

BURLINGTON TOWNSHIP
ZONING ORDINANCE
CALHOUN COUNTY, MICHIGAN

July 1996

Volume #3
contains all amendments as adopted
by the Burlington Township Board
through August 2013

~~November 8, 2018~~

~~February 13, 2020~~

~~August 13, 2020~~

June 11, 2023

ORDINANCE NUMBER 09-63 OF 2009

AN ORDINANCE TO PREVENT, REDUCE OR ELIMINATE BLIGHT AND JUNK VEHICLES WITHIN THE TOWNSHIP OF BURLINGTON, CALHOUN COUNTY, MICHIGAN; TO PROVIDE FOR THE ENFORCEMENT HEREOF; AND TO PROVIDE PENALTIES FOR THE VIOLATION HEREOF. THIS ORDINANCE IS ENACTED PURSUANT TO THE AUTHORITY PROVIDED BY 1945 PA 344, AS AMENDED.

THE TOWNSHIP OF BURLINGTON, CALHOUN COUNTY, ORDAINS:

SECTION 1. NAME. This Ordinance shall hereafter be known and cited as the Burlington Township Beautification Ordinance.

SECTION 2. PURPOSE. Consistent with the letter and spirit of 1945 PA 344 (MCL 125.71 et seq.), as amended, it is the purpose of this Ordinance to prevent, reduce or eliminate blight or potential blight and junk vehicles in the Township of Burlington by the prevention or elimination of certain environmental causes of blight or blighting factors which exist or which may in the future exist in said Township.

SECTION 3. DEFINITIONS. As used in this Ordinance, certain words and phrases shall be defined as follows:

A. *Building materials* shall include but shall not be limited to lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in constructing any structure.

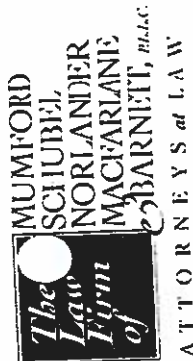
B. *Component of such motor vehicles as originally manufactured* includes, without limitation, motor, inflated tires, axles, drive train, battery, transmission, ignition system, brakes, headlamps, signal lights, intact window glass, and those component items required by the Michigan Vehicle Code, being MCL 257.1 et seq.

C. *Dismantled motor vehicle* and *partially dismantled motor vehicle* mean a motor vehicle from which either a major component part or a part which is ordinarily a component of such a motor vehicle as originally manufactured to permit its self-propulsion or legal presence on a public street, has been removed, is missing, or is in disrepair.

D. *Inoperable motor vehicle* means either a motor vehicle which, by reason of dismantling, disrepair or other cause, is not immediately capable of being propelled under its own power, or the absence of currently valid license plates or registration tabs displayed on the motor vehicle.

E. *Junk* shall include machinery and parts of machinery or motor vehicles, equipment, unused stoves or other appliances stored in the open, remnants of woods, metal or other material or other cast-off material of any kind, household goods, including but not limited to furniture, furnishings and household items designed for use inside the residence, dwelling or place of business, whether or not the same could be put to reasonable use.

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F. *Major component part* shall have the same meaning as the term is defined at MCL 257.27a; MSA 9.1827(1) and MCL 257.1351; MSA 9.2705(21).

G. *Motor vehicle* or *vehicle* mean any wheeled vehicle which is self-propelled or intended to be self-propelled.

H. *Motor vehicle repair storage facility* means a place of business which engages in the business of performing or employing persons who perform maintenance, diagnosis, vehicle body work, or repair service on a motor vehicle for compensation, but excluding all of the following:

1. A person who engages only in the business of repairing the motor vehicles of a single commercial or industrial establishment or governmental agency;
2. Person repairing his or her own or a family member's car and for which there is evidence of ownership of that motor vehicle;
3. Gasoline service stations exclusively engaged in the business of selling motor fuel and lubricants;
4. A person or facility providing minor services such as the changing or installing of light bulbs, tires, batteries, air filters, oil filters, windshield wiper blades, fan- or power-assist belts, lubrication, or oil changes and other minor or ornamental accessories.

I. *Person* shall mean a person, firm or corporation of any kind.

J. *Public garage* means a premises owned and occupied by the federal, state or a local government or school district for the purpose of vehicle storage or repair.

K. *Rubbish* shall include waste paper, tinware or aluminum ware, tin or aluminum cans, tin or aluminum cuttings, boxes, glass, straw, shavings, barrels, lumber, paper cartons, brush, lawn cuttings and hedge trimmings.

L. *Trash* shall include garbage, refuse or litter specifically including but not limited to containers once containing edible, drinkable or usable materials as well as dead animals (or parts thereof) and discarded edible or drinkable items.

M. *Wholly enclosed* means having four adjoining walls and a roof. Any window or door opening in a wall shall be capable of being completely closed.

SECTION 4. BLIGHT OR BLIGHTING FACTORS AND STORAGE OF DISMANTLED, PARTIALLY DISMANTLED OR INOPERABLE MOTOR VEHICLES OR PARTS THEREOF PROHIBITED.

A. No person shall store, place, permit to be stored or placed, or allowed to remain, on any platted or unplatted parcel of land located within the Township of Burlington a dismantled, partially dismantled or inoperable motor vehicle or part thereof, unless such dismantled, partially dismantled or inoperable motor vehicle or part thereof is kept in a wholly enclosed garage or similar

wholly enclosed structure. This prohibition shall not apply, however, to the storage of inoperable farm machinery in any agricultural district within Burlington Township so long as the machinery is owned by the owner or tenant of the premises where stored and is not being stored pursuant to on-going retail or wholesale sales of such machinery unless otherwise permitted by ordinance.

B. No person shall store, place, or permit to be stored or placed, or allowed to remain out of doors, on any platted or unplatted parcel of land located within the Township of Burlington, any building materials unless there is in force a valid building permit issued by the Township for construction upon said property and said materials are intended for use in connection with such construction or are part of stock or trade of business located upon said property.

C. No person shall store, place, or permit to be stored outside or placed, or allowed to remain or accumulate out of doors, on any platted or unplatted parcel of land located within the Township of Burlington, junk, trash, rubbish, or refuse of any kind unless the same is kept within a closely covered can or other metal, plastic, or rubber container designed for the same and sufficient to protect entry by rats, mice and other vermin, and removed within a period of not more than fourteen (14) days.

D. No person shall maintain or permit to be maintained any structure or part of a structure which because of fire, wind or other natural disaster or a physical deterioration is no longer habitable, as a dwelling, nor useful for any other purpose for which it may have been intended.

