-de-sacs, where proposed, shall have a minimum radius of thirty (30) feet (60 ft. in diameter). Maximum cul-de-sac length shall be one-thousand (1,000) feet, provided no more than thirty-five (35) units

may be served by a single means of access. A dead end road shall terminate with an adequate turning area. A blunt-end road is prohibited.

- e. Adequate sight distance shall be provided at all intersections.
- f. The main entrance to the park shall have access to a public thoroughfare or shall be connected to a paved public collector or arterial road by a permanent easement which shall be recorded by the developers. Sole access to the park via an alley is prohibited.
- g. All roads shall be clearly marked with appropriate identification and traffic control signs. The name of any streets or roads shall be approved by Branch County.
- h. All roads shall be hard-surfaced and may be constructed with curbs and gutters.

10. *Parking.*

- a. All manufactured housing sites shall be provided with two (2) parking spaces per Manufactured Housing Commission Rules 925 and 926.
- b. In addition, a minimum of one (1) parking space for every three (3) manufactured housing sites shall be provided for visitor parking located convenient to the area served.
- c. Off-street parking in accordance with Chapter 14 of this Ordinance shall be provided in conjunction with any community buildings, recreational facilities or office/maintenance buildings located within the manufactured home park.
- d. No unlicensed or inoperable vehicle of any type shall be parked in this district at any time except within a covered building.

- e. Common areas for the storage of boats, motorcycles, recreation vehicles, and similar equipment may be provided in a manufactured housing park, but shall be limited to use only by residents of the manufactured housing parks. The location of such storage areas shall be shown on the site plan and shall be prohibited on manufactured housing sites and in designated open space areas. No part of any such storage area shall be located in any yard required on the perimeter of the manufactured housing parks. Such storage area shall be surfaced with gravel, asphalt or similar substance and shall be screened from view from adjacent residential properties with an opaque six (6) foot wooden fence, six (6) foot masonry wall with landscaping, or landscaped greenbelt. If a landscaped greenbelt is used, it shall consist of closely-spaced evergreen plantings (that is, no farther than fifteen (15) feet apart) which can be reasonably expected to form a complete visual barrier that is at least six (6) feet above ground level within three (3) years of planting. Common laundry drying areas, trash collection stations, surface mounted transformers, and similar equipment and facilities shall also be screened from view by plant material and/or man-made screens.
11. *Sidewalks.* Concrete sidewalks having a minimum width of three (3) feet shall be provided on at least one side of collector roads in the manufactured housing park. In addition, a five (5) foot wide concrete sidewalk shall be constructed along the public road(s) on which the manufactured housing park fronts. Such sidewalk shall be located within the road right-of-way, one foot off of the right-of-way line.
12. *Accessory Buildings and Facilities.*
- a. Accessory buildings and structures, including park 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 park only and shall be shown on the submitted Preliminary Plan for approval.

- b. Site-built structures within a manufactured housing park shall be constructed in compliance with the Branch County Building Codes and shall require all applicable permits. Any addition to a manufactured housing unit that is not certified as meeting the standards of the U.S. Department of Housing and Urban Development for manufactured housing shall comply with the Branch County Building Codes.
 - c. No personal property shall be stored outside or under any manufactured home. Storage structures (e.g., sheds, garages, etc.) may be used to store personal property on site. The installation of any such shed or garage shall require a building permit. Storage sheds need not be supplied by the owner or operator of the manufactured housing park.
 - d. Travel trailers or recreational vehicles shall not be occupied as living quarters in all new and future manufactured housing developments.
 - e. Towing mechanisms, including tires, shall be removed from all homes at the time of installation and stored so as not to be visible from the exterior of the community. Towing mechanisms, including axles, may, however, be stored under manufactured homes within a community.
13. *Open Space.* Open space shall be provided in any manufactured housing park containing fifty (50) or more manufactured housing sites, and maintained by the owner or operator of the park. The open space shall comply with the following requirements:
- a. A minimum of two percent (2%) of the park's gross acreage shall be dedicated to well drained, usable open space developed with appropriate recreational facilities and play equipment, provided that a minimum of twenty-five-thousand (25,000) square feet of contiguous open space.
 - b. Open space shall be shaped and located conveniently in relation to the majority of dwelling units intended to be served. Up to twenty-five percent

(25%) of the required open space may consist of swamp areas, marshy areas, and similar limited use areas.

14. *Landscaping and Screening.*

- a. **Perimeter Screening.** All manufactured housing parks shall be screened from existing adjacent residential uses by either a six (6) foot wall or a densely planted landscaped greenbelt. In addition a landscaped buffer shall be provided along the public road frontage of any manufactured housing park.
 - i. If provided, screen walls shall be constructed of masonry material that is constructed of face brick, decorative block, or poured concrete with a simulated brick or stone pattern. Required walls shall be placed inside and adjacent to the lot line except where underground utilities would interfere with the placement of the wall or where the wall would unreasonably obstruct the use of adjacent property, in which case the wall may be set back from the property line a sufficient distance to resolve such concerns.
 - ii. If a landscaped greenbelt is used, it shall be a minimum of twenty (20) feet in width and consist of closely-spaced evergreen plantings (that is, no farther than fifteen (15) feet apart) which can be reasonably expected to form a complete visual barrier that is at least six (6) feet above ground level within three (3) years of planting. Deciduous plant materials may be used provided that visual screening is maintained throughout the year.
- b. **Landscaping Adjacent to Rights-of-Way.** A landscaped berm measuring three (3) feet in height along a landscaped greenbelt shall be constructed along the public rights-of-way on which the manufactured housing park fronts. The berm shall be constructed with slopes no steeper than one (1) foot vertical for each three (3) feet horizontal. Landscaping adjacent to the

road shall comply with the following requirements, which are consistent with landscaping required for other types of development in Algansee Township:

- i. Deciduous tree (e.g., Red or Norway Maple, Linden, Ash) shall be planted at the rate of 1 per 40 lineal feet of road frontage.
 - ii. Deciduous or evergreen shrubs shall be planted at the rate of 1 per 3 lineal feet of road frontage.
 - c. Site Landscaping. A minimum of one (1) deciduous or evergreen tree shall be planted per two (2) manufactured housing sites.
 - d. Parking Lot Landscaping. Off-street parking lots containing more than fifteen (15) spaces shall be provided with at least ten (10) square feet of interior parking lot landscaping per space. Such areas shall measure at least one-hundred-fifty (150) square feet and shall be covered by grass, ground cover, shrubs or other live plant material. At least one (1) deciduous tree shall be planted per parking lot landscaped area.
15. *Canopies*. Canopies and awnings may be attached to any manufactured dwelling unit and may be enclosed for use as a sun room or recreation room, but not as a bedroom. Canopies and awnings shall comply with the setback and distance requirements set forth in this Section but shall not require a building permit unless fully enclosed or exceeding ten (10) foot by ten (10) foot in size.
16. *Waste Receptacles*. If proposed, waste receptacles shall comply with the following requirements as well as Part 5 of the MDEQ Standards for waste receptacles:
- a. Receptacles shall be set back a minimum distance of fifty (50) feet from the perimeter of the manufactured housing park and at least fifteen (15) feet from any building, in a location that is clearly accessible to the servicing vehicle. Receptacles shall be provided within one-hundred-fifty

(150) feet of each manufactured housing unit, unless curb-side collection is provided.

- b. Receptacles shall be screened on three (3) sides with a decorative masonry wall or wood fencing, not less than six (6) feet in height. The fourth side of the dumpster screening shall be equipped with an opaque lockable gate that is the same height as the enclosure around the other sides.
- c. Receptacles shall be placed on a concrete pad which shall extend six (6) feet in front of the dumpster enclosure. Bollards (concrete filled metal posts) shall be installed at the opening of the dumpster enclosure to prevent damage to the screening wall or fence.

17. *Signs.*

- a. Each manufactured housing park shall be permitted either:
 - i. Two (2) signs, each of which shall not exceed five (5) feet in height and sixteen (16) square feet in area and shall be set back a minimum of ten (10) feet from any property or right-of-way line; or
 - ii. One (1) sign which shall not exceed five (5) feet in height and thirty-two (32) square feet in area and shall be set back a minimum of ten (10) feet from any property or right-of-way line.
- b. Management offices and community buildings in a manufactured housing park shall be permitted one (1) identification sign not to exceed six (6) square feet in area.

18. *Water and Sewer Service.* All manufactured housing parks shall be served by approved central water and sewage systems, which shall meet the requirements of the Branch County Health Department and the Michigan Department of Public Health. Public sewer systems shall be required in manufactured housing parks, if available within two-hundred (200) feet at the time of preliminary plan approval.

If a public sewer system is unavailable, the park shall connect to a state-approved sewage system. The plumbing connections to each manufactured housing site shall be constructed so that all lines are protected from freezing, accidental bumping, or from creating any nuisance or health hazard.

19. *Storm Drainage.* All developed portions of the manufactured housing park shall be served by adequate storm drainage facilities, independent of sanitary sewers, designed and constructed in accordance with applicable local, county, and state regulations as outlined in Part IV of the MDEQ Standards. On-site storm water detention facilities may be required.
20. *Underground Wiring and Utilities.* All local distribution lines for franchised utilities, including but not limited to telephones, electrical service, and cable television, shall be placed entirely underground throughout mobile home parks. Mainlines and perimeter feed lines located on a Section or Quarter Section Line may be above ground if they do not overlap the park. Conduits or cables shall be placed within private easements provided to the service companies by the proprietor and/or developer or within public ways. Those telephones and electrical facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All telephones and electrical facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission.
21. *Fuel Oil and Gas.* Any fuel oil and gas storage shall be located in underground tanks, at a safe distance from all manufactured housing sites. All fuel lines leading to manufactured housing sites shall be underground and designed in conformance with the Manufactured Housing Commission Rules and other applicable local, county and state regulations.
22. *School Bus Stops.* School bus stops shall be located in an area that is acceptable to the local school district and the manufactured housing park developer.

23. *Mailbox Clusters.* The United States Postal Service may require that manufactured housing parks be served by clusters of mailboxes serving several sites rather than individual mailboxes serving individual sites. If mail box clusters are required, they shall be located at least two hundred (200) feet from any intersection of a manufactured housing park road with a public road.
24. *Manufactured Housing Unit Sales.* The business of selling new or used manufactured housing as a commercial operation shall not be permitted after complete occupancy of a new or expanded manufactured housing park has been achieved. Thereafter, new or pre-owned manufactured homes which are to remain on-site in a manufactured housing community may be sold by the resident, owner, licensed dealer or broker, provided the manufactured housing development management permits such sales activity.
25. *Prohibitions.* A manufactured home shall only be used as a single-family dwelling. This provision shall not be construed to preclude the siting of model manufactured homes on licensed sites in a manufactured home community for sale or temporary sales office purposes.
26. *Operational Requirements.*
- a. *Permits.* A manufactured housing park shall not be operated until a license has been issued by the Michigan Bureau of Construction Codes. The Zoning Administrator shall communicate his/her recommendations regarding the issuance of such licenses to the Director of the Manufactured Housing Division, Bureau of Construction Codes, Michigan Department of Consumer and Industry Services. No individual manufactured housing site shall be occupied until the required improvements including utilities and access roads which serve the site are in place and functioning. Buildings constructed on-site, such as a management office or clubhouse, shall require a building permit prior to construction and a Certificate of Occupancy prior to use.

- b. Violations. Whenever, upon inspection of any manufactured housing park, the Zoning Administrator finds that conditions or practices exist which violate provisions of this Section or other regulations referenced herein, the Zoning Administrator shall give notice in writing by certified mail to the Director of Michigan Manufactured Housing Commission, including the specific nature of the alleged violations and a description of possible remedial action necessary to effect compliance with the ordinance or other regulations. The notification shall include such other information as is appropriate in order to fully describe the violations and potential hazards to the public health, safety and welfare resulting from the violation. A copy of such notification shall be sent by certified mail to the last known address of the park owner or agent.

- c. Inspections. The Zoning Administrator or other authorized Township agent is granted the authority, as specified in Michigan Public Act No. 96 of 1987, as amended, to enter upon the premises of any manufactured housing park for the purpose of determining compliance with the provisions of this Section or other regulations referenced herein.

Section 14.08 Private Roads

No new private roads shall be created or developed in Algansee Township. Existing private roads may continue to be used and maintained in accordance with the following provisions:

- A. Existing private roads shall continue to be maintained in the interest of the health, safety, and welfare of those residents that live along the road to ensure safe access to all properties for said residents and emergency vehicles.

- B. Existing vacant lots, parcels, or units on existing private roads may be developed in accordance with the development standards applicable to that particular zoning district.

- C. Vacant, undeveloped property with frontage on a private road may be divided provided the new lots, parcels, or units satisfy the appropriate development standards of the zoning district and the new sites are accessible.
- D. Existing private roads shall not be extended or lengthened.

Section 14.09 Shared Driveways

Shared driveways may be constructed in the Township according to the following standards.

- A. **Design of Shared Driveways.** A shared driveway shall be designed and constructed consistent with the standards for unpaved local roads by the Branch County Road Commission, unless otherwise modified by the standards adopted herein. When the developer of a proposed shared driveway also owns a lot with an existing driveway located on that adjacent lot, the proposed shared driveway shall incorporate the existing driveway in the plans and connect the existing driveway to the proposed shared driveway.
- B. **Minimum Easement Width.** The minimum width of the easement for a shared driveway shall be 40 feet.
- C. **Minimum Finished Surface Width.** The finished surface of a shared driveway shall be not less than 16 feet in width.
- D. **Maximum Length.** Maximum length of a shared driveway shall be 1,000 feet with a maximum of four (4) lots or dwelling units served by the shared driveway.
- E. **Setbacks and Structures.** On lots where the only means of access is a shared driveway and there is no other street frontage, the yard fronting on the shared driveway shall be considered the front yard for zoning and setback purposes. On lots where the only means of access is a shared driveway and there is frontage on a public or private street, the lot shall be treated as a corner lot for zoning and setback purposes.
- F. **Minimum Frontage Requirement.** To eliminate the need for excess development and unnecessary costs, it is assumed that shared driveways extend across the entire width of

the designated front yard for purposes of determining compliance with minimum lot frontage requirements, even though it is unlikely that the driveway will be developed to this extent particularly at the end of the drive.

- G. **Adjacent Properties.** For shared driveways built after the effective date of this amendment and located on a property line, access to that shared driveway may be provided to the adjacent property unless such access will exceed the maximum number of lots permitted on a shared driveway.
- H. **Private Road Maintenance.** If a shared driveway is built off of an existing private road, it is recommended that new parcels created with frontage on and access via the shared driveway be considered a part of the private road for purposes of allocating costs of road maintenance and improvements. Evidence that these lots have been formally added to the assessment district or that they will be added in the future and that the majority of the district is in agreement with the addition, shall be a consideration of approval of the shared driveway.
- I. **Maintenance Agreement.** A proposal to create a shared driveway shall be accompanied by a draft maintenance agreement to be signed by all property owners with access to the driveway. The agreement shall provide for the on-going use and maintenance of the easement and driveway and the allocation of those costs. The Township shall not be involved in the maintenance of shared driveways.
- J. **Modification of These Standards.** At the discretion of the Planning Commission, the standards of this article may be modified. The Planning Commission shall determine that alternative design or construction materials will provide a driveway of equal or superior quality. Further, the Planning Commission shall have the authority to modify the review requirements in order to assure that the requirements of the Township are considered in an appropriate forum and with the necessary level of professional expertise.
- K. **Approval.** A shared driveway shall require approval of a special use permit. Plans for a shared driveway shall be prepared, stamped, and signed by a state licensed and certified engineer or land surveyor and shall document compliance with the requirements of this

Ordinance and the noted requirements of the Branch County Road Commission. The lots along the driveway will likely be created through land division or site condominium. Approval for creation of such lots or units shall not be granted until approval of the special use permit for the shared driveway has been granted in accordance with the procedures in Chapter 18.

Section 14.10 State Licensed Residential Facilities

- A. An adult foster care family home shall be considered a residential use of property and approved as such in all residential districts.
- B. A family day care home shall be considered a residential use of property and approved as such in all residential districts.
- C. A group day care home shall be granted a special use permit in any residential district if it satisfies all of the following conditions:
 - 1. The facility is located no closer than 1,500 feet to any of the following:
 - a. Another licensed group day care home.
 - b. Another adult foster care small group home or large group home licensed under the adult foster care licensing act.
 - c. A facility offering substance abuse treatment and rehabilitation services to seven or more people licensed under article 6 of the public health code.
 - d. A community correction center, resident home, halfway house, or similar facility which houses an inmate population under the jurisdiction of the department of corrections.
 - 2. The facility has appropriate fencing for the safety of the group day care home as determined by Algansee Township.

3. The facility maintains the property consistent with the visible characteristics of the neighborhood.
4. The facility does not exceed 16 hours of operation during a 24-hour period. The Township may limit but not prohibit its operation between the hours of 10:00 p.m. and 6:00 a.m.
5. The facility complies with all appropriate sign regulations.
6. The facility provides adequate off-street parking for its employees.

Section 14.11 Dwelling Units Accessory to Detached Single-Family Dwellings.

The following shall apply to dwelling units accessory to detached single-family dwellings provided as special permit uses in designated zoning districts: (see Chapter 2 for a definition of Accessory Dwelling Unit; see Chapters 4 through 11 to determine where the use is permitted)

- A. The principal building on the parcel shall be the primary and permanent legal residence of the owner(s) of the property. A permitted accessory dwelling shall be clearly secondary to the use of the building as a single-family residence.
- B. A maximum of one accessory dwelling shall be permitted on a residential parcel.
- C. All accessory dwellings shall be located entirely within the principal residential structure on the parcel. Accessory dwellings shall be prohibited in any detached accessory structures.
- D. Accessory dwelling units shall have a minimum gross floor area of 350 square feet, and shall not occupy more than 30% of the principal building's gross floor area.
- E. The design of the accessory dwelling shall not detract from the character and appearance of the principal building in which it is located or of the surrounding neighborhood. Access to an accessory dwelling in a residential district shall be limited to a front entrance common with the principal building or a separate entrance door on the side or

rear of the principal building. When viewed from the adjacent street right-of-way, it shall appear that only one household occupies the site.

- F. In addition to required parking for the principal residence, one additional off-street parking space shall be provided for the accessory dwelling. Parking for the accessory dwelling shall not be permitted in the front yard.
- G. For the purposes of this Ordinance and the requirements with it, an approved Accessory Dwelling Unit shall not be considered a separate dwelling but shall be considered an accessory use to the principal single family dwelling unit. Therefore, requirements pertaining to “dwellings” in the Zoning Ordinance shall not apply to Accessory Dwelling Units except as it is part of the principal single family dwelling.

Section 14.12 Wind Energy Conversion Systems (WECS)

- A. **Purpose.** The regulation of Wind Energy Conversion Systems (WECS), including the height, minimum lot area, and required setbacks for such systems, is intended to provide for an alternative source of power generation while protecting the health, safety, and welfare of Township residents. The system, its construction, and its operation shall comply with all applicable local, state, and federal regulations.
- B. **Definition.** WECS: A system which converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related equipment.
 - 1. **Ambient:** The decibel measurement (dB(A) or dB(C)) of background sound pressure level exceeded 90% of the time at a given location prior to the installation of the WECS (also known as L₉₀).