E. No person shall maintain or permit to be maintained any structure or part of a structure which because of fire, wind or other natural disaster or a physical deterioration is no longer habitable, nor any vacant dwelling, garage, or other outbuildings, unless they are kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals, animals or vermin.

F. No person shall maintain or permit to be maintained any partially completed structure unless such structure is in the course of construction in accordance with a current valid building permit issued by the Township of Burlington and unless such construction is completed within a reasonable time.

G. No person shall store or maintain any trailer, boat trailer, camper or other wheeled vehicle designed or intended to be pulled or pushed by a motor vehicle, nor any mobile home or travel trailer unless the same is kept in a wholly enclosed garage or similar wholly enclosed structure; except, however, that a property occupant may store not more than one such unoccupied camper or travel trailer, recreational vehicle and/or one boat and trailer which is the property of the occupant of the premises.

SECTION 5. EXTENSION OF TIME FOR COMPLIANCE AS TO VEHICLES.

A. A bona fide owner, occupant, tenant or other person having charge, custody or control of a premises may park, store or permit to be parked or stored, or allowed to remain on the premises one dismantled, partially dismantled or inoperable motor vehicle for a period not to exceed seven (7) days, if such motor vehicle is registered in his or her name and provided further, that any such owner, occupant, or tenant or person having charge, custody or control of the premises may in the

269/968 6146 Fax: 269/968-1147
68 EAST MICHIGAN AVENUE, BATTLE CREEK, MICHIGAN 49017-4010


MUMFORD
SCHUBEL
NORLANDER
MACFARLANE
& BARNETT, P.L.L.C.
ATTORNEYS at LAW

premises of any public or private land within the Township at reasonable times and under reasonable conditions to accomplish the appropriate corrective action.

D. If any expense is incurred by the Township to correct the conditions governed by this Ordinance remain due and unpaid for a period of thirty-five (35) or more days after the Bill of Costs is mailed to the persons responsible for correction of the condition, such bill shall accrue interest at the rate of six percent (6%) per annum from the date of the completion of the work, correcting the condition and the Township Board may, at its discretion, order the collection of such outstanding expense to be covered by suit of law or may assess said costs against the property and such assessment shall constitute a lien upon the property and may be billed as a part of the tax applicable to the property.

SECTION 9. EXCEPTIONS AS TO DISMANTLED, PARTIALLY DISMANTLED, OR INOPERABLE MOTOR VEHICLES OR PARTS THEREOF ONLY.

A. As to dismantled, partially dismantled, or inoperable motor vehicles or parts thereof only, this Ordinance shall not apply to:

1. Any premises or portion of a premises used solely for conducting a new or used car business, provided that the occupant is licensed pursuant to applicable law;
2. Any premises used as a public garage.
3. Any premises or that portion of a premises used as a motor vehicle repair facility when registered in conformity with applicable law and fenced in conformity with Township Ordinances when located in a commercial zoning district or adjoining residential zoning district to enclose the area where dismantled, partially dismantled, or inoperable motor vehicles are stored;
4. Any premises or portion of a premises used as a motor vehicle repair facility when registered in conformity with applicable law and fenced with either a concealment or open mesh-type of fence at least five feet (5'), but not more than eight feet (8') in height when located in an industrial zoning district to enclosed the area where dismantled, partially dismantled, or inoperable motor vehicles are stored.

B. As to dismantled, partially dismantled, or inoperable motor vehicles or parts thereof only, this Ordinance shall not apply to the following premises when such dismantled, partially dismantled, or inoperable motor vehicles or parts thereof are stored behind fencing material meeting the requirements set forth below:

1. Any premises used as a junk, salvage or scrap yard that is licensed and fenced in conformity with applicable law;
2. Any premises used as a vehicle impound lot or storage lot and fenced in conformance with Township Ordinances;

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SECTION 10. PENALTIES.

A. A person who violates any provision of this ordinance is responsible for a Class C municipal civil infraction subject to payment of a civil fine of not less than \$50 or more than \$500 plus costs and other sanctions for each infraction as provided in Section 3 of the Burlington Township Municipal Civil Infraction Ordinance. Each day on which any violation of this ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense. Repeat offenses shall be subject to increased fines as provided by Section 3 of the Burlington Township Municipal Civil Infraction Ordinance.


SECTION 11. SEVERABILITY OF INVALID PROVISIONS. If any provision of this Ordinance shall be held invalid, its invalidity shall not effect any other provisions of this Ordinance that can be given effect without the invalid provision, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

SECTION 12. REPEAL OF CONFLICTING ORDINANCES. Insofar as the provisions thereof conflict with this Ordinance, all ordinances and resolutions or parts thereof in conflict herewith are hereby repealed.

SECTION 13. SAVINGS CLAUSE. All suits, proceedings, or prosecution, whether civil or criminal, for causes arising, or acts done or committed prior to said amendment, may be commenced, maintained and/or prosecuted as if said amendment had not been made.

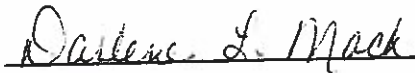
SECTION 14. EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days from the date of publication in a newspaper of general circulation within the Township, which publication shall be not later than thirty (30) days from the date of adoption by the Township of Burlington.

This Ordinance is hereby declared to have been passed and adopted by the Township Board of the Township of Burlington, County of Calhoun, State of Michigan, at a regularly scheduled meeting thereof duly called and held on June 11, 2009.



Supervisor

ATTEST:



Clerk

Prepared by:
John H. Macfarlane (P29075)
/pb



ATTORNEYS at LAW

68 EAST MICHIGAN AVENUE BATTLE CREEK, MICHIGAN 49017-4010 269/908-6146 Fax: 269/908-1117

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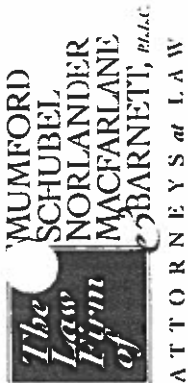
This Ordinance is hereby declared to have been passed and adopted by the Township Board of the Township of Burlington, County of Calhoun, State of Michigan, at a regularly scheduled meeting thereof duly called and held on June 11, 2009.

Thomas Cas
Supervisor

ATTEST:

Darlene L. Mack
Clerk

Prepared by:
John H. Macfarlane (P29075)
/pb



68 EAST MICHIGAN AVENUE BATTLE CREEK, MICHIGAN 49017-4010 FAX 269/968-6116 269/968-4147

SECTION 14.23-Type 1 and 2 Home Occupations

- A. *Type 1 Home Occupations shall fall within the following categories, and shall not be permitted if not consistent with at least one of the descriptions below:*

Professional Office: *Work space for an accountant, lawyer, architect, engineer, or similar profession.*

Hairdresser/Nail Salon/Spa: *Facilities for the cutting of hair, decoration of nails, or other spa or beauty services.*

Medical Office: *Facilities for the provision of low intensity medical care. Physical therapy and therapeutic massage shall be permitted, but dental care shall be prohibited. Surgery and other invasive medical procedures shall be prohibited.*

Fine Arts/Craft Instruction: *Facilities for the provision of instruction in a craft or fine art, where no more than one student at a time is provided services on the premises.*

Online Sales: *Work space for a business that engages in online retail sales, where no sales are made to customers on-premises.*

Food or Drink Production: *Facilities for the preparation of edible products, where customers do not consume the edible products on-site. Pick-up of products by customers shall be permitted.*

Service Business Office: *Work space for the administrative staff of a service business, such as cleaning, handyman services, electronics repair, or a similar business, where all service work is provided off-site, and clients or customers visit the administrative work space infrequently or not at all.*

- B. *Type 1 Home Occupation conditions:*

- 1) *LOCATION AND EMPLOYEES: Type 1 home occupations shall be conducted solely and entirely within the dwelling unit by residents of that dwelling unit.*
- 2) *EQUIPMENT OR PROCESS: No equipment or process shall be used in the home occupation which creates vibration, glare, fumes, odor or electrical interference detectable to the normal human senses beyond the exterior walls of the dwelling unit in which the home occupation is conducted.*
- 3) *NOISE: The home occupation shall not generate noise that is audible beyond the exterior walls of the dwelling.*
- 4) *EXTERIOR ALTERATIONS: There shall be no exterior alteration of the premises in connection with the home occupation and no more than thirty percent (30%) of*

ORDINANCE NO. 08-13-20 OF 2020

AN ORDINANCE TO AMEND THE BURLINGTON TOWNSHIP ZONING ORDINANCE TO ALLOW HOME OCCUPATIONS AS CONDITIONAL USES WITHIN THE AA AGRICULTURAL, RA LOW DENSITY RESIDENTIAL, AND RB MEDIUM DENSITY RESIDENTIAL ZONING DISTRICTS; TO AMEND THE DEFINITION OF "HOME OCCUPATION"; TO CREATE NEW CONDITIONS FOR THEIR OPERATION; AND TO OTHERWISE PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE.

THE TOWNSHIP OF BURLINGTON, Calhoun County, Michigan, ordains:

SECTION 1. The definition of "Home Occupation" in Section 2.02 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to read as follows:

HOME OCCUPATION: A business, institution, or non-profit organization that is incidental to and accessory to a residential use, including but not limited to instruction in a craft or fine art, provided that all requirements of Section 14.23 are met. There shall be two types of Home Occupations – Type 1 and Type 2 – each of which is described and regulated in Section 14.23.

SECTION 2. Section 4.02 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to delete sub-section "f. Home Occupations."

SECTION 3. Section 4.03 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to create a sub-section p. to read as follows:

p. Type 1 or 2 Home Occupations as described in Section 14.23.

SECTION 4. Sub-section d. of Section 5.03 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to read as follows:

d. Type 1 Home Occupations as described in Section 14.23.A.

SECTION 5. Sub-section f. of Section 6.03 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to read as follows:

f. Type 1 Home Occupations as described in section 14.23.A.

SECTION 6. Section 14.23 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby created to read as follows:

the total floor space will be devoted to the home occupation, up to a maximum of 600 square feet.

- 5) *SIGNS: No signs shall be displayed identifying the home occupation except for a single small sign in accordance with the regulations specified in Article 20.*
 - 6) *DISPLAY OF MERCHANDISE: No merchandise or articles for sale shall be displayed for advertising purposes so as to be viewable from outside the dwelling.*
 - 7) *STORAGE: All articles or materials used in connection with the home occupation shall be stored within the residence. No outside storage is permitted. The storage of materials and merchandise shall not present a safety hazard to the dwelling, dwelling occupants or adjoining properties and occupants, nor shall the storage result in a change to the fire rating of the dwelling.*
 - 8) *SALE OF PRODUCTS: There shall be no sale of products or services except food products produced on-site (but not consumed by customers on-site) and goods that are sold online and then shipped directly to the customer.*
 - 9) *EMPLOYEES: No Person, employee or volunteer, shall be involved in the regular business of the Home Occupation, on a daily or frequent basis, who does not live within the residential home on the site.*
 - 10) *CUSTOMERS: No more than one customer, client, or patient shall be provided goods or services at a Type 1 Home Occupation at any given time.*
 - 11) *LICENSURE: All professionals working in a home occupation shall carry proper licensure for their field of work, if required by state law. All County, State, and Federal regulations shall be met. In the event that a County, State, or Federal regulation cannot be met while in compliance of this Ordinance, the conditional use permit shall not be approved.*
- C. *Type 2 Home Occupations shall include businesses, institutions, or non-profit organizations that, while incidental and accessory to a residential use, are more intensive and larger in scale than a Type 1 Home Occupation. The following regulations are intended to ensure that Type 2 Home Occupations do not negatively impact their surroundings or the health, safety, and welfare of the Township.*

Type 2 Home Occupations shall fall within the following categories, and shall not be permitted if not consistent with at least one of the descriptions below:

Equipment Repair and Service: Facilities for the repair or service of lawn mowers, motorcycles, electronics, appliances, bicycles, buggies, and other similar goods, where the repair or service takes place on-site. The repair of large vehicles such as automobiles, boats, or aircraft shall not be permitted.

Artisan Production: Facilities for the production and sale of hard goods, such as furniture, cabinets, artwork, decorative home goods, and other similar goods. Production of electronics or motorized vehicles shall be prohibited, but production non-motorized vehicles, such as buggies or bicycles, shall be permitted. Retail sales shall be limited to goods produced on the site.

Small Scale Wood Milling: Facilities for the processing and milling of wood, where the operations, storage, and scale of the use comply with this section.