2. **dB(A):** The sound pressure level in decibels. It refers to the “a” weighted scale defined by ANSI S1.32 (1997 or most recent) for sound frequencies below the 1,000 HZ octave band.
3. **dB(C):** The sound pressure level in decibels. It refers to the “c” weighted scale defined by ANSI S1.32 (1997 or more recent) for acoustic energy from the 20HZ octave band and higher.
4. **Decibel:** The unit of measure used to express the magnitude of sound pressure and sound intensity.
5. **FAA:** The Federal Aviation Administration
6. **IEC:** The International Electrotechnical Commission
7. **ISO:** The International Organization for Standardization
8. **Large Turbine/ Utility-Scale Wind Energy Conversion System:** A wind energy conversion system intended to generate power from wind primarily to supplement the greater electric utility grid. Utility-Scale WECS include accessory uses such as, but not limited to, SCADA towers, anemometers, or electric substations.
9. **LMax (LAMax or LCMax):** The maximum dB(A) or DB(C) sound level measured using the “fast response” setting of the sound meter (equivalent to 0.125 second exponential averaging time).
10. **Lease Unit Boundary:** The boundary around a property(ies) leased or purchased for purposes of operating a wind energy facility, including leased or purchased adjacent parcels to the parcel on which the wind energy facility tower or equipment is located. For purposes of setback, the Lease Unit Boundary shall not cross road rights-of-way.

11. **Met Tower.** A freestanding tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system which is an accessory land use to a Utility Grid Wind Energy Conversion System.

12. **Participating and Non-Participating Parcels:**
 - a. Participating Parcel shall mean a parcel of record that is to be used, occupied, maintained, let, leased or authorized to be used for any purposes of developing or operating a WECS, including construction of improvements, providing access to improvements, providing space for collection or distribution lines, or to meet requirements and regulations set forth herein.

 - b. Non-Participating Parcel shall mean a parcel of record that is not a Participating Parcel.

13. **Shadow Flicker:** Alternating changes in light intensity caused by the moving blade of a Wind Energy Conversion System casting shadows on the ground and stationary objects, such as but not limited to a window of a dwelling.

14. **Small Turbine/On-Site Wind Energy Conversion System:** A wind energy conversion system more than 40 feet in height intended to generate electric power from wind solely for the use of the site on which the system is located. WECS primarily intended to provide on-site power, but contribute surplus energy to the grid, may also be considered On-Site WECS.

15. **Wind Energy Conversion System (WECS):** Shall mean a combination of:
 - a. A surface area (typically a blade, rotor, or similar device), either variable or fixed, for utilizing the wind for electrical powers; and

- b. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; and
 - c. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and
 - d. The tower, pylon, or other structure upon which any, all or some combination of the above are mounted.
 - e. Other components not listed above but associated with the normal construction, operation, and maintenance of a WECS such as substations, anemometer towers (MET), cables and wires and other buildings accessory to such facility.
16. **Wind Energy Facility:** Clusters of two or more Utility Grid Wind Energy Conversion Systems, placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the Wind Energy Conversion Systems are located. Said Wind Energy Conversion Systems may or may not be owned by the owner of the property upon which they are placed.
- C. **Special use permit.** Due to the concerns related to health, safety, and welfare and the increased potential for impacts on adjacent properties, both the WECS and the Met tower shall be permitted upon approval of a Special Use Permit, provided the land area is sufficient to support their development and operation (see subsection D.2 below). The following requirements shall be met and the Planning Commission may impose additional conditions where appropriate:

1. In addition to the requirements for Special Use Permits (Article 18) and Site Plan Review (Article 17), the application for the WECS and/or a Met tower shall include the following additional information:
 - a. the location of overhead electrical transmission or distribution lines, whether utilized or not
 - b. the location of the WECS with its specific dimensions, including the entire area through which the rotor(s) may rotate and/or the location of the Met tower with its specific dimensions
 - c. the location of any guy wires, other support devices, or accessory structures or facilities
 - d. the location of all structures and land uses (including dwelling units) within 500 feet of the WECS and/or Met tower
 - e. proof of the applicant's public liability insurance for the project
 - f. the name, address, and telephone number of the owner(s) of the proposed system
 - g. manufacturer's name and address
 - h. survival wind speed in miles per hour and meters per second for the tower and the maximum power output for the generator
 - i. name, address, and telephone number of the installer
 - j. name, address, and telephone number of the person responsible for

maintenance

- k. the height of the WECS and/or Met tower, as described in paragraph D.1 below
 - l. the setbacks from the wind turbine and/or Met tower and any accessory components (structure, guy wires, etc.) to the adjacent property lines
2. **Electromagnetic Interference:** The entire WECS (including turbines, alternators, generators, and interconnect systems) and/or Met tower shall be located, designed, and filtered and/or shielded to prevent the emission of generated radio frequency energy which would cause any interference with radio, television broadcasting, wireless telephone, and/or personal communication transmission or reception, and shall comply with all applicable state and federal rules and regulations.
 3. **Noise:** The maximum level of noise permitted to be generated by any WECS and/or Met tower shall be 55 decibels, as measured on the db(A) scale, measured at the property line nearest the WECS or Met tower.
 - a. **Third Party Report (Utility Grids WECS ONLY)** For Utility Grid WECS, a copy of a noise modeling and analysis report completed by a third-party acoustician acceptable to the Township shall show locations of equipment identified as a source of noise which is placed, based on the analysis, so that the Utility Grid WECS shall not exceed the maximum permitted noise levels. The noise modeling and analysis shall conform to the most current protocol for The International Electrotechnical Commission (IEC) 61400, Parts 11 and 14, The International Organization for Standardization (ISO) 9613-2, and ANSI S12.62, including all tolerances and uncertainties. After installation of the WECS, noise level

measurements shall be performed by a third party, acoustician acceptable to the Township according to the procedures in the most current version of The American National Standards Institute (ANSI) S12.9, Part 3 and ANSI S12.100 for measurements (with an observer). All sound pressure levels shall be measured with a sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a Type II sound meter. Documentation of the actual noise level measurements shall be provided directly to Alganssee Township (not via the applicant, owner, or operator) within 60 days of the commercial operation of the project and as requested to respond to a noise complaint from a resident. The Township may revoke the special use permit for a particular property and cause the removal of the offending wind turbine due to repeated and verified lack of compliance with noise regulations.

4. **Visual Impact:** Both wind turbines and Met towers shall use tubular towers and shall be finished in a single, non-reflective, matte-finished color. A Met tower shall also be permitted to be of a lattice-type design. Multiple towers involved in a “large turbine/utility grid” WECS shall be constructed of similar design, size, operation, and appearance throughout the project. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades. Accessory structures may have lettering that exhibits the manufacturer’s and/or owner’s identification.

D. Site development.

1. **Height:** The height of the wind turbine shall be measured from the existing grade at the base of the turbine to the top of the blade or rotor at its tallest point. The height of the Met tower shall be measured from the existing grade at the base of the tower to the top of the unit at its tallest point.

- a. The maximum allowable height for any "small turbine/on-site" WECS, based upon the combined tower and rotor blade length, shall be 40 feet for site parcels of one to less than two acres, 80 feet for site parcels of two to less than three acres and up to 120 feet for site parcels of three acres or more.
- b. The maximum allowable height for any "large turbine/utility grid" WECS, based upon the combined tower and rotor blade length, shall be 330 feet. The Planning Commission, in consideration of a request, may approve an increase to this height requirement where the following requirements are met:
 - c. A WECS located in proximity to an airport may be subject to additional height limitations as provided in the airport's layout or approach plan.
 - d. The maximum allowable height for a Met tower and applicable height requirements shall be the same as for a WECS as indicated in Subsection b above depending on the size of the parcel and the intended type of WECS.

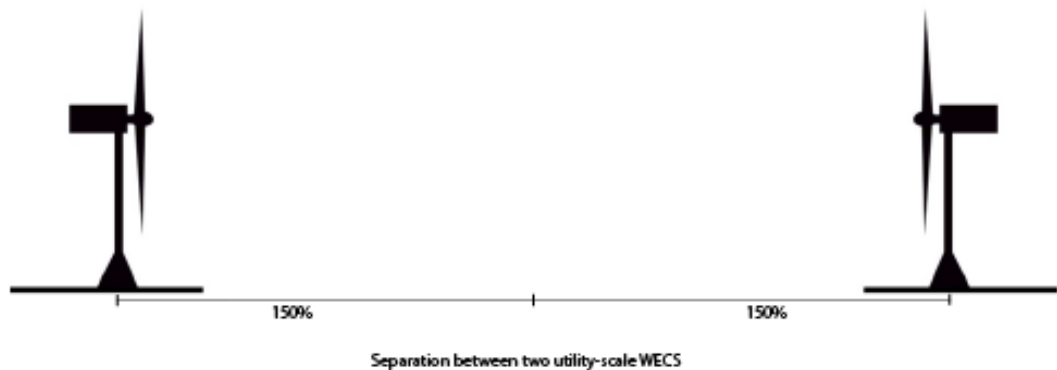
2. **Zoning District:**

- a. A "small turbine / on-site" WECS or associated Met tower shall be permitted in the AG, C-1, or I-1 Districts upon approval of a Special Use Permit, provided it complies with the requirements of this section and the zoning district.
- b. A "large turbine / utility grid" WECS or associated Met tower shall be permitted with the AG District upon approval of a Special Use Permit provided it complies with the requirements of this section and the zoning district.

3. **Lot area/setbacks:**

- a. No "large turbine/utility grid" WECS or associated Met tower shall be erected on any parcel that does not have direct access to a County Primary Road.
- b. No "small turbine/on-site" WECS or associated Met tower shall be erected on any lot or parcel less than one acre in area and shall be situated on the lot or parcel so that no portion of the tower or turbine is closer to property lines (excluding public utilities) than 150 percent of the height of the tower or turbine as defined in subparagraph D.1 above.
- c. No "large turbine/utility grid" WECS or associated Met tower shall be erected on any parcel less than five acres in area and shall be situated on the parcel so that no portion of the tower or turbine is closer to property lines (excluding public utilities) than 150 percent of the height of any tower or turbine as defined in subparagraph D.1 above.
- d. On sites where multiple turbines or towers are proposed, sufficient land shall be available such that the minimum land area requirement may be satisfied on the site for each proposed unit.
- e. Guy wires or other elements of the support structure shall not extend closer than ten feet to the owner's property lines.
- f. Accessory structures or other accessory equipment used in the function of the WECS and/or Met tower shall satisfy the setback requirements of the subject zoning district.

- g. **Setback from Bodies of Water:** No “large turbine/utility grid” WECS or associated Met tower shall be erected within 2,500 feet of the Ordinary High Water Mark of a river or inland lake regulated by Michigan Department of Environmental Quality. Any “small turbine/on-site” WECS within 2,500 feet of the Ordinary High Water Mark of a river or inland lake regulated by Michigan Department of Environmental Quality shall be no more than 40 feet in height.
- h. **Setback from Residential Zoning Districts:** No “large turbine/utility grid” WECS or associated Met tower shall be erected within 2,500 feet of an R-1 or R-2 Zoning District.
- i. **Tower Separation.** Turbine/tower separation shall be no less than 150% the height of both towers including the top of the bladed in their vertical position.



- 4. **Ground Clearance:** For both horizontal and vertical axis turbines, the WECS rotor shall be located on the tower or support such that the minimum blade clearance above ground level is 20 feet.
- 5. **Safety.** The WECS shall meet the following safety requirements:

- a. The WECS shall be designed to prevent unauthorized access to electrical and mechanical components and shall have access doors that are kept securely locked at all times when service personnel are not present.
- b. All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the site of the WECS.
- c. A sign shall be posted near the tower or operations and maintenance office building that shall contain emergency contact information. Signage placed at the road access shall be used to warn visitors about the potential danger of falling ice.
- d. All collection system wiring shall comply with all applicable safety and stray voltage standards.
- e. WECS towers shall not be climbable on the exterior.
- f. Each WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high winds within 80% of design limits of the breaking system.
- g. A copy of the un-redacted Safety Manual from the turbine manufacturer shall be submitted to the Township and the turbine must comply with all requirements therein.
- h. A copy of the ongoing maintenance plan for the WECS shall be submitted to the Township and the WECS owner must execute the maintenance plan as written.

6. **Connection to power grid:** If the WECS is to be interconnected with the power grid of the local electric utility, the applicant shall provide proof of written notice to the utility of the proposed interconnection and the utility's response thereto. The owner shall comply with all requirements of the servicing utility if the WECS is interfaced with the utility grid. The utility will install appropriate electric metering (for sellback or non-sellback) and the owner will be required to install a disconnecting device adjacent to the electric meter(s). All transmission lines located on participating parcels shall be underground.

7. **Lighting:** The WECS and/or Met tower shall be lighted in compliance with the minimum requirements of the Federal Aviation Administration (FAA).

8. **Vibration:** Under no circumstances shall a WECS or Met tower produce vibrations humanly perceptible beyond lot boundaries.

9. **Shadow Flicker.**
 - a. **Utility Grid WECS.** No amount of Shadow Flicker may fall on or in a Non-Participating Parcel. Site plan and other documents and drawings shall show mitigation measures to eliminate potential impacts from shadow flicker, as identified in the Shadow Flicker Impact Analysis. Measures to eliminate all effects of shadow flicker on all Non-Participating parcels beginning at the property lines, such as programming the WECS to stop rotating during times when shadow crosses occupied structures, shall be required. If the Shadow Flicker Impact Analysis shows potential for shadow flicker to fall on any Non-Participating Parcel and the affected property owners wishes to waive his/her rights to the protections provided by this Ordinance, the property owner shall submit for records a signed and notarized letter of acknowledgement that verifies the owner's understanding that shadow flicker on his/her parcel may result from

installation and waives the Township requirement for no shadow flicker on the Non-Participating Parcel. If the affected property owner wants this waiver to apply to future owners of the affected property, the signed and notarized letter of acknowledgment must be recorded with the Branch County Register of Deeds.

b. **On Site WECS.** Provided that all setback requirements are met, On Site WECS shall not be subject to shadow flicker regulations.

9. **Additional studies:** The applicant may offer and submit, or the Planning Commission may require, that the applicant submit studies related to noise, vibration, environmental impacts, or similar issues that may be considered a nuisance. In addition, such studies may include avian and wildlife impact, visual impacts, or similar issues based upon compatibility of the proposed use in the requested location.

E. **Annual Report.** All owners of utility grid WECS within the Township shall submit an annual report to the Zoning Administrator. The responsibility for the annual report shall lie with the owner of the WECS, not the owner of the land the WECS is located on, and the owner of the WECS shall be responsible for all costs associated with the annual report. The annual report must contain reports from a qualified third party detailing the condition of the WECS, any needed maintenance or safety improvements, and the actual performance of the WECS with regard to noise, shadow flicker, and electro-magnetic interference.

F. **Decommissioning.**

1. The Planning Commission shall require a performance bond to guarantee all aspects of the wind energy facility are removed if the wind turbines are decommissioned. To determine the amount of the performance bond, the

applicant shall provide three estimates, from outside contractors, for the removal of all aspects of the wind energy system, and the performance bond shall be equal to the highest estimate. Every three years, the wind energy system owner shall submit three new estimates to the Township, and the bond shall reflect the highest of the newly submitted estimates.

2. All above and below ground materials shall be removed when the WECS is decommissioned. All decommissioned materials shall be removed from Algansee Township.
3. The ground shall be restored to its original condition within 60 days of removal of the structures. Acceptable ground covers include grasses, trees, crops, or other material demonstrated to be characteristic of the surrounding land.
4. In the event that the WECS owner or operator fails to comply with the decommissioning requirements of this Ordinance, the Township may, upon thirty (30) days written notice to the WECS owner and/or operator, utilize the security bond referenced in Section 14.12.F.1 to complete the decommissioning process.

H. **Abandonment of unused turbines.** Abandoned or unused turbines and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the Planning Commission. A copy of the relevant documents (including the signed lease, deed, license, or land contract) which allows the installation and which requires the applicant to remove the turbine and associated facilities upon cessation of operations shall be submitted at the time of application. In the event that a turbine is not removed within the 12 months of the cessation of operations at a site, the turbine and facilities shall be removed by the Township through the use of the decommissioning bond.

- G. **Complaint Resolution.** The purpose of this section is to provide the public with a mechanism to file a complaint with the Zoning Administrator regarding a WECS, and receive a timely response regarding alleged ordinance violations or violations of the Conditions of Approval.
1. Upon receiving a complaint of an alleged Ordinance or Conditions of Approval violation, the Zoning Administrator shall notify the owner and operator of the WECS, and, if they are separate entities, the owner of the lot in question.
 2. Upon notification by the Zoning Administrator, the WECS owner and operator (meaning the owner of the turbine and related equipment, not the land owner) shall have 60 days to investigate the complaint, and respond with either a mitigation plan or a statement requesting that the matter be reviewed by the Zoning Board of Appeals. If the WECS owner and operator believes that the WECS is not in violation, it shall request a review by the Zoning Board of Appeals.
 - i. If the WECS owner and operator does not respond within 60 days, the Zoning Administrator shall notice a public hearing at the Planning Commission for the purpose of discussing a revocation of the Special Land Use Permit. The Special Use owner and operator shall be notified of the hearing. If the Special Use owner and operator responds to the complaint prior to the hearing date, the hearing shall be cancelled.
 - ii. If the WECS owner and operator submits a mitigation plan, the Zoning Administrator shall review it and determine if it is satisfactory to mitigate the complaint.

1. The Zoning Administrator may consult outside experts, the Township Attorney, or the Township Planner, in making a determination.
2. If the mitigation plan is determined to be satisfactory, the WECS owner and operator must implement the mitigation within 30 days. The Zoning Administrator may extend the deadline upon determining that is not practical for the mitigation to be accomplished in 30 days due to circumstances beyond the applicant's control.
3. If the WECS owner and operator fails to implement the mitigation plan, the Zoning Administrator shall notice a public hearing at the Planning Commission for the purpose of discussing a revocation of the Special Land Use Permit. The Special Use owner and operator shall be notified of the hearing. If the Special Use owner and operator implements the mitigation plan prior to the hearing date, the hearing shall be cancelled.
4. If the WECS owner and operator requests that the Zoning Board of Appeals review the matter, the Zoning Board of Appeals shall hold a public hearing, and shall hear evidence from both the complainant, and the WECS owner and operator. Following the public hearing, the Zoning Board of Appeals shall make one of the following determinations:
 - a. The WECS is in compliance with the Ordinance and all Conditions of Approval, and no further action is needed.

- b. The WECS is out of compliance with either the Ordinance, or the Conditions of Approval, or both, and the Special Use owner and operator must submit a mitigation plan to the Zoning Administrator within 60 days. If no mitigation plan is submitted, the Zoning Administrator shall notice a public hearing of the Planning Commission for the purpose of revoking the Special Use Permit. If the Special Use permit is revoked, the abandonment process described in 14.12. shall begin.