- D. Type 1 Home Occupations Not Meeting Type 1 Standards: A home occupation listed under Type 1 that does not meet the requirements for a Type 1 Home Occupation may be approved as a Type 2 Home Occupation, provided that the lot in question is zoned AA Agricultural and that all requirements of this section are met.
- 1) LOCATION: The home occupation shall be carried on within the dwelling and/or one approved accessory building.
 - 2) EMPLOYEES AND VOLUNTEERS: No more than one (1) person (employee or volunteer) may be employed who is not a resident of the premises. Off street parking will be provided for that employee or volunteer on the premises upon which the home occupation is conducted.
 - 3) HOURS OF OPERATION: As set by the conditional use permit.
 - 4) SIGNS: One (1) non-illuminated sign, not to exceed two (2) square feet, may be erected. The sign shall be attached to the residence or accessory structure or may be placed in a window.
 - 5) NOISE: The home occupation shall not generate excessive noise which is audible beyond the property lines of the premises where the home occupation is conducted.
 - 6) EQUIPMENT OR PROCESS: No equipment or process shall be used in the home occupation which creates vibration, glare, fumes, odor or electrical interference detectable to the normal human senses beyond the property lines of the premises where the home occupation is conducted.
 - 7) EXTERIOR ALTERATIONS: No more than thirty percent (30%) of the living area of a dwelling shall be devoted to a home occupation, up to a maximum of 600 square feet. If the home occupation is conducted in an accessory structure, the square footage of the business part of the structure cannot exceed 2,500 square feet. There shall be no exterior alterations, except permitted signage.
 - 8) MINIMUM LOT SIZE: The minimum lot size for a type 2 home occupation conducted in an accessory structure shall be two and one half (2½) acres.

- 9) *MINIMUM SETBACK: For a home occupation conducted in an accessory structure, all uses associated with the home occupation must maintain a minimum setback of at least one hundred (100) feet from the road right away, but in no case less than that of the principal dwelling. All uses associated with an accessory structure must also maintain a minimum setback of fifty (50) feet in the rear and side yards.*
- 10) *DISPLAY OF MERCHANDISE: No merchandise or articles for sale shall be displayed for advertising purposes so as to be viewable from outside the dwelling or accessory structure.*
- 11) *STORAGE: All articles or materials used in connection with the Home Occupation shall be stored within the residence or the permitted accessory building. No outside storage is permitted. The storage of materials and merchandise shall not present a safety hazard to the dwelling, dwelling occupants or adjoining properties and occupants, nor shall the storage result in a change to the fire rating of the dwelling and/or accessory building in which the storage may be conducted.*
- 12) *SALE OF PRODUCTS: Retail sales are only permitted for approved Artisan Production home occupations.*
- 13) *LICENSURE: All professionals working in a home occupation shall carry proper licensure for their field of work, if required by state law. All County, State, and Federal regulations shall be met. In the event that a County, State, or Federal regulation cannot be met while in compliance of this Ordinance, the conditional use permit shall not be approved.*

SECTION 7. SEVERABILITY OF INVALID PROVISIONS. If any section, paragraph, clause, or provision of this Ordinance shall be held invalid, its invalidity shall not affect any other provisions of this Ordinance that can be given effect without the invalid section, paragraph, clause, or provision, and for this purpose, the sections, paragraphs, clauses, and provisions of this Ordinance are hereby declared to be severable.

SECTION 8. REPEAL. All other ordinances, resolutions, orders, or parts of ordinances herewith in effect that are in conflict with this Ordinance are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION 9. SAVINGS CLAUSE. A prosecution which is pending on the effective date of this Ordinance and which arose from a violation of an ordinance repealed by this Ordinance, or a prosecution which is started within one (1) year after the effective date of this Ordinance arising from a violation of an ordinance repealed by this Ordinance and which was committed prior to the effective date of this Ordinance, shall be tried and determined exactly as if the ordinance had not been repealed.

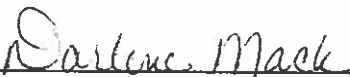
SECTION 10. EFFECTIVE DATE. Pursuant to Section 401 of the Michigan Zoning Enabling Act (MCL 125.3401), this Ordinance shall take effect seven (7) days after publication of this Ordinance or a summary of the regulatory effect thereof which publication shall occur in a newspaper of general circulation in the Township within fifteen (15) days after adoption.

This Ordinance is hereby declared to have been passed and adopted by the Township of Burlington, County of Calhoun, State of Michigan, at a regularly scheduled meeting of the Burlington Township Board thereof duly called and held on this 13th day of *August*, 2020.



Arthur D. Smith, Supervisor

ATTEST:



Darlene Mack, Clerk

Prepared by:
John H. Macfarlane (P29075)
Mumford, Schubel, Macfarlane & Barnett, PLLC

/dlm

ORDINANCE SUMMARY

Burlington Township has amended its 1977 Zoning Ordinance to regulate the location of Wind Energy Conversion Systems and to establish standards for the operation of such systems. Pursuant to MCL 125.3401, a summary of the Ordinance appears below:

1. Definitions Added. Section 2.02 of the 1977 Zoning Ordinance of Burlington Township is amended to add a definition of wind energy conversion system.
2. Conditional Uses Added – Agricultural. On-site wind energy conversion and utility power generation conversion systems are added as conditional uses in the agricultural zoning district.
3. Conditional Use Added – Low Density Residential. On-site wind energy conversion system is added as a conditional use in the low density residential zoning district.
4. Conditional Use Added – Medium Density Residential. On-site wind energy conversion system is added as a conditional use in the medium density residential zoning district.
5. Conditional Use Added – Multiple Family Residential. On-site wind energy conversion system is added as a conditional use in the multiple family residential zoning district.
6. Conditional Use Added – Highway Service Commercial. On-site wind energy conversion system is added as a conditional use in the highway service commercial zoning district.
7. Conditional Uses Added – Heavy Industrial. On-site wind energy conversion and utility power generation conversion systems are added as conditional uses in the heavy industrial zoning district.
8. Conditional Use Added – Open Space and Waterbody Conservation. On-site wind energy conversion system is added as a conditional use in the open space and waterbody conservation zoning district.
9. Height Regulations Amended. Height regulations are amended dealing with wind energy conversion and utility-scale wind grid energy conversion systems.
10. Wind Energy Conversion Systems Added. Conditions for issuance of a conditional use permit for wind energy conversion systems are set forth.
11. Severability. The ordinance is declared to be severable.
12. Repeal. Conflicting ordinances are repealed.

13. Savings. Pending prosecutions are saved.
14. Effective Date. The ordinance takes effect seven (7) days after the date of this publication.
15. Geographic Area Affected. This ordinance affects properties in agricultural, low density residential, medium density residential, multiple family residential, highway service commercial, heavy industrial, and open space and waterbody conservation zoning districts.
16. Inspection. A true copy of the ordinance is available for inspection or purchase upon request by the public at the Office of the Burlington Township Hall located at 135 North Elm Street, Burlington, MI 49029, by telephoning the Township Clerk at (517) 765-2152.

Date: February 13, 2020

Darlene Mack
Darlene Mack, Burlington Township Clerk

Prepared by:
John H. Macfarlane (P29075)
Mumford, Schubel, Macfarlane & Barnett, PLLC
68 East Michigan Avenue
Battle Creek, MI 49017-4010
(269) 968-6146

/dlm

BURLINGTON TOWNSHIP
Regular Meeting Minutes
February 13, 2020

The meeting was called to order at the Church of God Fellowship Hall located at 300 East Leroy Street, Burlington, MI 49029 at 6:30 p.m. by Supervisor Smith. After the Pledge, roll was taken with Arthur Smith, Jeff Eyre, Darlene Mack, Bill Brenner and Susan Mack present. **Public Comment Time** – Was opened at 6:33 p.m. and closed at 6:36 p.m. **Guest Speaker** – Blaire Mynear a 2020 Census Taker Recruiter shared information and accepted applications. **Approval of Agenda: Motion** by Eyre, 2nd by Brenner, to approve as amended with roll vote Smith-yes, Brenner-yes, S. Mack – yes, Eyre – yes, D. Mack – yes. **Approval of Minutes – Motion** by Eyre, 2nd by Brenner and carried to approve the January 23, 2020 special meeting minutes as presented. **Financial Reports** were received from Treasurer Susan Mack. **Payment of Bills- Motion** by Smith, 2nd by Eyre to pay bills totaling \$18,300.18 roll vote D. Mack – yes, Eyre – yes, Smith – yes, Brenner – yes, S. Mack – yes. **Road Committee Report** – The committee requested that a millage proposal for 2 mills for 10 years to be used for road improvements and maintenance be put on the ballot. **Motion** by Eyre, 2nd by Brenner and carried to place a proposal for 2 mills for 10 years to be used for road improvements and maintenance be put on the August 4, 2020 Ballot, roll vote: Eyre-yes, Smith-yes, S. Mack – yes, Brenner – yes and D. Mack – yes. **Zoning Administrator Written Report** – presented by Walker. **Fire Department Written Report** – presented by Chief Yeakey. Chief Yeakey will be writing 3 grants one for a truck and the others for pagers, radios and turnout gear. If the grants are awarded to the township our portion would be \$21,000.00. **Township Bylaws Committee** – Brenner has contacted area townships regarding their Bylaws and received a copy of Leroy's Board & Administrative Policies and Procedures Manual. MTA recommends Policies and Procedures rather than Bylaws and has a template for under \$50.00 available or a free download from MTA's website. **New Building Committee – Motion** by Smith, 2nd by D. Mack and carried to hold a special meeting on February 20, 2020 at the Township Hall beginning at 6:00 p.m. to meet with Cody Newman from Driven Designs to begin Phase 1 of the new building project. **Motion** by Smith, 2nd by Eyre and carried to include the 20-21 Budget discussion as part of the February 20, 2020 special meeting following the new building portion of the meeting. **New Business: Mike Steury Bond - Motion** by S. Mack, 2nd by Brenner and carried that with the compliance of Mike Steury regarding his conditional use permit, as noted in Paul Walker's report of February 1, 2020, the \$10,000.00 bond money be returned to Mike. Mike Steury was given a check for \$10,000.00 following the meeting by Susan Mack. **Wind Energy Conversion Text Amendment – Motion** by Eyre, 2nd by Brenner to approve the Wind Energy Text Amendment as approved by the Burlington Township Planning Commission on November 25, 2019 and the Calhoun County Planning Commission on January 27, 2020. This motion was approved with a roll call vote, Eyre – yes, S. Mack – yes, D. Mack – yes, Brenner – yes and Smith – yes. **Budget Amendment – Motion** by Brenner, 2nd by S. Mack and carried to increase the Cemetery Contract Labor Line #567-749 by \$1,926.00 and the Cemetery Maintenance Line #567-805 by \$1,350.00. The meeting was adjourned at 7:03 with a **motion** by Brenner, 2nd by Eyre and carried.

Approved 2-20-20
Proposed Minutes

Darlene Mack
Darlene Mack, Clerk

Arthur Smith
Arthur Smith, Supervisor

ORDINANCE NO. 02-13-26 OF 2020

AN ORDINANCE TO AMEND THE 1977 ZONING ORDINANCE OF BURLINGTON TOWNSHIP, AS AMENDED, TO REGULATE THE LOCATION OF WIND ENERGY CONVERSION SYSTEMS; TO ESTABLISH STANDARDS FOR THE OPERATION OF SUCH SYSTEMS; AND TO OTHERWISE PROTECT THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE.

THE TOWNSHIP OF BURLINGTON, Calhoun County, Michigan, ordains:

SECTION 1. DEFINITIONS ADDED. Section 2.02 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to add the following definition:

[SECTION 2.02 – Definitions]

WIND ENERGY CONVERSION SYSTEM (WECS): Also commonly referred to as a wind energy facility, wind generating tower, wind turbine, windmill, or wind-powered generator. It shall mean a combination of:

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

A wind energy conversion system can also include other components not listed above but associated with the normal construction, operation, and maintenance of a wind energy conversion system such as substations, anemometer towers (MET), cables and wires and other buildings accessory to such facility.

SECTION 2. CONDITIONAL USES ADDED – AGRICULTURAL. Section 4.03 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to add subparagraphs (q) and (r) to read as follows:

[SECTION 4.03 - Conditional Uses]

- (q) *On-site wind energy conversion system.*
- (r) *Utility power generation conversion system.*

SECTION 3. CONDITIONAL USE ADDED – LOW DENSITY RESIDENTIAL.