- 3. In order to prevent repetitive and unmerited complaints and ensure that all complaints can be addressed efficiently, the following shall apply:
 - i. A complaint may only be lodged by the owner or leaseholder of a parcel of land within one mile of the WECS that the complaint alleges is out of compliance with this Ordinance or its Conditions of Approval.

 - ii. No more than one complaint may be lodged per year per parcel of land. A complaint may allege more than one violation of the Ordinance or Conditions of Approval. An owner of multiple parcels of land may lodge complaints for each parcel of land they own during a given year.

 - iii. If, following a complaint, a WECS has been determined to be in compliance by the Zoning Administrator or Zoning Board of Appeals, no complaint shall be lodged alleging the same violation of the Ordinance or Condition of Approval for one year.

 - iv. Following the implementation of a mitigation plan, no complaint shall be lodged alleging that the mitigation plan has not successfully corrected the

violation until at least 90 days have passed after the implementation of the plan.

[Ord. #?: 9/13/21]

Section 14.13 Solar Energy Systems

A. Accessory solar energy systems capable of producing a maximum of 5,000 kWh per month shall be subject to the following regulations:

1. Solar energy systems shall be designed and located to avoid glare or reflection onto adjacent lots and adjacent roadways, and shall not interfere with traffic or create a safety hazard off-site.
2. A building permit shall be required for any solar energy system.
3. All solar energy system owners shall submit a map noting the location of the solar energy system and the panel disconnect to Branch County.
4. The owner of the solar energy system shall provide written documentation that the public utility company has been informed of the customer's intent to install an interconnected customer-owned generator, and approves of such connection. Off-grid systems shall be exempt from this requirement.
5. No homeowners' agreement, covenant, common interest community, or other contract between multiple lot owners within a subdivision shall restrict or limit solar energy systems.
6. All freestanding solar panels must be set back at least 20 feet from all lot lines.

B. Solar farms (principal or accessory solar energy systems capable of producing at least 5,000 kWh per month) shall be subject to the following regulations, in addition to the general standards for special uses:

1. No solar farm shall be erected on any lot less than five acres in area.

2. **Setbacks.** Setback shall be as follows:
 - i. The minimum setback requirement shall be five (5) feet from a lot line abutting any parcel where the landowner has a lease or other agreement with the solar energy company that would allow solar panels on the land, or that would designate the land as “participating” in the solar farm.
 - ii. The minimum setback requirement shall be two-hundred-fifty (250) feet from a lot line abutting any parcel where the landowner does not have a lease or other agreement with the solar energy company that would allow solar panels on the land, or that would designate the land as “participating” in the solar farm.
 - iii. The minimum setback requirement shall be fifty (50) feet from a public road right-of-way.
3. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
4. All mechanical equipment including any structure for batteries or storage cells, shall be completely enclosed by a six foot high fence with a self-locking gate, and provided with evergreen landscaping that is sufficient to buffer the equipment from view of adjacent streets and lots.
5. All power transmission lines and other utility wires within the project boundary shall be located underground to the maximum extent possible.
6. There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least \$1 million per occurrence and \$1 million in the aggregate.
7. If the land on which the solar farm is proposed is to be leased, rather than owned, by the solar farm operator, all lots within the solar farm project boundary shall be included in a recorded easement, lease, or consent agreement specifying the applicable uses for the duration of the project. All necessary leases, easements, or

other agreements between the solar farm operator and the affected parties shall be in place prior to commencing construction, unless specified otherwise by the special use permit conditions.

C. The following shall apply to all solar energy facilities, regardless of the maximum kWh capacity:

1. Rooftop and building mounted solar energy systems are subject to the following regulations:
 - i. Roof mounted systems shall not extend more than 4 feet above the surface to which it is affixed. Roof mounted systems that do not extend more than 3 inches above the surface of the roof shall be accessory solar energy systems, regardless of the kWh capacity.
 - ii. No solar energy system may protrude beyond the edge of the roof.
2. Rooftop and building mounted solar energy systems are subject to the following regulations:
 - i. Roof mounted systems shall not extend more than 4 feet above the surface to which it is affixed.
 - ii. No solar energy system may protrude beyond the edge of the roof.
3. Ground mounted and freestanding solar energy systems are subject to the following regulations:
 - i. All solar energy systems shall have a defensible space for fire protection, as required by the fire department with jurisdiction over the site.
 - ii. **Height.**
 1. The height of the solar energy system and any mounts shall not exceed 15 feet at full tilt.

2. If the solar energy system is an accessory use is located in the front yard between the required front setback line and front building wall of the principal building, the maximum height for the system shall be 42 inches (3 feet, 6 inches). Evergreen landscaping that is sufficient to completely block the equipment from view from dwelling units or public right-of-way located within a quarter-mile but that will not obstruct the energy collecting surface from solar energy shall be provided.
- iii. **Area.** No more than 20% of the total lot area may be covered by an accessory ground mounted solar energy system, and no more than 50% of the total lot area may be covered by solar energy system components of a solar farm.
- iv. **Batteries.** When batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure when in use, and when no longer used shall be disposed of in accordance with applicable laws and regulations.
- v. **Abandonment.** Abandoned or unused solar panels and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the Planning Commission. All decommissioned materials from the solar farm must be removed from Algansee Township.
- vi. **Performance Bond.** The Planning Commission shall require a performance bond to guarantee all aspects of the solar energy facility are removed if the solar farm is decommissioned. To determine the amount of the performance bond, the applicant shall provide three estimates, from outside contractors, for the removal of the solar panels, and the performance bond shall be equal to the highest estimate. Every three years, the solar farm owner shall submit three new estimates to the

Township, and the bond shall reflect the highest of the newly submitted estimates.

- vii. A copy of the relevant documents (including the signed lease, deed, license, or land contract) which allows the installation and which requires the applicant to remove the panels and associated facilities upon cessation of operations shall be submitted at the time of application. In the event that any panels or facilities are not removed within the twelve (12) months of the cessation of operations at a site, the panels and facilities shall be removed by the Township and the costs of removal assessed against the real property.

[Ord. #?: 9/13/21]

Chapter 15

Reserved for Future Use

Chapter 16

Planned Development

Section 16.01 Purpose and Intent

The purpose of this Chapter is to allow for alternative, flexible development options. It is the intent of Algansee Township to encourage these alternative development options to preserve agricultural lands, open space and sensitive environmental features, to reduce the costs of development in order to facilitate affordable housing, to promote good planning, and to protect the public health, safety and welfare.

Accordingly this Chapter provides for Open Space Preservation, in compliance with Public Act 177 of 2001. This Chapter also establishes basic standards and regulations for Site Condominium Developments.

Section 16.02 Open Space Preservation

This Section established provisions under which a land owner may exercise the option to develop land with open space preservation in accordance with PA 177 of 2001, as amended, and PA 110 of 2006, as amended.

- A. **Prerequisites.** No lot may be developed with the open space preservation option unless both of the following prerequisites are met:
1. The entire lot, both the portion to be developed and the portion to be maintained as open space, shall be included in a Residential zoning district, R-1, R-2 or R-3.
 2. No portion of the lot, neither the portion to be developed nor the portion to be maintained as open space, shall have previously been part of an open space preservation option development.

- B. Development Approval Process.** A land owner who wants to exercise the open space preservation development option shall comply with every one of the following requirements in order to secure approval from Algansee Township for the proposed development.
1. An application requesting approval of the proposed open space preservation development shall be filed with the Zoning Administrator. The application shall be on forms provided by the Zoning Administrator and shall include a plan review fee, which shall be set by and may, from time to time, be amended by the Algansee Township Board. The fee shall reflect the costs that the Township Board, in its sole opinion, considers likely to be incurred for review of the plans for the proposed development.
 2. The application shall be executed by the owner(s) of the subject property. The applicant shall provide all of the information requested on the application form. An application shall not be deemed to be complete and shall not be deemed to be filed unless and until all of the requested information is provided on the application forms.
 3. In addition to other information required on the application form, the application shall include the following:
 - a. A development plan showing the maximum density and buildout of the subject property pursuant to the applicable zoning district regulations. This plan shall include, at a minimum, the following:
 - i. A current survey showing all of the property lines;
 - ii. Delineation of all wetlands subject to State or Federal regulation;
 - iii. The maximum development of lots and dwelling units under existing zoning district regulations, including dimensions of lots and buildings, providing that wetlands subject to State or Federal

- regulation shall make up no more than fifty (50) percent of any single lot; and
- iv. Either evidence that each of the proposed dwellings can be adequately served with existing public water and sewer service, or else written evidence from the Branch County Health Department that each one of the lots and dwellings could be adequately served by well and septic systems.
- b. A development plan showing the proposed development. This plan shall include, at a minimum, the following:
 - i. A current survey showing all property lines;
 - ii. Delineation of all wetlands subject to State and Federal regulation;
 - iii. The layout of all lots and buildings proposed to be developed, including all of the open yards required by the applicable zoning district regulations, and a showing that each lot contains sufficient land and adequate space for the construction of a single-family dwelling; and
 - iv. Either evidence that each of the proposed dwellings can be adequately served with existing public water and sewer service, or else written evidence from the Branch County Health Department that each one of the lots and dwellings could be adequately served by wells and septic systems.
 - c. The legal instruments to be used to assure that the open space remains open and undeveloped and that it will be maintained in perpetuity.
4. Once the completed application has been received and the Zoning Administrator is satisfied that the application is complete, the application shall be forwarded by the Zoning Administrator to the Secretary of the Planning Commission, who shall

place the application on the agenda of the next regular meeting of the Planning Commission.

5. The Planning Commission shall hold a public hearing on the proposed open space preservation development prior to making a decision. Notice of the public hearing shall be posted in accordance with the provisions in Section 18.02.D.
6. The Planning Commission shall review the application in regard to the required development standards set forth in Paragraph C below, as well as any additional standards required for the type of development being proposed (i.e. site condominium, land division, subdivision plat). When there are conflicts in the standards or procedures, the higher standard shall apply. If the Planning Commission finds that the proposed development complies with each required standard then it shall approve the application. If the Planning Commission finds that the proposed development does not comply with the required standards, then the Planning Commission shall deny the application, in which case the applicant may submit a new application to the Zoning Administrator and begin the development approval process anew.
7. The applicant may file an application for a Special Use Permit, and the Planning Commission may consider, pursuant to the provisions of Chapter 18, for a request to consider a mechanism, other than that prescribed in Paragraph C.3 below, for the preservation of the required open space in perpetuity.

C. **Development Standards.** Every lot developed or to be developed with the open space preservation option shall comply fully with all of the following requirements:

1. The overall density, in terms of dwelling units per acre, shall not exceed that which is allowable under the existing zoning district regulations, as established pursuant to Section 16.02.B.3(a), above.
2. The minimum lot size standards for each individual lot in the development required by the existing zoning district regulations shall not apply to developments qualifying under this Section as open space preservation. Rather, it

is incumbent upon the developer and subsequent property owners to assure that each lot contains adequate buildable area with the open yards space required by the applicable zoning district regulations, without need for a variance. In no case shall any lot contain a buildable area of less than fifteen-thousand (15,000) square feet.

3. Fifty percent, or more, of the area of the subject property shall be retained as permanent open space as herein defined. There shall be a mandatory property owners association of the owners of each lot in the subject development. There shall be a legal instrument recorded that permanently protects the open space area, either through deed restrictions, covenant, or conveyance of development rights of the required open space area to an appropriate non-profit conservation organization.
4. Each lot shall provide the minimum front, side and rear yards as required by the applicable zoning district regulations.
5. Any and all wetlands subject to State and Federal jurisdiction shall be maintained in their pre-development state; there shall be no filling or alteration of any such wetlands, regardless of whether or not a permit may be obtained from the relevant State or Federal agency.

Section 16.03 Site Condominium Development

A. Purpose and Scope.

1. Site condominium projects are condominium developments in which each condominium unit consists of an area of vacant land and a volume of vacant air space within which a building or other improvements may be constructed by the condominium unit owner. Each site condominium unit may also have limited common element reserved for the exclusive use of the owner of the condominium unit. Either the condominium unit by itself, or the condominium unit taken

together with any contiguous common element, shall be considered to constitute a building site which is the functional equivalent of a "lot" for the purpose of this Ordinance and other applicable laws, ordinances, and regulations.

Site condominium projects may also include general common elements consisting of common open space, recreational areas, streets, and other areas available for use by all owners of condominium units within the project. Subject to the district zoning provisions applicable to the project's location, any land use permitted by the Alganssee Township Zoning Ordinance may be permitted in a site condominium project.

2. The purpose of this Section is to ensure that the plans for developments within Alganssee Township proposed under the provisions of the Condominium Act, Public Act 59 of 1978, as amended shall be reviewed with the objective and intent of achieving the same characteristics as if the development and improvements therein were being proposed pursuant to the Land Division Act, Act 288 of 1967, as amended. It is further the intent of this Section to ensure that such development is in conformance with the requirements of this Ordinance, other applicable Township ordinances and state and federal regulations.

B. Site Condominium Review and Approval Procedures (Step I Review). Application for review and approval of a site condominium subdivision shall be in accordance with the following procedures:

1. Prior to the formal application for a site condominium development, the developer shall meet with the Planning Commission. The purpose of this meeting is to inform the Planning Commission of the applicant's intent to initiate a site condominium project. On or before this meeting, the applicant shall submit the following to the Zoning Administrator, who shall distribute it to all Planning Commission members.
 - a. A sketch drawn to scale, indicating the general location and configuration of the property to be developed; the alignment of streets and building sites;

- and the relationship of the proposed project to adjacent streets and neighboring properties.
- b. A statement regarding the provision of sewer service and water supply.
2. During the preliminary discussion meeting, the Planning Commission, based on the information available to it, shall inform the applicant of the following:
 - a. General requirements of this Section and other applicable provisions of this Ordinance.
 - b. Planned or anticipated sites of parks and recreation areas and other public uses.
 - c. Utility system capabilities.
 - d. Planned or anticipated public improvements, including streets, utility extensions, and the like.
 - e. Street plans and potential problems relative to the natural features of the area, including, but not limited to floodplains, soil conditions, topography, and groundwater tables.
 - f. Additional information which will assist the applicant in proceeding in a reasonable and sound manner toward the final approval of the site condominium project.
 3. This review is intended for information purposes only and does not constitute binding commitments on the part of the Township. Neither do they imply tentative approval of any proposed site condominium project. Furthermore, such discussions shall not carry the authority to proceed with construction or to sell or transfer property.
 4. Following preliminary review, the applicant shall submit the site condominium subdivision plans to the following agencies for their approval:

- a. Michigan Department of Natural Resources/Michigan Department of Environmental Quality.
- b. Branch County Drain Commissioner
- c. Branch County Road Commission
- d. Other appropriate state and county review and enforcement agencies having direct approval or permitting authority over all or part of the project's construction phases.

C. Site Condominium Review and Approval Procedures (Step II Review).

1. An application for preliminary review of a site condominium subdivision project shall be made to the Zoning Administrator along with the appropriate fees as required by Township Board resolution. The application shall, at a minimum, contain the following information:
 - a. Application for certificate of zoning compliance, which upon issuance, shall assure that the project, as proposed, is capable of being developed in conformity with the standards and regulations applicable to the zoning district in which the project is located, subject to the customary procedures applicable to Township approvals of individual uses on individual building sites.
 - b. The applicant's name, address, and phone number.
 - c. Proof that the applicant is the owner of the property, or has a legal or financial interest in the property.
 - d. The name, address, and phone number of the owner(s) of record, if different from that of the applicant.
 - e. The legal description, address and tax parcel number of the property.

- f. Project description, including number of structures, dwelling units, square feet of building sites, open spaces, and estimated inhabitants, phasing, etc.
 - g. Gross and net size of the parcel in acres.
 - h. Written comments and/or approvals from the above list of agencies resulting from their review of the site condominium subdivision plans, as applicable.
 - i. A copy of the proposed deed restrictions or covenants for the site condominium subdivision.
 - j. A copy of any preliminary agreements which may be required before final plan approval is granted.
 - k. A copy of the proposed master deed of the project and the supportive information which is intended to be recorded with the Register of Deeds as required by state law.
2. The applicant shall provide at least ten (10) copies of the preliminary site condominium project plan and additional copies if deemed necessary by the Zoning Administrator. The plans at the time of their submission shall contain the information required for preliminary site condominium plan as required by this Ordinance.
 3. The application and plans shall be submitted at least thirty (30) days before the next regularly scheduled meeting of the Planning Commission.
 4. Upon receipt of the preliminary site condominium project plans, the Zoning Administrator shall forward one copy to each member of the Planning Commission, and the Township Engineering or Planning Consultant, for consideration at the next regularly scheduled meeting of the Planning Commission.

5. The Zoning Administrator shall notify by mail, all the members of the Planning Commission, that a meeting will take place at a specified time concerning the property proposed for the site condominium project.
6. At the scheduled meeting or a subsequent meeting, a public hearing shall be held. The public hearing shall be properly noticed in accordance with the requirements of Section 18.02.D.
7. In reviewing the preliminary plan, the Planning Commission shall give particular attention to all information required to accompany the submission, in particular the deed restrictions and covenants in an effort to determine that they are adequate to ensure ultimate completion of the project in accordance to the proposed project plan. If the preliminary plan meets the requirements of this Ordinance and all other applicable local, state, county, and federal regulations, the Planning Commission shall grant it preliminary approval.

If the plan does not meet the requirements of this Ordinance, the Planning Commission shall:

- a. Recommend denial of the preliminary plan, setting forth the reasons in writing, or
- b. Recommend granting of preliminary plan approval contingent upon completion of the revisions as noted.

D. **Setbacks and Boundaries.** The setback requirements for condominium buildings shall be determined as follows:

1. Single Family Units.
 - a. The front yard setback shall be one-half (2) the approved or recorded street right of way, plus the current setback for the existing zoning district.
 - b. The side yard setbacks shall be twice the minimum required within the zoning district. The distance from the unit to the limit of development

shall meet the minimum required side yard setback within the zoning district.

- c. The rear yard setback between the rears of two (2) units shall be twice the minimum rear yard setback of the zoning district. The distance from the rear of the unit to the limits of the development shall meet the minimum rear yard setback of the zoning district.
2. Multiple family units shall meet the standards of the Medium Density Residential District (R-3).
 3. The relocation of boundaries as defined in Section 148 of the Michigan Condominium Act, shall conform to all setback requirements of this Section, of the district in which the project is located, shall be submitted to the Planning Commission for review and approval, and these requirements shall be made a part of the by-laws and recorded as part of the master deed.
- E. **Common Elements.** After construction of a condominium unit, the undeveloped area of a unit shall become a common element.
- F. **Subdivision of Unit Sites.** Subdivision of condominium unit sites is permitted following Planning Commission review and approval, contingent upon the submission of an amended master deed to determine the effect of the subdivision on the conditions of zoning or development plan approval, and shall be made as part of the by-laws and recorded as part of the master deed.
- G. **Conformance with Subdivision Regulations.** All condominium project plans shall comply with the Land Division Act, PA 288 of 1967, as amended. Additionally, all condominium projects shall comply with the provisions of Article 4.00, Design Standards, of the Algansee Township Subdivision Control Ordinance.
- H. **Water and Waste Water.** The condominium project shall comply with and meet all federal, state, and county standards for a potable water system and waste water disposal.