Section 5.03 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to add subparagraph (j) to read as follows:

[SECTION 5.03 - Conditional Uses]

- (j) *On-site wind energy conversion system.*

SECTION 4. CONDITIONAL USE ADDED – MEDIUM DENSITY RESIDENTIAL. Section 6.03 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to add subparagraph (k) to read as follows:

[SECTION 6.03 - Conditional Uses]

- (k) *On-site wind energy conversion system.*

SECTION 5. CONDITIONAL USE ADDED – MULTIPLE FAMILY RESIDENTIAL. Section 7.02A of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to add subparagraph (c) to read as follows:

[SECTION 7.02A - Conditional Uses]

- (c) *On-site wind energy conversion system.*

SECTION 6. CONDITIONAL USE ADDED – HIGHWAY SERVICE COMMERCIAL. Section 8.04 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to add subparagraph (l) to read as follows:

[SECTION 8.04 - Conditional Uses]

- (l) *On-site wind energy conversion system.*

SECTION 7. CONDITIONAL USES ADDED – HEAVY INDUSTRIAL. Section 9.03 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to subparagraphs (l) and (m) to read as follows:

[SECTION 9.03 - Conditional Uses]

- (l) *On-site wind energy conversion system.*
(m) *Utility power generation conversion system.*

SECTION 8. CONDITIONAL USE ADDED – OPEN SPACE AND WATERBODY CONSERVATION. Section 10.03 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amend to subparagraph (g) to read as follows:

[SECTION 10.03 - Conditional Uses]

- (g) *On-site wind energy conversion system.*

SECTION 9. HEIGHT REGULATIONS AMENDED. Section 13.11 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to read as follows:

SECTION 13.11 – Height Regulations

The height requirements established by this Ordinance shall apply uniformly in each zoning district to every building and structure except that the following structures and appurtenances shall be exempt from the height requirements of this Ordinance: spires, belfries, penthouses and domes not used for human occupancy; chimneys; ventilators' skylights' water tanks, bulkheads; utility poles; power lines; radio and television broadcasting and other receiving antennae, silos; parapets; and other necessary mechanical appurtenances: provided their location shall conform where applicable to the requirements of the Federal Communications Commission, the Civil Aeronautics Administration and other public authorities having jurisdiction, and on-site wind energy conversion systems, so long as they do not exceed seventy-five (75) feet in height. Utility-Scale Wind Energy Conversion Systems approved by the Township may be allowed to exceed the height limit of the zoning district, provided that they do not exceed four hundred (400') feet in height, adhere to all the standards and requirements in this Ordinance and do not create a hazard to the public health, safety, or welfare.

SECTION 10. WIND ENERGY CONVERSION SYSTEMS ADDED. Section 14.22 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby created to read as follows:

SECTION 14.22 – Wind Energy Conversion Systems (WECS)

A wind energy conversion system (WECS) as defined by Section 2.02 of this Ordinance is allowed as a conditional use when approved by the Planning Commission in accordance with the process defined herein. In addition to the standards and requirements for issuance of a conditional use permit specified in Article 14 of this Ordinance, the Planning Commission shall not approve the issuance of a Conditional Use Permit unless the following requirements shall be met:

- (a) ***Purpose and Intent.*** *The purpose of this Section is to establish standards and procedures by which the installation and operation of Wind Energy Conversion Systems (WECS) for both residential and commercial use are permitted. Such systems shall be governed within the Township to protect the health, welfare, safety, and quality of life of the general public, and to ensure compatible land uses in the vicinity of the areas affected by wind energy facilities.*

Burlington Township recognizes the potential impact on the broad landscape and rural character currently enjoyed throughout the community. On a site-specific scale, safety implications such as falling towers and ice throw are a concern, as are the potential impositions of constant or cyclical sound and shadow flicker. For these reasons, and

others, including those listed above, the Township finds it prudent and necessary to develop regulations for the responsible placement of wind energy conversion systems.

(b) **Supplementary Definitions:**

- (i) **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).
- (ii) **Anemometer Tower (MET):** 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.
- (iii) **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.
- (iv) **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.
- (v) **Decibel:** The unit of measure used to express the magnitude of sound pressure and sound intensity.
- (vi) **FAA:** The Federal Aviation Administration.
- (vii) **IEC:** The International Electrotechnical Commission.
- (viii) **ISO:** The International Organization for Standardization.
- (ix) **Lmax (LAm_{ax} or LC_{max}):** 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).
- (x) **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.
- (xi) **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.

(xii) **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 Participant Parcel.*
- (xiii) **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.*
- (xiv) **Sound Pressure:** *An average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.*
- (xv) **Sound Pressure Level:** *The sound pressure mapped to a logarithmic scale and reported in decibels (dB).*
- (xvi) **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.*
- (xvii) **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 designed 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.

(xviii) **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) **On-Site Wind Energy Conversion System Standards.** *The following standards shall apply to On-Site WECS, including Anemometer Towers, in addition to the general Conditional Use Approval Requirements of Chapter 14 of this Ordinance:*

1. **Purpose.** *Designed to primarily serve the needs of a home, farm, or small business.*
2. **Height.** *Shall have a total height of 75 feet or less; except where state and federal regulations may require a lesser height; or where, as a condition of conditional use approval, the Township Board requires a lesser height. Height is measured from the average grade at the base of the pole to the highest point of WECS when a blade is in its vertical orientation.*
3. **Setbacks.** *The distance between an On-Site WECS and the property lines shall be equal to 300% of the height of the tower including the top of the blade in its vertical position. The distance between an Anemometer Tower and the owner's property lines shall be equal to 150% of the height of the tower. No part of the WECS structure, including guy wire anchors, may extend closer than 20 feet to the owner's property lines, or the distance of the required setback in the respective zoning district, whichever results in the greater setback.*
4. **Minimum Lot Area Size.** *The minimum lot size for a property to be eligible to have an On-Site WECS shall be two acres.*
5. **Minimum Ground Clearance.** *The minimum vertical blade tip clearance from grade and any structure, adjoining property, or tree shall be 20 feet for an on-site WECS employing a horizontal axis rotor.*
6. **Noise Emission.** *On-site WECS shall not exceed 45 dB(A) (Lmax) or 55 dB(C) (Lmax) at the property line closest to the WECS.*
7. **Construction Codes, Towers, & Interconnection Standards.** *On-site WECS including towers shall comply with all applicable state construction and electrical codes and local building permit requirements. On-site WECS including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act, the Michigan Tall Structures Act, the Branch County Memorial Airport Authority Ordinance, the W.K. Kellogg Airport Authority, and other applicable local and state regulations. An interconnected On-site WECS*

shall comply with Michigan Public Service Commission (MPSC) and Federal Energy Regulatory Commission (FERC) standards. Off-grid systems are exempt from MPSC and FERC requirements.