- I. **Expansion and Conversion.** Prior to expansion or conversion of a condominium project to additional land and new phases, it must be reviewed and approved by the Planning Commission.
- J. **Master Deed.** The project developer shall furnish the Township with one (1) copy of the proposed consolidated master deed, one (1) copy of the by-laws, and two (2) copies of the proposed plans. The proposed plans shall be reviewed for compliance with this Ordinance to ensure that an assessment mechanism has been included to guarantee adequate maintenance of common elements.
- K. **As-Built Plans and Occupancy.** Submission of an as-built plan of a condominium unit is required prior to occupancy. The Building Inspector may allow occupancy of the project before all improvements required are installed provided that an escrow is submitted to the Township, sufficient in amount and type to provide for the installation of improvements before the expiration of the temporary occupancy permit without expense to the Township. Fees for these reviews shall be established and adjusted by the Township Board of Trustees.
- L. **Final By-Laws, Consolidated Master Deed, and Site Plan.** Upon approval of the development, the applicant shall furnish the Township a copy of the by-laws and consolidated master deed. The development plan shall be provided on a Mylar sheet of at least twenty-four (24) inches by thirty-six (36) inches.
- M. **Compliance with other Statutes and Ordinances.** All condominium projects shall comply with pertinent federal, state, and local laws, statutes, and ordinances.

Chapter 17

Site Plan Review

Section 17.01 Purpose

The purpose of a site plan review is to provide for consultation and cooperation between the land developer and the Township in order to accomplish the developer's objectives in harmony with the existing and prospective use and development of adjacent properties. It shall be the further purpose of this Chapter to insure that each proposed development and its components, appearance, and function is in compliance with this Ordinance, other Township ordinances, and State and Federal laws. These purposes apply to development of previously unimproved sites; to the redevelopment, expansion, contraction or alteration of existing sites; and to the alteration or replacement of existing uses.

Further purposes of site plan approval shall include: privacy, efficiency for the public and local government servicing, preservation of the natural landscape, environmental and ecological protection, emergency access, effective drainage, vehicular and pedestrian safety and conveniences; prevention of air, water and noise pollution; and limitation of obnoxious odors, glare, and exposure to toxic substances and wastes.

The site plan review procedures and standards in this section are intended to provide a consistent and uniform method of review for proposed development plans. Through the application of the following provisions, the attainment of the Alganssee Township Master Land Use Plan will be assured, and the Township will develop in an orderly fashion.

Section 17.02 When Site Plan Review is Required

- A. **Site Plan Required.** Submission of a site plan shall be required for any of the following:
1. Any development or use for which submission of a site plan is required by provisions of this Ordinance.

2. Any proposal to construct, move, relocate, convert or structurally alter a building, including accessory buildings, except as noted in Section 17.02.B or C below. A structural alteration shall be defined as one that changes the location of the exterior walls and/or the area or height of the building.
 3. All condominium developments (including "site condominium" developments).
- B. **Exempt Development.** Unless specifically required by the provisions of this Ordinance the following developments are exempt from the provisions of this Chapter, however a plot plan shall be submitted and a zoning permit is required, in accordance with Section 21.03:
1. Single and two-family dwelling units on individual lots.
 2. Residential accessory buildings (for personal use) less than 1,200 sq. ft. in area in residential or agricultural zoning districts.
 3. Agricultural accessory buildings located in agricultural zoning districts and agricultural accessory buildings in an otherwise legal and lawful nonconforming use.
- C. **Site Plan Review Not Required by the Planning Commission.** Uses with approved site plans, which propose a one-time change constituting ten percent (10%) or less of the building floor area or ten percent or less of the required parking spaces, may be reviewed, approved and administered by the Township Zoning Administrator. Such review and approval by the Township Zoning Administrator shall be reported to the Planning Commission at the next regularly scheduled meeting. However a plot plan shall be submitted and a zoning permit is required in, in accordance with Section 21.03.
- D. Uses or activities not requiring site plan review before the Planning Commission shall submit to the Zoning Administrator a plot plan with adequate dimensions and such information deemed necessary by the Zoning Administrator to assure that the proposed development complies fully with the requirements of this Ordinance.

Section 17.03 Preliminary Site Plan Consideration /Pre-application Meeting

- A. **Preliminary Site Plan Consideration.** Applicants for site plan review are encouraged to submit a conceptual or preliminary site plan for discussion and consideration by the Planning Commission. The intent of the Preliminary Site Plan Review is to minimize errors, miscalculations, or misconceptions prior to the submission for formal Site Plan Review. This procedure is intended for informational purposes only and shall not necessarily bear directly upon later reviews. Proposed new construction on parcels of land which are undeveloped or are to be redeveloped, or which will be developed in phases, are encouraged to seek this review prior to the submission for final Site Plan Review. The purpose of this is to indicate the general design, intent, and layout of the project and to introduce and provide an overview of the development to the Planning Commission and community in general. This review shall be provided at no charge to the applicant when conducted during a regularly scheduled monthly Planning Commission meeting.
- B. **Pre-application Conference with Township Staff.** A pre-application conference may take place to review a generalized site plan presented by a prospective applicant for consideration of the overall idea of the development. The purpose of the conference is to discuss basic questions regarding use, density, integration with existing development in the area and impacts on and the availability of public infrastructure. The applicant may be presented with the applicable procedures required by this Ordinance for approval of the proposed development and with any special problems or steps that might have to be followed, such as requests to the Zoning Board of Appeals for a variance. The conference may be scheduled by a prospective applicant with the Township Zoning Administrator and such other Township representatives, as appropriate, including one member of the Planning Commission, the Township Supervisor, and a member of the Zoning Board of Appeals. Township staff may not confer an interpretation of Township Ordinances nor imply Planning Commission approval of the applicant's proposed site plan or project.

Section 17.04 Application Process

Application for site plan review shall be made to the Township by filing at least ten (10) copies of an application form and detailed site plan with the Township Zoning Administrator at least thirty (30) calendar days in advance of the regularly scheduled Planning Commission meeting at which the plan is to be first considered. Fees are required to be paid in accordance with the fee schedule in effect as established by the Township Board at the time the application is made.

The Township Zoning Administrator shall examine the site plan to determine that it contains all the necessary information. If it is incomplete, it shall be returned to the applicant. If it is complete and appears to comply with the requirements of the Zoning Ordinance, it shall be processed in accordance with this Chapter.

- A. **Application Form.** Each request for site plan review shall be accompanied by a completed application form furnished by the Township and shall include the following information:
1. The applicant's name, address, and phone number.
 2. The address and parcel number of the property.
 3. The application shall be executed by the owner(s) of the property. The application may be represented by a party who has a legal financial interest in the property (such as a purchase agreement) provided that the application contains an affidavit signed by the property owner(s) indicating the party and the nature of the legal interest.
 4. The address of the applicant to whom all correspondence regarding the application and site plan review process should be sent.
 5. Project description, including the total project title, number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, and other pertinent information.

6. The gross and net acreage of all lots or parcels in the project.
7. Existing zoning classification, land uses, and structures on the subject parcel.
8. Name and address of developer (if different from the applicant), engineer, architect and/or land surveyor.
9. Project completion schedule/development phases.
10. Written statements relative to project impacts on existing infrastructure (including traffic capacity of streets, schools, and existing utilities) and on the natural environment of the site and adjoining lands.

B. Site Plan Information. Each request for site plan review shall be accompanied by a detailed site plan which shall consist of an accurate drawing, showing the entire site and all land within 150 feet of the site. The scale of the site plan shall be not less than 1 inch = 50 feet if the subject property is less than 3 acres, and 1 inch = 100 feet if three acres or more. If multiple sheets are used, each shall be labeled and the preparer identified. The following information shall be included, however, the Chairperson of the Planning Commission may, upon written request, determine that some of the required information is not necessary due to the scope and nature of the proposed project:

1. Name of development and general location sketch.
2. Name, address and phone number of owner(s), developer, engineer, architect and/or designer.
3. North arrow, scale, and date of original drawing and revisions.
4. The seal of one of the following professionals registered in the State of Michigan: Registered Architect, Registered Civil Engineer, Registered Landscape Architect, Registered Land Surveyor or Registered Professional Community Planner. The architectural plans of the buildings shall be prepared by and bear the seal of a Registered Architect. A site plan for an alteration or addition to an existing structure may be prepared by the builder or contractor.

5. A legal description and address of the property in question.
6. The area of the site in square feet and acres excluding all existing and proposed public rights-of-way.
7. The dimensions of all lots and subject properties, showing the relationship of the subject property to abutting properties, including lots across rights-of-way and easements. The boundaries of the subject property shall be clearly indicated on the site plan, differentiated from other contiguous property. If the parcel is a part of a larger parcel, boundaries of total land holding shall be indicated.
8. Existing topographic elevations at two foot intervals, including ground elevations of all existing buildings, drives and/or parking lots, and any adjacent unusual surface conditions.
9. The location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, floodplains, and wetlands, and proposed drainage ways.
10. Location and type of existing vegetation, including location of all existing trees over five (5) inches in diameter. Where stands of trees are to be preserved, the general location may be indicated.
11. Any significant site amenities and unique features.
12. Existing land uses and zoning classification of the subject parcels and adjacent parcels.
13. All required yards.
14. The location and dimensions (length, width, height) of all existing and proposed structures on the subject property and all existing structures within 100 feet of the subject property.

15. The location and width of all existing public roads, rights-of-way or private easements of record, abutting streets, alleys, and driveway locations to abutting streets.
16. With residential proposals, a site summary indicating the number and location of one bedroom units, two bedroom units, etc., typical floor plans with the square feet on floor areas; density computation, recreation facilities, open spaces, street names, and lot coverage.
17. With non-residential proposals, the number of offices, number of employees, the number of floors, and typical floor plans and cross sections.
18. Proposed parking lots including layout and typical dimensions of parking spaces, number of spaces provided (including how computed per ordinance requirements), and type of surfacing.
19. Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development.
20. Proposed traffic and pedestrian circulation patterns, both within the site and on the public streets adjacent to the site and the proposed location and dimensions of any required pedestrian sidewalks. Designate loading and unloading areas, barrier free access, any fire lanes, and carports.
21. Proposed finish grade of buildings, driveways, walkways, and parking lots.
22. Proposed type of building materials, roof design, projections, canopies and overhangs, roof-located mechanical equipment, such as: air conditioning, heating units and transformers that will be visible from the exterior.
23. Proposed water service including any proposed tap ins, main extensions or extensions for adequate fire hydrant spacing, and/or considerations for extensions to loop other public water mains.

24. Proposed sanitary sewer facilities and the location of all existing utilities, easements and the general placement of lines, manholes, tap-ins, pump stations, and lift stations.
25. Proposed storm water management plan including design of sewers, outlets (enclosed or open ditches), and retention or detention ponds. Sufficient data regarding site run-off estimates and off-site drainage patterns shall be provided to permit review of feasibility and permanency of drainage detention and/or retention as well as the impact on local surface and groundwater. The plan shall indicate location and status of any floor drains in structures on the site. The point of discharge for all drains and pipes should be specified on the site plan.
26. Locations of existing and proposed fire hydrants with reasonable access thereto for fire fighting, police and other emergency equipment.
27. Location of all other utilities on the site including but not limited to natural gas, electric, cable TV, telephone and steam.
28. Soil erosion and sedimentation control measures.
29. Detailed landscaping plan indicating location, types and sizes of material, in compliance with the landscaping requirements set forth in Section 17.05, below.
30. All proposed screening and free standing architectural walls, including typical cross-sections and the height above ground on both sides.
31. The dimensions and location of all signs, both wall signs and free-standing signs and of lighting structures and shielding.
32. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
33. Location and specifications for any existing or proposed outdoor or below ground storage facilities as well as any screening or containment structures or clear zones required by government authorities.

34. Easements for proposed public rights-of-way, utilities, access, shared access, and drainage.
35. Notation of any variances which have been or must be secured.
36. Notation of performance guarantees to be provided including amounts, types, and terms.
37. Statement that applicant will comply with state, local and federal laws, as applicable to the site or intended use.
38. Information and special data which may be critical to the adequate review of the proposed use and its impacts on the site or Township. Such data requirements may include traffic studies, market analysis, environmental assessments (including inventory and impact data on flora, fauna, natural resources, hazardous materials, erosion control and pollution), demands on public facilities and services, impact on historical or cultural resources, displacement of people or other uses as a result of the proposed development, alterations of the character of the surrounding area, effect on the Township's tax base and adjacent property values, or other data which the Township may reasonably deem necessary for adequate review.
39. The size, location and description of any proposed interior or exterior areas or structures for storing, using, loading or unloading of hazardous substances. A listing of types and quantities of hazardous substances which will be used or stored on-site in quantities greater than 100 kilograms or 25 gallons per month.
40. Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of the cleanup.
41. Plans depicting existing and proposed building elevations.
42. For developments that are of a scale to warrant phased development, the phasing of construction shall be indicated. A detailed site plan needs to be submitted only for that portion of the property for which a building permit will be applied for; a

general site plan which clearly indicates the overall project intent may be submitted for the remainder of the site.

43. Building elevations of the proposed structure(s) from each direction shall be shown.
44. A site lighting plan, which shall include a photometric plan, cut sheets of all proposed lighting fixtures, and the location of all proposed exterior lighting fixtures. The proposed height of all exterior light fixtures is to be depicted on the site lighting plan.
45. The Planning Commission may, by majority vote, require additional information.

Section 17.05 Landscaping Plan

It is the intent of Algansee Township that all developments that are subject to the provisions of this Chapter, and certain developments subject to Special Use Permits, provide landscaping to provide transitions between adjacent land uses, to enhance the local environment, and to improve community aesthetics. Landscaping is viewed as a critical element contributing to the aesthetics, development quality, stability of property values, and the overall character in the Township.

The standards set forth in this Section are also intended to preserve quality mature trees, screen headlights to reduce glare, integrate various elements of a site, help ensure compatibility between land uses, assist in directing safe and efficient traffic flows at driveways and within parking areas, and minimize negative impacts of stormwater runoff.

The standards of this Section 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.

- A. **Plan Required.** A landscaping plan in accordance with the requirements of this section is required for all developments subject to site plan approval pursuant to this Chapter, and

shall be a part of and approved with the site plan. A landscaping plan is also required for Special Use Permit, when specifically required in Chapter 14, and shall be submitted with and approved as a part of the Special Use Permit in accordance with the requirements of Chapter

- B. **Plan Requirements.** A separate landscaping plan shall be submitted at a minimum scale of one (1) inch equals fifty (50) feet. The landscape plan shall clearly describe the location, type, size, and spacing of all plant materials. It shall also include planting details and specifications, clearly describing planting technique, material installation, planting mixtures, mulch, material depth, seed blends, and other necessary information.
- C. **Landscaping Requirements.** As a minimum, landscaping shall be provided for all development subject to this Section in accordance with the requirements set forth in this Paragraph. The Planning Commission may require additional landscaping when, in its determination, such additional landscaping is necessary to preserve the spirit and intent of this Ordinance. The Planning Commission may lessen these requirements when it finds that the nature and scope of the proposed development are minimal, and that the costs of providing the required landscaping far exceed the potential benefits. Where more than one requirement applies, the one that imposes the greater amount of landscaping shall apply.
1. For any development subject to the provisions of this Chapter: A greenbelt at least ten (10) feet in width shall be provided between the development and all side and rear property lines. A greenbelt at least fifty (50) feet in width shall be provided between the development and any adjacent residentially zoned property.
 2. For any development requiring a Special Use Permit and subject to this Section: A greenbelt at least (10) feet in width shall be provided between the development and all side and rear yards.
 3. For any required parking lot that is located within one-hundred-fifty (150) feet of a residential dwelling, or that the Planning Commission finds that the potential for headlights to impact adjacent property uses, a greenbelt at least ten (10) feet in

width and either a fence or a berm shall be provide between the parking lot and the subject property line, with the greenbelt being between the property line and the berm or fence.

D. **Greenbelt Standards.** Greenbelts required by this Section shall meet the following minimum standards:

1. There shall be at least one (1) deciduous tree and four (4) shrubs per each thirty (30) lineal feet of a ten (10) foot wide greenbelt. The location of the trees and shrubbery shall be varied as appropriate to provide a natural and sustainable buffer.
2. There shall be at least one (1) deciduous tree, two (2) evergreen trees, and eight (8) shrubs per each thirty (30) lineal feet of a fifty (50) foot wide greenbelt. The location of the trees and shrubbery shall be varied as appropriate to provide a natural and sustainable buffer.
3. The greenbelt area shall contain grass, vegetative ground cover, mulch, or crushed stone on a weed barrier, and be curbed or edged.

E. **Berm Standards.** Berms required by this Section shall comply with the following minimum standards:

1. The berm shall be a minimum of four (4) feet in height, with a crest that is a minimum of four (4) feet in width, and side slopes of 3 feet in length to 1 foot in height.
2. The side slope of the berm facing the development may be constructed as a retaining wall rather than an earthen slope.
3. The berm shall be protected from erosion by planting with permanent grass.

F. **Installation.**

1. Unless otherwise approved by the Planning Commission, required landscaping shall be planted in the spring or fall immediately following the approval of the

landscaping plan, whichever comes first. The property owner shall request an inspection by the Zoning Administrator after the landscaping has been established.

2. Landscaping shall be installed in a sound manner according to generally accepted planting procedures with the quality of plant materials as described in this Section, and shall be protected from vehicular encroachment and snow removal operations.
3. The Planning Commission shall require security in the amount of twenty (20) percent of the estimated cost of plantings prior to the issuance of any zoning permits required for the proposed development, in accordance with the standards set forth in Chapter 21. Such security shall be held for twenty-four (24) months after the date that the Zoning Administrator inspects the landscaping and certifies that it is complete.
4. When a Certificate of Occupancy is requested prior to the establishment of the required landscaping, the Zoning Administrator shall require security in the amount of one-hundred-fifty (150) percent of the estimated cost of the plantings, in accordance with the standards set forth in Chapter 21. Such security shall not be released until the Zoning Administrator inspects the development and certifies that the landscaping has been fully installed.

G. Plant Material Standards. It is the intent of this Section that a diverse mixture of plantings be provided. Therefore, all required landscaping shall comply with the following minimum plant material standards, unless otherwise specified within this Section. These standards may be varied by the Planning Commission where the established minimums, in the judgment of the Commission, will not serve the purpose and intent of this Chapter.

1. *Plant Quality.* 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.

2. *Plant Size Specifications.*

- a. Trees. Required trees shall be of the following sizes at the time of planting, unless otherwise stated in this Section.
 - i. Deciduous Trees. Two and a half (22) inch caliper measurement.
 - ii. Evergreen Trees. Six (6) feet in height, with a minimum spread of three (3) feet.
 - iii. Deciduous Ornamental Trees. One (1) inch caliper measurement.
- b. Shrubs. Minimum twenty-four (24) inches in height above planting grade.
- c. Hedges. Planted in such a manner as to form a continuous unbroken visual screen within two (2) years after planting.
- d. Vines. Minimum of thirty (30) inches in length after one (1) growing season.
- e. Ground Cover. Planted in such a manner as to present a finished appearance and reasonably complete coverage after one (1) complete growing season.
- f. Grass. Planted in species normally grown as permanent lawns in the south-central Michigan area. Grass may be plugged, sprigged, seeded, or sodded, except that rolled sod, erosion reducing net, or other suitable mulch shall be used in swales or other areas subject to erosion. Grass, sod, and seed shall be clean and free of weeds, noxious pests, and disease.
- g. Mulch Material. Minimum of four (4) inches deep for planted trees, shrubs, and vines, and shall be installed in a manner as to present a finished appearance.
- h. No plant materials used to satisfy these standards shall be comprised of non-living materials, such as plastic plants.

- i. Ground covers shall be planted in such a manner so as to present a finished appearance and reasonably complete coverage after one complete growing season, at a rate of at least three plants per square foot.
- j. All plant materials shall be well-formed, sound, vigorous, healthy and free from disease, sun scald, wind burn, abrasion, and harmful insects at the time of planting.
- k. 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 their tendency and susceptibility to storm damage, their roots are known to clog drains and sewers, they are known to be susceptible to disease or insect pests, or other undesirable characteristics: Silver Maple, Box Elder, Honey Locust (thorned), Ginko (female), Mulberry, Poplar, Black Locust, Willow, American Elm, Siberian Elm, Slippery Elm (Red Elm), and Chinese Elm, Horse Chestnut, Poplar, Ailanthus, Catalpa, Osage orange, Cottonwood, and European Barberry.

H. **Maintenance Standards.** The property owner shall be responsible for the long term maintenance of required landscaping in accordance with the standards set forth in this Paragraph. The Zoning Administrator may order in writing that the property owner take necessary actions to maintain landscaped areas and to replace dead, diseased or dying vegetation.

- 1. 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 and growing condition, neat and orderly in appearance.
- 2. All landscaped areas shall be provided with a readily available and acceptable water supply to facilitate continued maintenance.
- 3. Landscaping materials and arrangement shall ensure adequate sight visibility for motorists, adequate clearance for pedestrians and vehicles, and accessibility to fire hydrants, and shall not interfere with or obstruct the view of public view sheds

and sight lines from rights of way and public property to streams, lakes, and other waterways.

4. Plantings within ten (10) feet of a fire hydrant shall be no taller than twelve (12) inches at maturity.

I. **Fence Standards.** Fences required by this Section shall comply with the following minimum standards:

1. Fences shall be between five (5) and six (6) feet in height.
2. Fences shall be solid and shall completely block light from passing through.

Section 17.06 Criteria for Granting Site Plan Approval

Each site plan shall conform to all applicable provisions of this Ordinance. The following criteria shall be used by the Planning Commission as a basis upon which site plans will be reviewed and approved or denied. The Planning Commission shall adhere to sound planning principles, yet may allow for design flexibility in the administration of the following standards:

- A. All elements of the site shall be harmoniously and efficiently designed in relation to the topography, size, and type of land, and the character of the adjacent properties and the proposed use. The site shall be developed so as not to impede the reasonable and orderly development or improvement of surrounding properties for uses permitted on such property.
- B. The site plan shall comply with the zoning district requirements for minimum floor space, height of building, lot size, yards and open space, density and all other requirements as set forth in this Ordinance.
- C. The existing natural landscape shall be preserved in its natural state as much as possible, by minimizing tree and soil removal and by topographic modifications that result in maximum harmony with adjacent properties.

- D. The site plan shall provide reasonable visual and sound privacy. Fences, walls, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and the safety and privacy of occupants and users. Where landscaping is provided, there must be provision for maintaining all plantings through a regular program of fertilizing, irrigating, pruning, mowing and replacing all dead and diseased materials.
- E. All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.
- F. All streets shall be developed in accordance with the Branch County Road Commission design specifications. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets or pedestrian or bicycle pathways in the vicinity of the site. Streets and drives that are a part of an existing or planned street system serving adjacent developments shall be of an appropriate width to the volume of traffic they are planned to carry and shall have a dedicated right-of-way equal to that specified in a Township recognized source of reference. The applicant may be required to dedicate adequate land and improvements to the Township in order to achieve access which is safe and convenient.
- G. Special attention shall be given to proper site drainage. Appropriate measures shall be taken to insure that the removal of surface waters will not adversely affect adjacent lots or the capacity of the public or natural storm drainage system. Provisions shall be made for a feasible storm drainage system, the construction of storm-water facilities, and the prevention of erosion and dust. In addition, special attention shall be given to the installation of appropriate fencing and other safety measures adjacent to and surrounding stormwater retention and detention areas. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicles or pedestrian traffic and will not create nuisance ponding in paved areas. Where possible and practical, drainage design shall recognize existing natural drainage patterns. Final grades may be required to conform to existing or future grades of adjacent properties.

- H. All off-street parking, loading and unloading areas and outside storage areas, including areas for storage of trash, that face or are visible from adjacent residential districts or public thoroughfares, shall be screened by walls, fencing or landscaping of effective height as required within the landscape provisions of this ordinance. Building entrances designed for vehicular access shall not access any building through the front yard of a development.
- I. Exterior lighting shall be so arranged and limited in intensity and height so that it is deflected away from adjacent lots and so that it does not impede vision of drivers along adjacent streets. All exterior lighting shall be recessed within the fixture or structure in which it is attached.
- J. Adequate services and utilities including sanitary sewers or land suitable for onsite sewage disposal, and improvements shall be available or provided, located and constructed with sufficient capacity and durability to properly serve the development.
- K. Any storage area for garbage and refuse, other than within a fully enclosed structure shall comply with the following requirements:
1. The 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 property on which the containers are placed.
 2. A decorative masonry wall or wooden privacy fence of six (6) feet in height shall enclose three (3) sides of the storage area. 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. Screening gates may be required by the Planning Commission when deemed necessary to obscure a trash receptacle from view from a public right-of-way and adjacent properties. 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.

- L. Any use permitted in any zoning district must comply with all applicable requirements of state, local, and federal statutes including health and pollution laws and regulations with respect to noise, smoke and particulate matter, vibration, noxious and odorous matter, glare and heat, fire and explosive hazards, gases, electromagnetic radiation and drifting and airborne matter, toxic and hazardous materials, erosion control, floodplains, wetlands, and requirements of the State Fire Marshal. Site plan approval may be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted.
- M. An objective of site plan review shall be to protect and to promote public health, safety and general welfare by requiring the screening, buffering and landscaping of sites and parking lots which will serve to reduce wind and air turbulence, heat and noise, and the glare of automobile lights; to preserve underground water reservoirs and return precipitation to the ground water strata; to act as a natural drainage system and solve storm water drainage problems; to reduce the level of carbon dioxide and return oxygen to the atmosphere; to prevent soil erosion; to provide shade; to conserve and stabilize property values; to relieve the stark character of parking lots; to conserve energy, provide visual and sound privacy and to otherwise facilitate the preservation and creation of a healthful, convenient, attractive and harmonious community.
- N. It is an objective of site plan review to improve the quality of existing developments as they are expanded, contracted, redeveloped or changed in keeping with sound site development standards of the Township and with the Township Master Plan.
- O. A major objective shall be to retain, enhance and protect the quality, value and privacy of all residential land uses.
- P. All development phases shall be designed in logical sequence to insure that each phase will independently function in a safe, convenient and efficient manner without being dependent upon improvements of a subsequent development potential of lands.
- Q. All sites shall be designed to comply with State and local barrier-free requirements and to reasonably accommodate the handicapped and elderly.

Section 17.07 Review and Approval

Site Plans shall be reviewed in accordance with the following procedures:

- A. **Department Review.** The Township may secure comments from the Building Inspector, Branch County Road Commission, Sheriff's Department, and the Township's consultant Engineer and/or Planner, and forward all comments to the Planning Commission for its review. The Planning Commission shall review the plans and may solicit further comments from an Engineer, Planning Consultant and other agencies, groups or persons, as appropriate.
- B. **Site Plan Approval.** The Township Planning Commission is hereby authorized to review and approve, with or without conditions or to review and deny approval, all site plans submitted under this Ordinance. Guidelines for consideration of each case shall follow the Zoning Ordinance and other applicable ordinances. When the Planning Commission approves a site plan with conditions, the Township Zoning Administrator shall require from the applicant a revised site plan with a revision date, indicating said conditions on the site plan.
- C. **Record of Action.** Each action taken with reference to site plan review and approval shall be duly recorded in the minutes of the Alganssee Township Planning Commission. A final copy of the approved site plan shall be so marked and placed on file with the Township Clerk's office.
- D. **Final Site Plan.** When a site plan approval is required, no building permit shall be issued until three copies of a final site plan, which includes all conditions of approval, a revision date and notation of all variances has been signed by each member of the Planning Commission, the Township Zoning Administrator or their designees. Prior to issuance of a permit, one copy of the final signed plan shall be filed with each of the following: Township Clerk, Building Official and the Applicant.

- E. **Re-Application.** An application for a site plan review that is substantially the same as a site plan that has been denied by the Planning Commission, shall not be filed and shall not be accepted by the Planning Commission within twelve (12) months of the date of denial.

Section 17.08 Issuance of Building Permit after Site Plan Approval

The Zoning Administrator shall not issue a zoning permit until after the final site plan has been approved and all other required permits have been issued. Complete construction plans including component phases, shall be submitted for review by the Building Inspector and, as applicable, the Township Engineer. Upon review and finding that the construction plans meet with the requirements of site plan approval, the zoning permit, and other applicable ordinances of the Township, the Building Inspector may issue a building permit for said construction.

Site plan approval shall be valid for one year from the date of approval. If an applicant does not obtain a building permit within one year after site plan approval, the site plan approval expires and is of no force or effect, with or without written notice from the Township.

Section 17.09 Modification of an Approved Site Plan

No changes to an approved site plan shall be permitted. The only means for modifying an approved plan is for the property owner or applicant to submit a new application for site plan review.

Section 17.10 Conformity to Approved Site Plan Required

Following approval of a site plan by the Planning Commission, the applicant shall construct the site plan improvements in complete conformity with the approved plan. Failure to do so is a violation of this Ordinance and subject to the enforcement provisions of Chapter 21.

Upon completion of the installation of required improvements as shown on the approved site plan, the property owner/applicant shall submit to the Township Zoning Administrator, two copies of an "as built" site plan, certified by an engineer or architect, at least one week prior to the anticipated occupancy of any building. No Certificate of Occupancy shall be issued by the Building Official, and there shall be no occupancy and no use until and after the Zoning Administrator shall have confirmed, by the issuance of a zoning certificate, that the site plan has been fully constructed and installed in conformance with the approved site plan and any and all conditions imposed by the Planning Commission.

Chapter 18

Special Use Permits

Section 18.01 Special Use Permits Generally

- A. **Intent.** The procedures and standards set forth in this Chapter are intended to provide a consistent and uniform method for review of proposed plans for special land uses.
- B. **Purpose.** The purpose of incorporating special use permits into the Zoning Ordinance is based on the theory that the development and execution of a comprehensive zoning ordinance is founded upon the division of the Township into districts, within each district the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses that, while generally compatible with other uses in a particular zoning district, may not be suitable for each property located within that district. Furthermore, there are certain uses that, because of their unique characteristics, may require additional development standards to minimize potential impacts to adjacent and nearby properties.
- C. **Application.** Certain uses are permitted by special use permit in accordance with the various zoning district regulations. When a special use permit is required, no zoning permit shall be issued, no construction for any building or structure shall be commenced, and no use shall be made until and after the Planning Commission approves a special use permit for a particular use on a particular lot in accordance with the procedure set forth in this Chapter.

Section 18.02 Application Process

- A. **The Application.** Application for a special use permit shall be made to the Planning Commission by filing ten (10) copies of an application form with the Township Zoning Administrator. Fees are required to be paid in accordance with the fee schedule in effect as established by the Township Board at the time the application is made. The

information required below shall be considered a minimum and the Zoning Administrator, in consultation with the Chairman of the Planning Commission, may require additional information, such as a current survey, that they deem necessary in order for the Planning Commission to make a fully informed decision on the application.

The application shall include the following information:

1. The applicant's name, address, and phone number.
2. The address, parcel number and current zoning district classification of the property.
3. The application shall be executed by the owner(s) of the property. The application may be represented by a party who has a legal financial interest in the property (such as a purchase agreement) provided that the application contains an affidavit signed by the property owner(s) indicating the party and the nature of the legal interest.
4. The application shall grant a right of entry onto the subject property to the Zoning Administrator, members of the Planning Commission, and representatives and designees of the Township for the purpose of inspecting the property and reviewing the application.
5. The address of the applicant to whom all correspondence regarding the application and the Special Use Permit process can be mailed.
6. A narrative project description of the proposed use including
 - a. number of employees
 - b. hours of operation
 - c. use of hazardous or toxic materials
 - d. a description of all local, state and federal permits and licenses required for the proposed use, and an indication of which have and have not been obtained as of the date of the filing of the application

- e. materials of construction
 - f. anticipated traffic generation
 - g. water, sewer and infrastructure needs
7. A site plan showing:
- a. property lines with dimensions
 - b. location of existing and proposed structures with dimensions
 - c. open yards as required by the applicable zoning district regulations
 - d. location and dimension of all proposed signs
 - e. parking and loading areas, and traffic circulation plan
 - f. proposed walls, fences and landscaping
 - g. the location of all structures within one-hundred-fifty (150) feet of the property boundary lines
 - h. outdoor storage, outdoor activity or work areas, and outdoor mechanical equipment
8. Any additional information, as specifically required pursuant to Chapter 14.

B. Submission of the Application. The application shall be filed with the Zoning Administrator, who shall review the application within fifteen (15) days of its receipt. In reviewing the application for completeness, the Zoning Administrator may consult with the Chairman of the Planning Commission, the Township Supervisor, the Township Engineer, and any other parties whose input the Zoning Administrator deems necessary for the proper review of the application. If the Zoning Administrator finds that the application is not complete, he shall return the application with a written explanation of the additional information that is required. Once the application is found to be complete, the Zoning Administrator shall forward the application to the Secretary of the Planning Commission who shall schedule the application for a Public Hearing at a regular meeting

of the Planning Commission, within forty-five (45) days of the date on which the application was found to be complete by the Zoning Administrator.

C. **Public Hearing.** Upon receipt of a complete application, site plan, and attachments, if any, the Secretary of the Planning Commission shall schedule a public hearing on the application. Notice of the public hearing shall be posted in accordance with the requirements of paragraph D below.

D. **Public Notification.** All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, and the other provisions of this Section with regard to public notification.

1. *Responsibility.* When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Clerk shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the Township and mailed or delivered as provided in this Section.

2. *Content.* All mail, personal, and newspaper notices for public hearings shall:

a. Describe nature of the request: Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation, or other purpose.

b. Location: Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.

- c. When and where the request will be considered: Indicate the date, time, and place of the public hearing(s).
 - d. Written comments: Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.
 - e. Handicap access: Information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.
3. *Personal and Mailed Notice*
- a. General: Except as otherwise provided in this Ordinance and State Law, notice shall be provided to:
 - i. The owners of property for which approval is being considered, and the applicant, if different than the owners(s) of the property.
 - ii. Except for rezoning requests involving eleven (11) or more adjacent properties or an ordinance interpretation request that does not involve a specific property; to all persons to whom real property is assessed and occupants within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of the Township. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than four dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. If the name of the occupant is not known, the term

“occupant” may be used in making notification. [Amended 8/3/09; Ord. #105]

- iii. All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to Section 18.02.D.5, Registration to Receive Notice by Mail.
 - b. Notice by mail/affidavit: Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The Clerk shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.
4. *Timing of Notice:* Unless otherwise provided in the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, or this Ordinance where applicable, notice of a public hearing shall be provided for a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or ordinance interpretation not less than fifteen (15) days before the date the application will be presented at a public hearing.
5. *Registration to Receive Notice by Mail.* Any neighborhood organization, public utility company, railroad, or any other person may register with the Clerk to receive written notice of all applications for development approval pursuant to Section 18.02.D.3, Personal and Mailed Notice, or written notice of all applications for development approval within the zoning district in which they are located.
- a. The Clerk shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by the legislative body.
 - b. The requesting party must provide the Clerk information on an official form to ensure notification can be made. All registered persons must re-

register annually to continue to receive notification pursuant to this Section.

Section 18.03 Standards for Approval of Special Use Permits

At the public hearing the Planning Commission shall review the application for a special use permit in regard to the standards set forth in this Section. No special use permit shall be approved by the Planning Commission unless it finds that the proposed use will comply with all of the following standards.

- A. The proposed special land use shall be compatible with and in accordance with the general principles and future land use configuration of the Township Master Plan and shall promote the intent and purpose of this Ordinance.
- B. The location, scale, and intensity of the proposed use shall be compatible with adjacent uses and zoning of land. The property shall be of sufficient size to accommodate the proposed use in compliance with the required development standards of the applicable zoning district without a variance. All aspects of the proposed use, including parking, storage and lighting, shall be accommodated on the subject lot and within the same zoning district.
- C. The proposed use shall be designed, constructed, operated and maintained so as to assure long-term compatibility with surrounding land uses. Consideration shall be given to:
 - 1. The size, placement, and materials of construction of the proposed use in relation to surrounding uses.
 - 2. The location and height of buildings; the location, nature and height of walls and fences; and the nature and extent of landscaping.
 - 3. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.

4. The hours of operation of the proposed use. Approval of a special land use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
- D. The location of the proposed special land use within the zoning district shall minimize the impact of the traffic generated by the proposed use. Consideration shall be given to the following:
1. Proximity and access to major thoroughfares.
 2. Estimated traffic generated by the proposed use.
 3. Proximity and relation to intersections.
 4. Location of and access to off-street parking.
 5. Required vehicular turning movements.
 6. Provision for pedestrian traffic.
- E. The proposed special land use shall be consistent with existing and future capabilities of public services and facilities affected by the proposed use.
- F. The proposed use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed so as to be detrimental to public health, safety, and welfare. Site layout shall be such that operations will not be objectionable to nearby dwellings by reason of noise, fumes, glare, or flashing lights.
- G. The proposed use shall be compatible with the natural environment in regard to the preservation of wetlands, minimization of stormwater runoff and erosion.
- H. The proposed use shall provide safe and adequate off-street parking if required in accordance with Section 14.06.
- I. The proposed use will provide adequate landscaping if required in accordance with Section 17.05.

Section 18.04 Approval or Denial of Special Use Permit

- A. **Approval or Denial.** At or after the public hearing, the Planning Commission shall consider the application in regard to each of the standards set forth in Section 18.03. If the Planning Commission finds that the proposed use complies with each standard then the Planning Commission shall approve the special use permit. If the Planning Commission finds that the proposed use does not comply with one or more of the standards then the Planning Commission may deny the special use permit. The decision on the special use permit shall be incorporated into a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed.
- B. **Conditions.** In approving a special use permit, the Planning Commission may impose conditions related to the standards set forth in 18.03 in order to minimize impacts to adjacent and nearby properties, to assure good planning and orderly development, and to protect the health, safety and welfare of the community.
- C. **Re-Application.** An application for a special use permit that is substantially the same as a special use permit that has been denied by the Planning Commission, shall not be filed and shall not be accepted by the Planning Commission within twelve (12) months of the date of denial.