8. **Safety.** *The WECS shall meet the following safety requirements:*
- (i) *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.*
 - (ii) *All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the site of the WECS.*
 - (iii) *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.*
 - (iv) *All collection system wiring shall comply with all applicable safety and stray voltage standards.*
 - (v) *WECS towers shall not be climbable on the exterior.*
 - (vi) *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.*
 - (vii) *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.*
- (9) **Shadow Flicker.** *On-site WECS shall produce no off-site shadow flicker. Measures to eliminate all effects of shadow flicker on adjacent properties, such as programming the WECS to stop rotating during times when shadow crosses occupied structures, may be required.*
- (i) *This shadow flicker limit may be waived if the owner of the affected property owner submits to the Township a signed and notarized letter of acknowledgement that verifies the owner's understanding that shadow flicker at the residence or structure may result from the installation of the WECS; provided the letter expressly waives the Township requirement for no shadow flicker on the property. 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 Calhoun County Register of Deeds.*

(d) **Utility-Scale Wind Grid Energy Conversion System Standards.** *The following standards shall apply to Utility-Scale WECS, including Anemometer Towers, in addition to the general Conditional Use Requirements of Chapter 14 of this Ordinance:*

1. **Height.** *The maximum height of any Utility-Scale WECS is 400 feet. The height of a WECS is measured from the average grade at the base of the pole to the highest point of the WECS when a blade is in its vertical orientation.*
2. **Setbacks.** *A distance equal to 300% of the height of the tower to the tip of the blade in its vertical position shall be maintained from the outside edge of the base of the turbine to all parcel property lines. Operations and maintenance office building, a substation, or ancillary equipment shall be setback a minimum of 50 feet from all single parcel property lines, or from lease unit boundary lines, and overhead transmission lines power poles. Such maintenance buildings and equipment shall be bordered by green space and screened by trees and shrubs to help blend into the rural setting and the Planning Commission will review the location and makeup of same as part of the Site Plan Review.*
3. **Tower Separation.** *The required distance between any two (2) utility-scale WECS shall be no less than 200% of the combined height of the towers, including the top of the bladed in their vertical position.*
4. **Minimum Lot Size.** *The size of a single property, or a leased unit to be used for a utility-scale WECS shall be sufficient to comply with all setback requirements in this section.*
5. **Minimum Ground Clearance.** *The minimum vertical blade tip clearance from grade and any structure, adjoining property, or tree shall be 75 feet for a utility-scale WECS employing a horizontal axis rotor.*
6. **Transmission Lines.** *New transmission lines required to connect a WECS with a new or existing network for the distribution of electricity shall be installed underground to a depth of at least six (6) feet. This requirement applies to all new transmission lines associated with the WECS, regardless of whether they are within the property boundary or lease unit boundary or outside of said boundary.*
7. **Sound Pressure Level.** *Utility-Scale WECS shall not exceed 45 dB(A) (L_{max}) / 55 dB(C) (L_{max}) at the property line or lease unit boundary closest to the WECS, measured in accordance with the protocol set forth in Section 14.22(e)(13)(ii).*
8. **Construction Codes, Towers, & Interconnecton Standards.** *Utility-Scale WECS including towers shall comply with all applicable state construction and electrical codes and local building permit requirements. Utility-Scale WECS including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act, the Michigan Tall Structures Act, the Branch County Memorial Airport Authority Ordinance, the W.K. Kellogg Airport*

Authority, and other applicable local and state regulations. An interconnected Utility-Scale WECS shall comply with Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.

9. **Safety.** *The WECS shall meet the following safety requirements:*

- (i) *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.*
- (ii) *All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the site of the WECS.*
- (iii) *The WECS shall be equipped with a fire suppression system. The specifications of the fire suppression system must be submitted for review by the Township.*
- (iv) *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.*
- (v) *All collection system wiring shall comply with all applicable safety and stray voltage standards.*
- (vi) *WECS towers shall not be climbable on the exterior.*
- (vii) *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.*
- (viii) *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.*

10. **Visual Impact.**

- (i) *WECS shall be mounted on tubular towers, painted a non-reflective, non-obtrusive neutral color.*
- (ii) *The appearance of turbines, towers, and buildings shall be maintained throughout the life of the wind energy facility pursuant to industry standards (i.e. condition of exterior paint, signs, landscaping).*

- (iii) *A certified registered engineer and authorized factory representative shall certify that the construction and installation of the WECS meets or exceeds the manufacturer's construction and installation standards.*
 - (iv) *The design of the wind energy facility's buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening, and landscaping that shall blend facility components with the natural setting and the environment existing at the time of installation.*
11. **Shadow Flicker.** *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.*
- (i) *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 to the Township a signed and notarized letter of acknowledgement that verifies the owner's understanding that shadow flicker on his/her parcel may result from the installation; provided the letter expressly 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 Calhoun County Register of Deeds.*
12. **Lighting.** *A lighting plan that includes all proposed lighting for each WECS shall be approved by the Planning Commission. The plan shall include, but is not limited to, the planned number and location of lights, light color, whether any lights shall be flashing, and all proposed shielding mechanisms. All tower-mounted lighting shall be of the radar-activated variety and shielded from view at ground level, unless otherwise directed by the FAA. All tower lighting shall comply with FAA regulations and guidance and shall be consistent with U.S. Fisheries and Wildlife Service/Michigan Department of Natural Resources guidelines.*
13. **Interference.** *No Utility-Scale WECS shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for radio, television, or wireless phone or other personal communication systems would produce interference with signal transmission or reception. Any signal interference incurred following the installation of a WECS shall be resolved to the satisfaction of the person receiving that signal interference. No Utility-Scale WECS shall be installed in any location within the line of sight of an existing microwave communications link where operation of the WECS is likely to*

produce interference in the link's operation unless the interference is insignificant.

14. ***Substations and Accessory Buildings.*** *Structures related to a WECS shall be subject to the dimensional and locational standards of structures in the zoning district. Where structures are visible from adjacent properties, vegetative or manmade screening may be required to minimize visual impact off-site.*
15. ***Inspection.*** *The Township shall have the right upon issuing any WECS or wind energy facility conditional use permit to inspect the premises on which each WECS is located at any reasonable time. The Township may hire a consultant to assist with any such inspections at a reasonable cost to be charged to the operator of the WECS.*
16. ***Decommissioning.***
 - (i) *The applicant shall engage a certified professional engineer acceptable to the Township to estimate the total cost of decommissioning the structure in accordance with the requirements of this ordinance, including reclamation to the original site conditions. The cost of decommissioning shall be reviewed between the operator and the Township every two (2) years to ensure adequate funds are allocated for decommissioning; the security bond, defined herein, shall be appropriately adjusted to reflect the then current decommissioning estimate.*
 - (ii) *All above and below ground materials shall be removed when the WECS is decommissioned.*
 - (iii) *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.*
 - (iv) *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 to 14.22(d)(19) complete the decommissioning process.*
17. ***Abandonment.*** *Any WECS that is not used to produce energy for a period of six (6) successive months or longer shall be deemed to be abandoned and shall be promptly dismantled and removed from the property in accordance with the decommissioning regulations of this ordinance, unless the applicant receives a written extension of that period from the Township Board in a case involving an extended repair schedule for good cause.*