Section 18.05 Approved Special Use Permits

- A. **Duration.** If the activities authorized by a special use permit are not commenced within twelve (12) months of the date of approval, it shall be null and void, with or without written notification from the Township. An approved special use permit shall run with the land. A change in ownership of the property shall not nullify an approved special use permit. If the activities authorized by a special use permit are discontinued for twelve (12) months or longer, the special use permit shall become null and void, with or without written confirmation from the Township.

- B. **Modifications.** There shall be no modifications of an approved special use permit. A property owner desiring a modification of an approved special use permit must file a new application for the modification and go through the process established in this Chapter.
- C. **Violations.** Any violation of the conditions imposed with a special use permit, and any violation of the plans or the information submitted with the application for a special use permit shall be deemed to be violations of this Ordinance and shall be subject to the enforcement procedures provided for in Chapter 21.

Chapter 19

Nonconforming Uses, Structures, and Lots

Section 19.01 Purpose and Intent

Nonconformities are uses, structures, buildings, or lots which do not conform to one or more provisions or requirements of this Ordinance, or a subsequent amendment, but which were lawfully established (developed, created, constructed, started, etc.) prior to the time of adoption of the Ordinance or a subsequent amendment. Over time, the standards of this Ordinance shall encourage nonconformities be brought into conformance with the current standards of the Ordinance. However, Alganssee Township recognizes and honors the right to continue lawful nonconformities that were or are lawfully established prior to adoption of this Ordinance or any subsequent amendment provided that they and any changes or modifications of them comply with those certain conditions and requirements as are provided in this Chapter 19.

Section 19.02 Nonconforming Uses

A nonconforming use is a use which was lawfully in existence as of the effective date of this Ordinance, or amendment thereto, and which does not now conform to the use regulations of this Ordinance for the zoning district in which it is now located.

- A. **Continuation of Nonconforming Uses.** Where, on the effective date of this Ordinance, or the effective date of an amendment to this Ordinance, a lawfully permitted use of land exists, which use is no longer permitted by right under the terms of this Ordinance as enacted or amended, such use may be continued, provided it remains otherwise lawful, subject to the following provisions:
1. *Expansion of Use.* No such nonconforming use shall be enlarged or increased, nor shall it be extended to occupy a greater area or height than it occupied on the effective date of this Ordinance or any amendment thereto.
 2. *Moving.* The right to continue a nonconforming use runs with the land. A change in property ownership shall not otherwise affect the rights to continue a

nonconforming use established in this Section. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.

3. *Discontinuation of Use.* If such nonconforming use of land ceases for any reason for a period of more than twelve (12) months the right to continue such nonconforming use shall be null and void, with or without written notification from Alganssee Township. Any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.
4. *Physically unsafe Structure.* Repairs or maintenance that the County Building Official deems to be necessary and reasonable to keep a structure containing a nonconforming use structurally safe and sound shall be permitted, if, but only if, performed and completed within such reasonable time period as the County Building Inspector allows. If the County Building Inspector determines and declares a structure containing a nonconforming use to be structurally or physically unsafe, all use of the structure shall immediately cease and no use thereof shall thereafter be resumed except in full conformity with applicable building code and zoning district regulations.

B. Provisions for Agricultural Uses in the R-2 Urban Residential Zoning District. The continuation and expansion of nonconforming agricultural uses in the R-2 Urban Residential Zoning District shall be interpreted in accordance with the following criteria:

1. Agricultural operations may be continued only on the portions of a property on which they were conducted or on land enrolled in the USDA set aside program prior to the effective date of this Ordinance or pertinent amendment thereto.
2. Agricultural operations may incorporate advances in technology. New structures may be allowed provided such structures comply with all of the development standards of the applicable zoning district and the agricultural zoning district, which ever imposes the more restrictive standard.

3. Agricultural operations that did not include livestock operations prior to the effective date of this Ordinance, or pertinent amendment thereto, shall not thereafter include livestock operations in excess of two (2) animal units, as defined by the Michigan Commission on Agriculture.
4. Agricultural operations that included livestock operations shall not be expanded, in terms of animal units as defined by the Michigan Commission on Agriculture, by more than ten (10) percent.

Section 19.03 Nonconforming Lots

- A. A nonconforming lot is a lot of record which was lawfully in existence at the effective date of this Ordinance, or amendments thereto, and which does not now conform to the lot size, lot width, or other provisions of this Ordinance pertaining to lots in the zoning district in which it is located. Existing nonconforming lots may continue to be used as provided for in this Section. However, no new nonconforming lots may be created.
- B. A nonconforming lot may be utilized for any use which is permitted in accordance with the relevant zoning district regulations, provided that any building or structure to be constructed complies with the minimum yard requirements of the applicable zoning district regulations.

Section 19.04 Nonconforming Structures

A nonconforming structure is a building or structure, or portion thereof that was lawfully in existence at the effective date of this Ordinance, or amendments thereto, and which does not now conform to the minimum building height, area, setback, lot coverage or other provision of this Ordinance pertaining to buildings in the zoning district in which it is located.

A. Expansion of Structures.

1. Nonconforming structures may be expanded vertically provided:
 - a. The expansion does not exceed the maximum height allowed for structures within the zoning district in which it is located;

- b. The expansion occurs within the same footprint (horizontal dimensions) as existed prior to any improvements or expansion, or it otherwise complies with the current minimum yard requirements; and
 - c. The structure otherwise complies fully with the minimum yard, area, lot coverage, and other applicable provisions of the Ordinance.
 - 2. Nonconforming structures may be expanded horizontally as well provided that any new construction complies fully with the minimum yard, height, and other requirements of the applicable zoning district.
- B. **Moving.** If a nonconforming structure is moved, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- C. **Protecting Public Safety.** Repairs or maintenance that the County Building Official deem to be necessary and reasonable to keep a nonconforming building structurally safe and sound shall be permitted, if, but only if, performed and completed within such reasonable time period as the County Building Inspector allows. If the County Building Inspector determines and declares a nonconforming structure to be physically unsafe all repairs on the structure shall immediately cease and the structure shall not thereafter be restored, repaired, or rebuilt except in full conformity with the applicable building code and zoning district regulations.
- D. **Replacement of a Non-conforming Structure.** A nonconforming structure that has been damaged or destroyed may be replaced in its original location, provided the damage or destruction did not result from any intentional act of the property owner. The replacement structure shall not be permitted to expand beyond the footprint (horizontal dimensions) of the existing structure unless that portion of the structure that is expanding is in conformance with the requirements of this Ordinance. Replacement of such a non-conforming structure shall commence no sooner than receiving a valid building permit and within 12 months of the date of damage. Failure to commence replacement within that period shall require an extension and an acceptance of good cause at a hearing before the Zoning Board of Appeals.

Section 19.05 Change in Tenancy or Ownership

A change of tenancy, ownership, or management of any existing nonconforming use, lot or structure shall not affect the nonconforming rights set forth in this Chapter.

Section 19.06 Unlawful Nonconformities

Any nonconforming use, lot, or structure that was in violation of the Ordinance prior to the enactment of this Ordinance or pertinent amendment thereto because it was constructed without a permit and/or approval and remains as such after enactment of this Ordinance or pertinent amendment shall be in violation of this Ordinance and subject to the enforcement provisions of Chapter 21.

Section 19.07 Recording of Nonconformities

Upon the written request by a property owner and upon the determination that a nonconforming use, structure, or lot was lawful and fully permitted prior to the effective date of this Ordinance, or pertinent amendment thereto, the Zoning Administrator shall issue a Zoning Certificate, in accordance with Section 21.04, that establishes that the use, structure, or lot is a legal nonconforming use and is eligible for the nonconforming rights established by this Chapter. In any such request, the burden is upon the property owner to provide sufficient information and evidence for the Zoning Administrator to make a finding that such use, structure, or lot was lawful and fully permitted prior to the effective date of this Ordinance or pertinent amendment thereto. A copy of any such Zoning Certificate shall be forwarded to the Secretary of the Planning Commission who shall maintain a public record of all such legal nonconforming uses, structures, and lots.

Section 19.08 Appeals

Any party aggrieved by a decision regarding a nonconformance use, structure, or lot may appeal the decision. If the original decision on the nonconformity is an administrative decision, the appeal may be taken to the Zoning Board of Appeals per the standards in Section 20.06. If the decision is made by the Zoning Board of Appeals, the appeal shall be to the Circuit Court of Branch County under the same provisions as a variance appeal, Section 20.07.G.

Chapter 20

Zoning Board of Appeals

Section 20.01 Establishment of the Zoning Board of Appeals

Pursuant to Public Act 110 of 2006, the Michigan Zoning Enabling Act, as amended, there is hereby created the Algansee Township Zoning Board of Appeals, referred in this Ordinance as the “Zoning Board of Appeals” or ZBA. The Zoning Board of Appeals shall be constituted and appointed as provided by Michigan Township Zoning Act and shall be comprised of five (5) members and up to two (2) alternates. [Amended 8/3/09; Ord. #105]

Section 20.02 Intent

The intent of Algansee Township in establishing the Zoning Board of Appeals is to provide for variances, to provide a means for interpreting this Ordinance, and to provide a final means of administrative remedy for appeals of decisions made pursuant to this Ordinance. The purpose of this Chapter is to provide guidelines and standards to be followed by the Zoning Board of Appeals to act on matters where this Ordinance or state law gives jurisdiction to the ZBA.

Section 20.03 Rules and Procedures

The Zoning Board of Appeals shall establish fixed rules and regulations governing its procedures, meetings, operations, and actions. Said rules shall be made available to the public and shall be in conformance with this Ordinance, the Michigan Zoning Enabling Act, and the Open Meetings Act.

Section 20.04 Authority of the Zoning Board of Appeals Generally

The Zoning Board of Appeals shall have the authority to act on those matters where this Ordinance or State law provides for jurisdiction. The ZBA shall have the authority to interpret this Ordinance in accordance with the standards set forth in Section 20.05. The ZBA shall have the authority to grant appeals from any administrative decision, determination, or action by the Zoning Administrator, Planning Commission, or the Township Board pursuant to this Ordinance, in accordance with the standards set forth in Section 20.06. The ZBA shall have the authority to grant variances to the application of this Ordinance in accordance with the standards set forth in Section 20.07. The ZBA does not have the authority to and shall not grant any use variances. The ZBA shall not have the authority to change the zoning district classification of any property nor to amend this Ordinance in any way.

Section 20.05 Interpretations of the Zoning Ordinance

The ZBA shall have authority to hear and decide requests for interpretation of the Zoning Ordinance, including the zoning map, in accordance with the standards set forth in this Section.

- A. **Application.** Any property owner may file an application for a Zoning Ordinance interpretation with the Zoning Administrator. Such application shall include a fee as established from time to time by the Township Board. The Township Board and the Planning Commission may also petition the ZBA for a Zoning Ordinance interpretation by filing an application with the Zoning Administrator, and in such case there shall be no fee required. The application shall contain, at a minimum, the following information:
1. Name and address of the applicant;
 2. The property address and tax number for the property in question;
 3. A plot plan showing the property boundary lines and dimensions, and the location and dimensions of existing and proposed structures;

4. A written narrative that describes the issue on which the Zoning Ordinance is unclear or ambiguous and the nature and extent of the problem created by the language of the Zoning Ordinance.
- B. **Process.** The Zoning Administrator shall review the application for completeness. Once a completed application is received by the Zoning Administrator, he or she shall forward the application to the Secretary of the Zoning Board of Appeals who shall schedule a meeting of the Zoning Board of Appeals and place the application on the agenda of that meeting. Such meeting shall be held no sooner than fifteen (15) days and no more than sixty (60) days from the date that the application is received by the Secretary.
- C. **Hearing.** The ZBA shall consider the application for a Zoning Ordinance interpretation at a public hearing. The hearing shall be noticed in the same manner as described in Section 18.02.D. The ZBA shall consider the application in regard to the standards set forth in Section 20.05.D below prior to coming to a decision. The ZBA may request advice from the Zoning Administrator, the Planning Commission, the Township Board, consultants for the Township, and any other party whose knowledge or expertise may assist the ZBA with making an informed decision.
- D. **Standards.** In considering and acting upon a request for a Zoning Ordinance interpretation, the Zoning Board of Appeals shall consider the following:
1. Any interpretation issued by the ZBA shall be consistent with the Master Plan.
 2. Any interpretation issued by the ZBA shall be in keeping with the text as well as the spirit and intent of the Zoning Ordinance, read as a whole.
 3. Any interpretation issued by the ZBA shall be in keeping with reasonable and/or practical interpretations which have been consistently applied in the administration of the Ordinance.
 4. Any map or boundary interpretation shall be made based upon rules in the Ordinance, and any relevant historical information.

5. Any interpretation issued by the ZBA shall be related to an issue on which the Zoning Ordinance contains ambiguous, unclear, or conflicting language.
 6. No interpretation shall be issued for an issue on which the Zoning Ordinance is silent. The appropriate remedy for such issues is an amendment to the Zoning Ordinance in accordance with Chapter 21.
 7. Any interpretation issued will serve to protect the health, safety and welfare of the community, and shall not be injurious to adjacent and nearby properties.
- E. **Action.** When the ZBA finds that a request for a Zoning Ordinance interpretation complies with each standard set forth in Section 20.05(D) the ZBA may approve the requested interpretation. When the ZBA finds that a request does not comply with one or more of the standards, then the ZBA shall deny the requested interpretation. The ZBA may approve a different interpretation than that which was requested, when it finds that the alternative interpretation is more in keeping with the Master Plan and the Zoning Ordinance than the requested interpretation is, and when the ZBA finds that the alternative interpretation complies with each standard.
- F. **Record.** The Secretary of the Zoning Board of Appeals shall notify the Secretary of the Planning Commission of the ZBA's action on all requested interpretations. The Secretary of the Planning Commission shall maintain a public record of all interpretations approved by the ZBA.

Section 20.06 Appeals

The ZBA shall have the authority to hear and decide appeals from any review, order, requirement, decision, or determination made by the Zoning Administrator, the Planning Commission, or the Township Board in the course of enforcing this Ordinance. An appeal shall only be heard by the ZBA if the appeal is filed within thirty (30) days of the date of the order, requirement, decision, or determination for which the appeal is sought.

A. **Application.** An application for an appeal may be taken by an officer, board, or bureau of the State or local government or by any person aggrieved by any order, requirement, decision or determination made by the Zoning Administrator, the Planning Commission or the Township Board in the course of enforcing this Ordinance. Applications for appeals shall conform to the following requirements:

1. The application for an appeal shall be filed with the Secretary of the Zoning Board of Appeals and the officer from whom the appeal is taken: the Zoning Administrator, the Chairman of the Planning Commission, or the Clerk of the Township Board.
2. The application shall be deemed to be filed on the date that the complete application is received by the Secretary of the ZBA.
3. The application shall be made on forms provided by the Zoning Administrator. The applicant shall submit with the application filed with the Secretary of the ZBA a fee as established from time to time by the Township Board. The application shall contain, at a minimum, the following information:
 - a. Name and address of the applicant;
 - b. The property address, tax number and zoning district classification for the property in question;
 - c. A site plan showing the property boundary lines and dimensions, and the location and dimensions of existing and proposed structures. The ZBA may, in its discretion, require that the applicant, at his expense, submit a detailed site plan prepared by a licensed surveyor or professional engineer when it determines that such a site plan is necessary in order for the ZBA to make an informed decision.
 - d. A written narrative that describes the decision or action from which the appeal is sought, the particular relief that is sought, and the potential

impact of the relief sought on adjacent and nearby properties, and that specifically addresses each standard set forth in Section 20.06(D)

4. An appeal may also be filed by the Zoning Administrator, Planning Commission or Township Board, or any officer, department or bureau of the Township, County or State.
 5. Within fourteen (14) days of the date the appeal is filed, the officer from whom the appeal is taken shall deliver to the Secretary of the ZBA copies of all of the papers constituting the record upon which the decision was made.
- B. Stay of Proceedings.** An appeal shall have the effect of staying all proceedings in furtherance of the action being appealed, unless the officer or entity from whom the appeal is taken certifies to the ZBA that, by reason of facts stated in such certification, a stay would in his or her opinion cause imminent peril to life or property. If such certification is made, proceedings shall not be stayed unless specifically determined by the ZBA, or by a court of competent jurisdiction. The provisions of this paragraph shall not nullify a stop work order validly issued by the Zoning Administrator or Planning Commission.
- C. ZBA Review.** Once the Secretary of the ZBA is in receipt of the complete application and the complete record on which the decision was made, the Secretary shall schedule a meeting of the ZBA, schedule a public hearing, and place the appeal case on the agenda for that meeting. The public hearing shall be properly noticed in accordance with the requirements of Section 18.02.D. Such meeting shall be held no sooner than fifteen (15) days and no more than sixty (60) days from the date that the application is received by the Secretary. Applicants may request to have their appeal scheduled for a later date if desired.
1. The Secretary shall notify the parties involved of the date, time and place of the meeting, at least fifteen (15) days prior to the meeting.
 2. The appeal may be represented by a party who has a legal financial interest in the property (such as a purchase agreement) provided that the application contains an

affidavit signed by the property owner(s) indicating the party and the nature of the legal interest. The appeal may be represented by an agent or attorney representing the property owner or applicant.

3. The Chairman of the ZBA may administer oaths to each person who speaks or who offers evidence or testimony at the public hearing. The Chairman may compel the attendance of witnesses.

D. **Standards for Granting an Appeal.** In reviewing the appeal, the ZBA shall consider the following standards:

1. Did the order, requirement, decision, or determination comply with the constitution and laws of the State and with the requirements of this Ordinance?
2. Is the order, requirement, decision, or determination based upon proper procedure?
3. Is the order, requirement, decision, or determination supported by competent, material and substantial evidence on the record?
4. Is the order, requirement, decision, or determination a reasonable exercise of the authority granted by this Ordinance?

E. **Decision on the Appeal.** The concurring vote of a majority of the membership of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, board, or commission made in the enforcement of this Ordinance. If the ZBA finds that all four of the standards set forth in Section 20.06(D) above are satisfied, then it shall uphold the order, requirement, decision, or determination, and shall deny the appeal. If the ZBA finds that one or more of the required standards are not satisfied, it may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination. To that end, the ZBA shall have all the powers of the officer or body from whom the appeal was taken and may issue or direct the issuance of a permit. If the ZBA finds there is additional evidence available at its public hearing that was not available when the original order, requirement, decision,

or determination was made, it may remand the issue back to the officer or body from whom the appeal was taken for a rehearing. The ZBA may impose conditions on an affirmative decision in accordance with the following requirements:

1. Such conditions shall be designed to protect the natural resources, the health, safety, and welfare, and the social and economic well being of:
 - a. those who will patronize the land use or activity under consideration
 - b. residents, and the landowners immediately adjacent to the proposed land use or activity, and
 - c. the community as a whole.
2. Such conditions shall be related to the valid exercise of Township authority, and purposes which are affected by the proposed use or activity.
3. Such conditions shall be necessary to meet the intent and purpose of the 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.

F. **Finality of Decision.** The decision of the Zoning Board of Appeals in an appeal case shall be final. Any party aggrieved by the decision of the ZBA on such a case and with proper standing, may appeal the decision of the ZBA to the Circuit Court for Branch County. An appeal to Circuit Court must be filed within 30 days after the Zoning Board of Appeals issues its decision in writing signed by the Chairperson or by all of the members of the Zoning Board of Appeals, or within 21 days after the Zoning Board of Appeals approves the minutes of its decision, in accordance with the requirements of Section 606 of PA 110 of 2006, as amended. Any appeal granted by the ZBA shall be valid for one (1) year from the date of approval. If the use or construction authorized by a granted appeal does not commence within one (1) year of the date of approval and, in the case of construction, is not completed within two (2) years of the date of approval, the

appeal shall become null and void and of no effect, with or without written notification by the ZBA. [Amended 8/3/09; Ord. #105]

Section 20.07 Variances

The Zoning Board of Appeals shall have the authority to grant variances from the application of this Ordinance in cases where strict enforcement would cause practical difficulty as a result of special circumstances affecting an individual property, which do not generally affect other properties in the same zoning district. Such variances shall be subject to the provisions of this Section.

A. **Application.** Application for a variance shall be made to the Zoning Board of Appeals by filing of not less than five (5) copies of an application form with the Township Zoning Administrator. Fees are required to be paid in accordance with the fee schedule in effect as established by the Township Board at the time the application is made. This information below shall be considered a minimum and the Zoning Administrator, in consultation with the Chairman of the ZBA, may require additional information deemed necessary for the ZBA to make a fully informed decision on the application. The application shall include the following information:

1. The applicant's name, address, and phone number.
2. The address, parcel number and current zoning district classification of the property.
3. The application shall be executed by the owner(s) of the property. The application may be represented by a party who has a legal financial interest in the property (such as a purchase agreement) provided that the application contains an affidavit signed by the property owner(s) indicating the party and the nature of the legal interest.
4. The application shall grant a right of entry onto the subject property to the Zoning Administrator, members of the ZBA, and representatives and designees of the

Township for the purpose of inspecting the property and reviewing the application.

5. The address of the applicant to whom all correspondence regarding the application and variance process should be sent.
6. A narrative description of the requested variance that describes the section(s) of the Zoning Ordinance from which the applicant is seeking a variance as relief; the nature and extent of the requested variance; the potential impact of the requested variance on adjacent and nearby properties; and specifically how the application addresses and claims to meet the standards for granting a variance that are set forth in Section 20.07(E) below.
7. A plot plan showing:
 - a. property lines with dimensions
 - b. location of existing and proposed structures with dimensions
 - c. open yards as required by the applicable zoning district regulations
 - d. proposed walls, fences and landscaping
8. The ZBA may, in its discretion, require that the applicant, at his expense, submit a detailed plot plan prepared by a licensed surveyor or professional engineer when it determines that such a plot plan is necessary in order for the ZBA to make an informed decision.

B. Submission of the Application. The application shall be filed with the Zoning Administrator, who shall review the application within fifteen (15) days of its receipt. In reviewing the application for completeness, the Zoning Administrator may consult with the Chairman of the ZBA, the Township Supervisor, the Township Engineer, and any other parties whose input the Zoning Administrator deems necessary for the proper review of the application. If the Zoning Administrator finds that the application is not complete, he shall return the application with a written explanation of the additional

information that is required. Once the application is found to be complete, the Zoning Administrator shall forward the application to the Secretary of the Zoning Board of Appeals who shall schedule a meeting of the ZBA and schedule the application for a Public Hearing at that meeting. Such meeting shall be held no sooner than fifteen (15) days and no more than sixty (60) days from the date that the application is received by the Secretary.

C. Notice Public Hearing. Upon receipt of a complete application, site plan, and attachments, if any, the Secretary of the ZBA shall provide notice of the public hearing on the request. The notice shall be posted in accordance with the requirements in Section 18.02.D.

D. Public Hearing.

1. The variance request may be represented by a party who has a legal financial interest in the property (such as a purchase agreement) provided that the application contains an affidavit signed by the property owner(s) indicating the party and the nature of the legal interest. The variance request may be represented by an agent or attorney representing the property owner or applicant.
2. The Chairman of the ZBA may administer oaths to each person who speaks, or who offers evidence or testimony at the public hearing. The Chairman may compel the attendance of witnesses.
3. The applicant and interested members of the public shall have the opportunity to address the ZBA and present evidence in regard to the application, in accordance with rules and procedures adopted by the ZBA from time to time. The ZBA may also take into consideration the testimony provided by the Zoning Administrator, the Planning Commission, and parties with relevant knowledge or expertise.
4. Variances from the use requirements of the Zoning Ordinance shall be prohibited.

E. Standards for Granting a Variance. In reviewing the request for a variance, the ZBA shall determine if the strict application of the Ordinance would cause practical difficulty

to the applicant. The applicant shall establish practical difficulty by addressing the following conditions:

1. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters will unreasonably prevent the owner from using the property for a permitted purpose or will render Ordinance conformity unnecessarily burdensome.
2. Allowing the variance will result in substantial justice being done for the applicant and surrounding property owners; considering the public benefits intended to be secured by this article, the practical difficulty suffered on this property but not found broadly throughout the district, and the impact on properties affected by the allowance of the variance.
3. The variance requested is the minimum necessary to permit a reasonable use of the land, building, or structure.
4. The variance does not confer upon the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.
5. Unique circumstances or conditions exist which apply to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.
6. The unique circumstances, practical difficulty, and/or need for the variance, do not result from the actions or personal/financial circumstances of the applicant.
7. The granting of the variance will be in harmony with the spirit and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety and welfare.

- F. **Approval or Denial of Variance.** If the ZBA finds that all of the standards set forth in Section 20.07(E) above are satisfied, then it shall approve the variance. If the ZBA finds that one or more of the required standards are not met, it shall deny the variance. The

ZBA may approve a lesser variance if, in its opinion, the lesser variance will result in substantial justice being done, and if the lesser variance is in compliance with the standards set forth in Section 20.07(E). The ZBA may impose conditions on an affirmative decision in accordance with the following requirements:

1. Such conditions shall be designed to protect natural resources; the health, safety, and welfare of the Township; and the social and economic well being of:
 - a. those who will use the land use or activity under consideration
 - b. residents and landowners immediately adjacent to the proposed land use or activity, and
 - c. the community as a whole.
2. Such conditions shall be related to the valid exercise of the Township authority, and purposes which are affected by the proposed use or activity.
3. Such conditions shall be necessary to meet the intent and purpose of the 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.

G. **Finality of Decision.** The decision of the Zoning Board of Appeals in a variance case shall be final. Any party aggrieved by the decision of the ZBA on such a case and with proper standing, may appeal the decision of the ZBA to the Circuit Court for Branch County. An appeal to Circuit Court shall be filed within 30 days after the Zoning Board of Appeals issues its decision in writing signed by the Chairperson or by all the members of the Zoning Board of Appeals, or within 21 days after the Zoning Board of Appeals approves the minutes of its decision, in accordance with the requirements of Section 606 of PA 110 of 2006, as amended. Any variance granted by the ZBA shall be valid for one (1) year from the date of approval. If the use or construction authorized by a variance does not commence within one (1) year of the date of approval and, in the case of construction, is not completed within two (2) years of the date of approval, the appeal

shall become null and void and of no effect, with or without written notification by the ZBA. [Amended 8/3/09; Ord. #105]

- H. **Re-Application.** An application for a variance that is substantially the same as a variance that has been denied by the ZBA, shall not be filed and shall not be accepted by the ZBA within twelve (12) months of the date of denial.

Section 20.08 Not Voting Twice on Same Issue

A member of the Zoning Board of Appeals who is also a member of the Planning Commission or the Township Board shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission or the Township Board.

However, the member may consider and vote on other unrelated matters involving the same property. [Amended 8/3/09; Ord. #105]

Chapter 21

Zoning Administration

Section 21.01 Administration

The Township Board, the Planning Commission, the Zoning Board of Appeals, and the Zoning Administrator shall be responsible for the administration and enforcement of this Ordinance in accordance with the roles and responsibilities set forth in this Section.

- A. **Township Board.** The Township Board shall have the following exclusive authority:
1. To adopt the Zoning Ordinance, both text and map, in accordance with Public Act 110 of 2006, as amended;
 2. To approve amendments to this Zoning Ordinance, both text and map, in accordance with the provisions of this Chapter;
 3. To establish a schedule of fees, and to amend this schedule from time to time as deemed appropriate by the Board, for the administration and enforcement of this Ordinance;
 4. To appropriate funds to the Planning Commission, the Zoning Board of Appeals, and the Zoning Administrator, as deemed appropriate by the Board, for the administration and enforcement of this Ordinance;
 5. To establish, to appoint members to, and to remove members from the Planning Commission and the Zoning Board of Appeals in accordance with the provisions of this Ordinance and in accordance with the applicable provisions of State law;
 6. To appoint and to remove the Zoning Administrator, in accordance with the provisions of this Ordinance and in accordance with the applicable provisions of State law;

7. To institute legal proceedings to enforce compliance with this Ordinance in accordance with the provisions of this Chapter.

B. Planning Commission. The Algansee Township Board established the Algansee Township Planning Commission in accordance with Public Act 33 of 2008, as amended. The Planning Commission shall consist of five (5) members appointed by the Township Board, one of whom shall be a member of the Township Board. It is the intent of the Township Board that the Planning Commission be a continuation of the Planning Commission established and operated pursuant to the Zoning Ordinance originally adopted in November 1980, and that the terms of the members of the Planning Commission continues in accordance with those terms in effect as of the effective date of this Ordinance. [Amended 8/3/09; Ord. #105]

1. Planning Commission members shall be appointed to three year terms, which are staggered so that no more than two (2) terms expire in the same year.
2. The qualification of members, filling of vacancies, removal of members, compensation of members, election of officers, and general operation of the Planning Commission shall be in accordance with Act 33 of 2008, as amended, and Act 110 of 2006, as amended. [Amended 8/3/09; Ord. #105]
3. The Township Board shall provide for the removal of a Planning Commission member for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A Planning Commission member shall disqualify himself or herself from a vote on which the member has a conflict of interest. Failure to do so constitutes malfeasance in office.

C. Planning Commission Duties. The Township Board hereby delegates to the Planning Commission the following responsibilities and authority:

1. To exercise any and all authority specifically granted, or necessarily implied, to the Planning Commission in accordance with State law, specifically including but not limited to that set forth in MCL 125.3301-125.3308 *et seq.*, as amended;

2. To hear and decide on requests for Site Plan Review in accordance with the provisions of Chapter 17 of this Ordinance;
3. To hear and decide on requests for Special Use Permits in accordance with Chapter 18 of this Ordinance;
4. To initiate and recommend amendments to the Zoning Ordinance, both text and map, in accordance with the provisions of this Chapter;
5. In accordance with Section 308 of Public Act 110 of 2006, as amended, the Planning Commission shall prepare for the Township Board of Trustees at least once annually a report on the administration and enforcement of the Zoning Ordinance including recommendations as to the enactment of amendments or supplements to the Ordinance.
6. To exercise any other authority or rights specifically provided for in this Ordinance;
7. To assure that all of its deliberations and that all of its decisions shall not be contrary to the spirit and intent of this Ordinance and shall not be injurious to the surrounding neighborhood.

D. **Zoning Board of Appeals.** There is hereby established by the Alganssee Township Board the Alganssee Township Zoning Board of Appeals in accordance with Public Act 110 of 2006, as amended, herein referenced as the Zoning Board of Appeals or ZBA. The ZBA shall consist of five (5) members appointed by the Township Board. It is the intent of the Township Board that the Zoning Board of Appeals be a continuation of the ZBA established and operated pursuant to the Zoning Ordinance originally adopted in November 1980, and that the terms of the members of the ZBA continues in accordance with those terms in effect as of the effective date of this Ordinance. [Amended 8/3/09; Ord. #105]

1. One member of the Zoning Board of Appeals shall be a member of the Township Planning Commission.

2. The other members shall be selected and appointed by the Township Board from among the electors residing in the Township. The members shall be representative of the population distribution and of the various interests present in the Township.
3. The Board may appoint two (2) alternate members for three (3) year terms. The alternate members may be called on a rotating basis or as specified in the ZBA rules of procedure, to sit as a regular member of the ZBA if a regular member will be unable to attend one (1) or more meetings. An alternate member may also be called on to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest as allowed by State Law. The alternate member having been appointed shall serve in the case until a final decision is made and shall have the same voting rights as a regular member.
4. The Planning Commission member shall serve on the ZBA for his/her term on the Planning Commission, unless otherwise stated in the Planning Commission bylaws or replaced earlier by another member of the Planning Commission. All other regular and alternate ZBA members shall be appointed for terms of three (3) years. Terms shall be staggered so that no two expire in same year.
5. A member of the Zoning Board of Appeals may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from such a vote shall constitute malfeasance in office.
6. When necessary, a successor shall be appointed to the ZBA within one (1) month of the term of the previous member expiring or the vacancy otherwise being created.

E. **Zoning Board of Appeals Duties.** The Township Board hereby delegates to the Zoning Board of Appeals the following responsibilities and authority:

1. To exercise any and all authority specifically granted, or necessarily implied, to the Zoning Board of Appeals in accordance with State law, specifically including but not limited to that set forth in MCL 125.3601 *et seq.*;
2. To hear and decide upon requests for interpretations of the Zoning Ordinance in accordance with the provisions of Chapter 20;
3. To hear and decide appeals from and review any order, requirements, decision, or determination made by the Zoning Administrator, the Planning Commission or the Township Board in the course of enforcing this Ordinance, in accordance with the provisions of Chapter 20;
4. To hear and decide requests for Variances in accordance with the provisions of Chapter 20;
5. To apply interpretations of law as decided by the Courts of the State of Michigan and the Courts of the United States of America;
6. To exercise any other authority or rights specifically provided for in this Ordinance;
7. To assure that all of its deliberations and that all of its decisions shall not be contrary to the spirit and intent of this Ordinance and shall not be injurious to the surrounding neighborhood.

F. **Zoning Administrator.** There is hereby established the position of Algansee Township Zoning Administrator, herein referenced as the Zoning Administrator. The Zoning Administrator shall be appointed by resolution of, and shall serve at the pleasure of the Township Board, or shall be appointed by and serve under the terms of a contract with the Township Board. The Township Board hereby delegates to the Zoning Administrator the following responsibilities and authority:

1. To exercise any and all authority specifically granted, or necessarily implied, to the Zoning Administrator in accordance with State law;

2. To review and decide upon requests for Zoning Permits in accordance with the provisions of this Chapter;
3. To review and decide upon requests for Zoning Certifications in accordance with the provisions of this Chapter;
4. To investigate and report upon violations of this Ordinance, regardless of whether or not a citizen or resident of the Township has made or filed a complaint;
5. To order, in writing, the remedying of any violation of this Ordinance within a reasonable time limit;
6. To distribute applications at a time and place of general convenience, and to accept the filing of completed applications at a time and place of general convenience, in accordance with the provisions of this Ordinance, and in accordance with any rules, requirements or procedures that may, from time to time, be established by the Township Board;
7. To institute legal proceedings to enforce compliance with this Ordinance, in accordance with the provisions of this Chapter;
8. To exercise any other authority or rights specifically provided for in this Ordinance;
9. To exercise any and all administrative responsibilities that are specifically required or necessarily implied and that are not otherwise delegated to the Township Board, the Planning Commission, or to the Zoning Board of Appeals;
10. To assure that all of his or her deliberations and that all of his or her decisions shall not be contrary to the spirit and intent of this Ordinance and shall not be injurious to the surrounding neighborhood.

Section 21.02 Permits Required

- A. On and after the effective date of this Ordinance, no structure or building shall be erected or enlarged until and after the Zoning Administrator shall have issued a Zoning Permit for the proposed erection or enlargement, in accordance with the provisions of this Chapter.
- B. On and after the effective date of this Ordinance, the erection and enlargement of any structure or building shall not commence until and after the Zoning Administrator shall have issued a Zoning Permit for the proposed erection or enlargement, in accordance with the provisions of this Chapter.
- C. On and after the effective date of this Ordinance no use shall be commenced nor changed until and after the Zoning Administrator shall have issued a Zoning Permit for the proposed use, in accordance with the provisions of this Chapter.
- D. No zoning permit shall be required for the sole act of installing new windows in an already existing and lawful structure.
- E. No permit shall be required for the sole act of replacing the roofing shingles or siding on an already existing and lawful structure.

Section 21.03 Issuance of Zoning Permits

- A. **Application.**
 - 1. The application for a Zoning Permit shall be made on forms provided by the Zoning Administrator and shall include information deemed necessary by the Zoning Administrator to determine that the proposed use, structure or enlargement, and property is in full compliance with the requirements of this Ordinance.

2. The application shall include a plot plan showing lot lines, existing and proposed buildings, and the distances from proposed buildings to property lines.
 3. The application shall be executed by the owner(s) of the property. The application may be represented by a party who has a legal financial interest in the property (such as a purchase agreement) provided that the application contains an affidavit signed by the property owner(s) indicating the party and the nature of the legal interest. The application may also be represented by a licensed contractor provided that the application is executed by the property owner.
 4. The application shall grant a right of entry onto the subject property to the Zoning Administrator, and representatives and designees of the Township for the purpose of inspecting the property and reviewing the application.
 5. Any fee established by the Township Board for the review of a Zoning Permit application shall be submitted prior to the issuance of the Zoning Permit.
 6. When the Township is pursuing an enforcement action against any property or structure or use, no Zoning Permit application shall be accepted for such property or structure or use until and after the enforcement action has been completed and the subject violation has been remedied unless the permit is required to remedy the violation.
- B. Review of the Application.** The Zoning Administrator shall review the information presented with the application and determine if the proposed use, structure, or enlargement, and property is in full compliance with the requirements of this Ordinance. No other standards other than those provided for in this Ordinance shall be considered in reviewing the application. The Zoning Administrator shall review and decide upon the application and shall either approve or deny the application within thirty (30) days of his or her receipt of the completed application.

C. Approval or Denial of Application.

1. If the Zoning Administrator finds that the proposed use, structure, or enlargement, and property is in full compliance with the requirements of this Ordinance, then the Zoning Administrator shall issue a Zoning Permit. A Zoning Permit shall be in writing on a standardized form established by the Zoning Administrator. The required fee shall be paid prior to the issuance of the zoning permit.
2. If the Zoning Administrator finds that the proposed use, structure or enlargement, and property is not in full compliance with the requirements of this Ordinance, then the Zoning Administrator shall deny the application. Such denial shall be in writing and shall state the specific reason why the application has been denied. An application may be modified to correct the deficiency that resulted in its denial.

D. Expiration of Zoning Permits. Any Zoning Permit shall be valid for one (1) year. Upon written request of the owner within three (3) months prior to the expiration of zoning permit for which construction has commenced, the Zoning Administrator may allow for a one-time extension of the permit for one(1) year. Such extension requires the payment of a fee, in the amount of one-half (2) of the fee for a new zoning permit, at the time of the requested extension.

E. Violation of Zoning Permit. If the Zoning Administrator finds that any condition or requirement of a Zoning Permit is being violated, or that any information or condition indicated on a Zoning Permit application is false or incorrect, the Zoning Administrator may stop all work and may immediately and permanently revoke the Zoning Permit.

Section 21.04 Zoning Certificate

Any property owner may request the Zoning Administrator to issue a Zoning Certificate. The purpose of such certification is to indicate that any existing use, structure, or property is in compliance with the requirements of this Ordinance. An application for a Zoning Certification

shall be made on forms provided by the Zoning Administrator and shall include such information as deemed necessary by the Zoning Administrator to determine that a use, structure, or property is in compliance with this Ordinance. Such application shall include the payment of any fee established by the Township Board for the review of such applications. The Zoning Administrator shall refer the application to the Planning Commission, which shall review the application at the next meeting. The Planning Commission shall either approve or deny the requested Zoning Certification.

Section 21.05 Amendments

For the purpose of establishing and maintaining sound, stable, and desirable development within the territorial limits of the Township, this Ordinance may be amended in accordance with the provisions of this Section. This Ordinance shall not be amended except to correct an error in the Ordinance or, because of changed or changing conditions in a particular area or in the Township generally, to rezone an area, to extend the boundary of an existing District, or to change the regulations and restrictions thereof. Such amendment to this Ordinance may be initiated by any person, firm, or corporation by filing an application, with the Zoning Administrator, including any fee as established from time to time by the Township Board; by motion of the Township Board; or by resolution of the Planning Commission. The procedures for amending this Ordinance shall be in accordance with Act 110 of the Public Acts of 2006, as amended.

- A. **Application.** Application for an Amendment to the Zoning Ordinance shall be made to the Planning Commission by filing of not less than ten (10) copies of an application form with the Township Zoning Administrator. Fees are required to be paid in accordance with the fee schedule in effect as established by the Township Board at the time the application is made. The information required below shall be considered a minimum and the Zoning Administrator, in consultation with the Chairman of the Planning Commission, may require additional information that they deem necessary in order for the Planning Commission to make a fully informed decision on the application. The application shall include the following information:

1. The applicant's name, address, and phone number.
2. If the amendment is initiated by a party other than the Township Board or Planning Commission, then the application shall include the address, parcel number and current zoning district classification of the subject property; it shall be executed by the owner(s) of the property; and it shall grant a right of entry onto the subject property to the Zoning Administrator, members of the Planning Commission, and representatives and designees of the Township for the purpose of inspecting the property and reviewing the application.
3. A narrative description of the nature and effect of the proposed amendment.
4. If the proposed amendment would require a change in the Zoning Districts Map, a complete legal description of the entire land area effected, the present zoning classification of the land, the names and addresses of the owners of all land and the legal descriptions of their land within the area. The Planning Commission may require a current survey of the subject property.
5. In any case where a requested change in zoning district classification is for only a portion of a lot, the Planning Commission may require that a current survey be submitted and that the boundary line between all zoning district classifications on the subject property be indicated and be physically monumented in the field by the setting of an iron pipe or a concrete marker.
6. If the proposed amendment will correct an alleged error, a detailed explanation of such alleged error and detailed reasons the proposed amendment will correct the same.
7. If the proposed amendment is in response to changed or changing conditions in the area or in the Township, then the application shall describe those changed or changing conditions that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.

8. All other circumstances, factors, and reasons which the applicant offers in support of the proposed amendment.
- B. **Submission of the Application.** The application shall be filed with the Zoning Administrator, who shall review the application within fifteen (15) days of its receipt. In reviewing the application for completeness, the Zoning Administrator may consult with the Chairman of the Planning Commission, the Township Supervisor, the Township Engineer, and any other parties whose input the Zoning Administrator deems necessary for the proper review of the application. If the Zoning Administrator finds that the application is not complete, he shall return the application with a written explanation of the additional information that is required. Once the application is found to be complete, the Zoning Administrator shall forward the application to the Secretary of the Planning Commission who shall schedule the application for a Public Hearing at a regular meeting of the Planning Commission.
- C. **Public Hearing.** Upon receipt of a complete application, the Secretary of the Planning Commission shall schedule a public hearing on the request. Notice of the public hearing for an amendment to this Ordinance shall be given in accordance with the requirements provided in Section 18.02.D. For zoning text amendments, it is not required that individual notices be mailed except to those applying for the ordinance amendment. For zoning map amendments involving less than 11 parcels, each parcel must be identified and owners and occupants within 300 feet of the subject properties must be notified. For zoning map amendments of 11 or more parcels, individual parcels do not need to be identified and notification of adjacent parcels is not a requirement.
- D. **Planning Commission Review.** The Planning Commission shall review the proposed amendment at a Public Hearing. The Planning Commission shall consider the proposed amendment in regard to the following standards:
1. The proposed amendment shall be compatible with and in accordance with the general principles and future land use configuration of the Township Master Plan and shall promote the intent and purpose of the Master Plan. In the case in which

this criterion is not met, the Planning Commission shall recommend denial of the proposed amendment. In such case, the applicant may voluntarily request the Planning Commission to table the amendment request indefinitely to allow the applicant to request an amendment to the Master Plan. Any such application that is tabled indefinitely shall be re-filed in accordance with Paragraphs B and C above, including the payment of the required application fee at the rate in effect at the time of the re-filing.

2. The proposed amendment shall protect the health, safety and welfare of the community; the proposed amendment shall promote the intent and purpose of this Ordinance.
3. The proposed amendment shall not be injurious to adjacent and nearby properties; the proposed amendment shall not promote individual gain and the expense of the public good.

E. **Planning Commission Action.** Following the public hearing, the Planning Commission shall vote to recommend the proposed amendment as submitted, or to recommend the proposed amendment with modifications, or to deny the proposed amendment. The Secretary shall prepare a report with the Planning Commission=s recommendation or denial regarding the proposed amendment, and transfer such to the Township Clerk and shall forward a copy to the Branch County Planning Commission for its review. If comments are not received from the County within 30 days, it is presumed that they have no comments.

F. **Township Board Action.** Upon receipt of the Secretary=s report and the Branch County Planning Commission=s recommendation, the Township Clerk shall place the proposed Zoning Ordinance Amendment on the agenda of the next regular Township Board meeting. The Township Board may adopt the proposed amendment, adopt the proposed amendment with modifications, or deny the proposed amendment. If the Township Board finds that modifications to the proposed amendment are advisable, it may submit such modifications to the Township Planning Commission for comment within a set

period of time. The Township Board may also hold a public hearing on the proposed amendment – the notice for which shall be posted in the same manner as the hearing before the Planning Commission (see Section 18.02.D) – or refer the proposed amendment back to the Planning Commission for further study and review or for additional public hearings. If an interested property owner requests such a hearing before the Township Board by letter sent by certified mail to the Township Clerk, then the Board shall hold such a hearing. Notice for a hearing in this case shall only be required to be distributed to the party requesting the hearing. [Amended 8/3/09; Ord. #105]

- G. **Effective Date.** No amendment approved by the Township Board shall become effective until seven (7) days after Notice of Ordinance Adoption in accordance with Section 401 of Public Act 110 of 2006, as amended, being MCL Section 125.3401, as amended.
- H. **Protests.** Upon the filing of a notice of intent to request a referendum, the effective date of an amendment shall be either thirty (30) days after publication, if a petition is not filed or the petition lacks adequate signatures, or after approval by the electors if an adequate petition is filed, in accordance with Section 402 of Pubic Act 110 of 2006, as amended, being MCL Section 125.3402.
- I. **Conformance to Court Decree.** Any amendment for the purpose of conforming to a provision of a decree of a court of competent jurisdiction as to any specific lands, may be adopted by the Township Board and the notice of amendment published without referring same to any other board or agency.

Section 21.06 Enforcement

The Zoning Administrator shall be primarily responsible for the enforcement of the provisions of this Ordinance. However, the Township Board, the Planning Commission and the Zoning Board of Appeals, in addition to the Zoning Administrator, may institute the legal remedies provided for in this Section to bring about compliance with this Ordinance.

A. Violations.

1. In accordance with the laws of the State of Michigan, a use of land, or a dwelling, building, or structure, including a tent or trailer coach, used erected, altered, razed, or converted in violation of a local ordinance is a nuisance per se, and the court shall order the nuisance abated.
2. Any person, whether as owner, tenant or otherwise, who uses land or a building or structure, including a tent, trailer coach, travel trailer, or semi-truck trailer, except in strict compliance with the requirements and provisions of this Ordinance shall be deemed to be in violation of this Ordinance.
3. The owner of any property or structure or building that does not comply with the requirements or provisions of this Ordinance shall be deemed to be in violation of this Ordinance.
4. Any contractor, laborer, worker, or any other person involved in the erection or enlargement of any structure that is not fully permitted or that does not comply with any provisions of this Ordinance shall be deemed to be in or may be held liable by the Township for violation of this Ordinance.
5. The owner of any vehicle or equipment that is kept, stored, or used in a manner that does not comply with this Ordinance shall be deemed to be in violation of this Ordinance.
6. Where more than one individual may be found to be in violation of this Ordinance in accordance with the preceding paragraphs of this section, such individuals may be held liable for the violation collectively or individually, regardless of whether or not enforcement actions are taken against all of the individuals who might be involved.

- B. Remedies.** Prior to pursuing enforcement actions allowed under Paragraph C, Penalties (following), the Zoning Administrator may order in writing the remedying or abatement of any violation within a set period of time. Such an order shall not have the effect of

staying the pursuit of enforcement actions allowed under the Penalties paragraph (following) by the Township Board, the Planning Commission, or the Zoning Board of Appeals.

C. Penalties.

1. *Municipal Civil Infraction.* A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and in accordance with Algansee Township Ordinance Number 201, An Ordinance to Establish Municipal Civil Infractions in the Township of Algansee. Each day that a violation exists shall constitute a separate offense. A violation shall be punishable by a civil infraction as follows:
 - a. A civil fine of not less than one-hundred dollars (\$100.00) and not more than five-hundred dollars (\$500.00);
 - b. For a repeat offense, hereby defined as a second or subsequent violation of the same requirement or provision of this Ordinance committed within six (6) months:
 - i. A civil fine of not less than two-hundred dollars (\$200.00) and not more than five-hundred dollars (\$500.00) for the second offense
 - ii. A civil fine of five hundred dollars (\$500.00) for the third and subsequent offenses;
 - c. In addition to the civil fine, the violator shall pay all costs, which may include all expenses, direct and indirect, that Algansee Township has incurred in connection with the municipal civil infraction.
2. *Remedial Action.* Any violation of this Ordinance shall constitute a basis for injunctive relief or other appropriate remedy in any court of competent jurisdiction to compel compliance with this Ordinance and to enforce the provisions thereof.

Section 21.07 Security

When the provisions of this Ordinance require, or when the Township Board, Planning Commission, or Zoning Board of Appeals determine it is warranted, compliance with the provisions of this Ordinance shall be assured by the posting of security. The amount of such security shall be one-hundred-fifty percent (150%) of the estimated cost or value of the action or activity being guaranteed. Such security shall be in one of the following forms:

- A. Cash escrow deposited with the Algansee Township Treasurer
- B. Insurance bond with corporate surety
- C. Three-year irrevocable letter of credit

Section 21.08 Conditional Rezoning

A. **Intent.** There may be certain instances where it would be in the best interests of the Township, as well as advantageous to the property owner to request a change in zoning boundaries if certain conditions are proposed by the property owner as part of the rezoning request. It is the intent of this Section to provide a process and procedure for conditional rezoning consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act (MZEA) (MCL 125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request. This option shall apply site planning criteria to achieve integration of the development project into the fabric of the project area.

B. **Application and Offer of Conditions.**

- 1. An owner of land may voluntarily offer, in writing, conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or at a later time during the rezoning process prior to the public hearing.

2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section. All of the application materials required by Section 21.05.A shall be submitted for a conditional rezoning in addition to any other materials described in this Section. The required procedure for a conditional rezoning shall be the same as a conventional rezoning, as provided in Section 21.05 except as modified in this Section.
3. The owner's offer of conditions may not purport to authorize uses or densities not permitted in the requested new zoning district.
4. A conditional rezoning plan (CR plan), drawn to scale, shall be submitted with the conditional rezoning application. The CR plan shall provide the location, size, height, design, architecture, and other measures and features of buildings, structures, and improvements on, and in some cases adjacent to, the subject property. The detail to be offered for inclusion on a CR plan shall be determined by the applicant, subject to review and approval by the Planning Commission and Township Board. The CR plan shall be used to communicate the site specific conditions in the Statement of Conditions and shall be attached by reference to the final rezoning agreement. The CR plan shall not replace the subsequent requirements for site plan, subdivision, or other similar zoning review and approvals.
5. Any use or development proposed as part of an offer of conditions that would require a Special Use Permit under the terms of this Ordinance may only be commenced if a Special Use Permit for such use or development is ultimately granted in accordance with the provisions of Article 18 of this Ordinance. Review of the Special Use Permit should occur subsequent to the review of the rezoning.

6. Any development proposed as part of an offer of conditions that would require a Variance under the terms of this Ordinance may only be commenced if a Variance for such development is ultimately granted in accordance with the provisions of Article 20 of this Ordinance. Review of the Variance should occur subsequent to the review of the rezoning.
7. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such amendment occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

C. **Planning Commission Review.** The Planning Commission, after holding a public hearing and consideration of the factors for rezoning set forth in Section 21.05.D of this Ordinance, may recommend approval, approval with recommended changes, or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

1. Prior to Planning Commission consideration, the proposed conditional rezoning application and associated materials shall be forwarded to Township officials and staff for preliminary review and comment. If it is determined that the application is not complete, then the applicant shall be contacted to inform them of the additional information that is required.
2. If deemed necessary by the Zoning Administrator or Planning Commission, the proposed application shall be forwarded to the Township Board, Township consultants, and/or other applicable outside agencies for further review, recommendation, and advice, with any additional costs borne by the applicant.

3. **Public Hearing.** The conditional rezoning application shall be placed on the agenda for Planning Commission review and scheduled for a public hearing according to the notice requirements and procedures of Section 21.05.D above.
 4. **Action by the Planning Commission.** Following the hearing on the proposed amendment, the Planning Commission shall within a reasonable time, make findings of fact based on the review criteria in Section 21.05.D. It shall transmit these findings to the Township Board, together with the comments made at the public hearing and its recommendation.
- D. **Township Board Review.** After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request, in accordance with the procedures in Section 21.05. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in Section 21.05.D of this Ordinance. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board may refer the proposed amendments to the Planning Commission for consideration and comment within a specified time or may hold an additional public hearing, either of which shall be in compliance with Section 401 of the MZEA (Public Act 110 of 2006, as amended).
- E. **Elements of a Conditional Rezoning Application.** The following elements shall be reviewed and approved as an integral part of the conditional rezoning application:
1. **CR Plan.** A Conditional Rezoning Plan (CR Plan), with such detail as proposed by the applicant and approved by the Township Board in accordance with this Section (see B.4 above). The CR Plan shall not replace the requirements for site plan, subdivision or condominium approval, as the case may be.
 2. **Rezoning Conditions.** Rezoning conditions, shall not propose uses or development not permitted in the intended zoning district and shall not permit

uses or development expressly or implicitly prohibited in the Statement of Conditions. Rezoning conditions may include some or all of the following:

- a. The location, size, height, and setbacks of buildings, structures, and improvements.
- b. The maximum density or intensity of development (e.g., units per acre, maximum usable floor area, hours of operation, etc.).
- c. Measures to preserve natural resources or features.
- d. Facilities to address storm water drainage and water quality.
- e. Facilities to address traffic issues, for example, through road paving or other road improvements.
- f. Open space preservation provisions.
- g. Minimum landscaping, buffering and screening provisions.
- h. Added landscaping, above and beyond what is required by the Zoning Ordinance.
- i. Building design, materials, lighting and sign criteria.
- j. Permissible and prohibited uses of the property.
- k. Provisions to preserve historic farms, barns and other buildings to preserve the history of the Township.
- l. Measures to protect the rural view shed, which is an undeveloped area adjacent to the road right-of-way, having a depth of at least two hundred (200) feet, where existing natural features, such as wetlands, woodlands, hedgerows, undulating landforms, and scenic vistas are preserved and incorporated into the landscape.
- m. Reclamation and reuse of land, where previous use of land has caused severe development difficulties, or has caused blight.

- n. Drainage improvements, beyond what is required by ordinance, using best management practices.
 - o. Such other conditions as deemed important to the development by the applicant.
3. **Statement of Conditions.** The Statement of Conditions, which shall be prepared by the applicant (or designee), with the assistance of the Township Planner or Attorney as desired, shall incorporate the CR Plan and set forth the Rezoning Conditions, together with any other terms mutually agreed upon by the parties, including the following terms and requirements:
- a. Agreement and acknowledgement that the conditional rezoning was proposed by the applicant to induce the Township to grant the rezoning, and that the Township relied upon such proposal and would likely not have granted the rezoning but for the terms in the Statement of Conditions.
 - b. Agreement and acknowledgement that the conditions and Statement of Conditions are authorized by all applicable state and federal laws and constitution, and that the Statement of Conditions is valid and was entered into on a voluntary basis, representing a permissible exercise of authority by the Township.
 - c. Agreement and understanding that the property in question shall not be developed or used in a manner that is inconsistent with the CR Plan and Statement of Conditions.
 - d. Agreement and understanding that each of the requirements and conditions in the Statement of Conditions represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved conditional rezoning, taking into consideration the changed zoning district classification and the specific use authorization granted.

- e. The Statement of Conditions shall be in a form recordable with the Branch County Register of Deeds or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
- f. Contain a legal description of the land to which it pertains.
- g. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land, unless otherwise agreed upon.
- h. Incorporate by attachment or reference the CR Plan and any other diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
- i. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the Township with the Register of Deeds of Branch County.
- j. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.

F. Approval

- 1. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning. Final approval of the

conditional rezoning shall not be granted until the Statement of Conditions has been submitted to the Board for review.

2. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. All parcels involved in a conditional rezoning shall be designated with the suffix “-CR” following the conventional zoning district designation. The Zoning Administrator shall maintain a listing of all lands rezoned with a Statement of Conditions.
 3. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the Register of Deeds of Branch County. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.
 4. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any provisions contained in the Statement of Conditions.
- G. **Rejection of Request.** An applicant is not required to wait for 365 days to resubmit a conditional rezoning application if denied by the Planning Commission or Township Board as long as the application includes a significant revision to the Statement of Conditions. Otherwise, 365 days is required between applications.
- H. **Compliance with Conditions.**
1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within

the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable as provided in Section 21.06 of this Ordinance. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

2. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

I. **Time Period for Establishing Development or Use.** Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within eighteen (18) months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy. The extension may be for up to twelve (12) months, and only one such extension may be granted.

J. **Reversion of Zoning.** If approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection I above, then the land shall revert to its former zoning classification as set forth in MCL 125.3405. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests as provided in Section 21.05.

K. **Subsequent Rezoning of Land.** When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning

classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Subsection J above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Register of Deeds of Branch County that the Statement of Conditions is no longer in effect. The rezoning process shall be the same as for all other rezoning requests as provided in Section 21.05.

L. Amendment of Conditions.

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

M. Township Right to Rezone. Nothing in the Statement of Conditions or in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the MZEA (Public Act 110 of 2006, as amended).

N. Failure to Offer Conditions. The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

[Ord. #106; 2/7/11]