18. **Reasonable Conditions.** *In addition to the requirements of this section, the Township Board may impose additional reasonable conditions on the approval of WECS as a conditional use.*
19. **Security Bond.**
- (i) *The owner(s) and/or operator of the WECS shall post a security bond in a form acceptable to the Township equal to one-hundred fifty (150) percent of the total estimated decommissioning and reclamation costs. The cost of decommissioning shall be reviewed between the operator and the Township Board every two (2) years to ensure adequate funds are allocated for decommissioning; the security bond, defined herein, shall be appropriately adjusted to reflect the current decommissioning estimate.*
 - (ii) *The security bond shall be posted and maintained with a bonding company licensed in the State of Michigan or a Federal- or State-chartered lending institution acceptable to the Township.*
 - (iii) *Any bonding company or lending institution shall provide the Township with 90 days' notice of the expiration of the security bond. Lapse of a valid security bond is grounds for the actions defined in subpart (v), below.*
 - (iv) *In the event of sale or transfer of ownership and/or operation of the WECS, the security bond shall be maintained throughout the entirety of the process.*
 - (v) *If at any time during the operation of the WECS or prior to, during, or after the sale or transfer of ownership and/or operation of the WECS the security bond is not maintained, the Township may take any action permitted by law, revoke the conditional land use, order a cessation of operations, and order removal of the structure and reclamation of the site.*
20. **Transfer or Sale.**
- (i) *In the event of a transfer or sale of the WECS, the Township shall be notified and the conditional land use, without a public hearing, may be amended administratively by the Township.*
 - (ii) *Change in ownership alone shall be considered a minor amendment to the special conditional land use and may be approved administratively.*
 - (iii) *Any proposed changes to the operating procedure or approved site plan shall be amended and resubmitted for Township review according to the procedures for all WECS as outlined herein, including a public hearing.*

- (iv) *Upon transfer or sale, the security bond shall be maintained at all times, the estimated costs of decommissioning shall be resubmitted, and the security bond adjusted to account for the new estimate.*
- (e) **Wind Energy Conversion System Site Plan Review Procedure.** *An application for a WECS shall be reviewed in accordance with all applicable requirements in Section 13.22 – Site Plan Review and Article 14 – Conditional Use Requirements of this Ordinance. In addition to these requirements, site plans and supporting documents for WECS shall include the following additional information, as appropriate:*
1. *Documentation that noise emissions, construction code, tower, and safety requirements have been reviewed by the appropriate third-party professional and the submitted site plan is prepared to show compliance with these issues.*
 2. *Proof of the applicant's public liability insurance for the project.*
 3. *A copy of that portion of all the applicant's lease(s) with the land owner(s) granting authority to install the WECS and/or Anemometer Tower; legal description of the property(ies), Lease Unit(s); and a site plan which shows the boundaries of the leases as well as the boundaries of the Lease Unit Boundary, as well as a copy of any letters waiving the sound and/or shadow flicker limit on Non-Participating Parcels.*
 4. *An un-redacted safety manual from the turbine manufacturer and a statement from the applicant verifying that the WECS is or will be operated in compliance with all requirements therein.*
 5. *The phases, or parts of construction, with a construction schedule.*
 6. *The project area boundaries.*
 7. *The location, height, and dimensions of all existing and proposed structures and fencing.*
 8. *The location, grades, and dimensions of all temporary and permanent on-site and access roads from the nearest county or state maintained road.*
 9. *A description of the routes to be used by construction and delivery vehicles and of any road improvements that shall be necessary in the Township to accommodate construction vehicles, equipment or other deliveries, and an agreement or bond which guarantees the repair of damage to public roads and other areas caused by construction of the WECS.*
 10. *All new infrastructure above and below ground related to the project, including transmission line locations.*

11. *A copy of Manufacturers' Material Safety Data Sheet(s) which shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.*
12. *Description of operations, including anticipated regular and unscheduled maintenance.*
13. *Additional Requirements for Utility-Scale Wind Energy Conversion Systems only:*
 - (i) *A wind assessment study conducted within a potential project area shall be completed within 18 months of the date of application for a WECS. The study must show analysis for a period of time no less than one (1) year. The height of an anemometer (or similar) device measuring wind availability shall be placed within the potential vertical swept blade area of the proposed WECS. Temporary (one-year) installation of said device may be applied for through the Township site plan approval process and may be approved for a height acceptable to determine feasibility of a WECS height allowed by this ordinance. The anemometer shall be decommissioned in accordance with Section 14.22(d)(16) of this ordinance, including the provision of a security bond covering decommissioning costs.*
 - (ii) *A copy of a noise modeling and analysis report completed by a third-party acoustician acceptable to the Township and the site plan 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 sound pressure 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, sound pressure 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 sound pressure level measurements shall be provided to Burlington Township within 60 days of the commercial operation of the project and as requested to respond to a noise complaint from a resident.*
 - (iii) *A visual impact simulation showing the completed site as proposed on the submitted site plan. The visual impact simulation shall be from four viewable angles.*

- (iv) *A copy of an Environmental Analysis by a third party qualified professional acceptable to the Township to identify and assess any potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that shall remain after mitigation efforts.*
- (v) *A copy of a shadow flicker analysis at Non-Participating Parcel property lines to identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The site plan shall identify problem areas where shadow flicker may affect the owners and/or occupants of the Non-Participating Parcels and show measures that shall be taken to eliminate the problems.*
- (vi) *The restoration plan for the site after completion of the project which includes the following supporting documentation:*
 - a. *The anticipated life of the project.*
 - b. *The estimated decommissioning costs as defined in this ordinance*
 - c. *The security bond, or similar Township-approved security, ensuring that funds shall be available for decommissioning and restoration.*
 - d. *The anticipated manner in which the project shall be decommissioned, and the site restored.*
- (vii) *A contact person/address to which any notice of complaint, as defined by this ordinance, may be sent.*
- (f) ***Deposit to defray cost of hiring consultants and experts.*** *To administer the provisions relating to WECS, the Township may hire consultants and experts as are reasonably necessary in the sole discretion of the Township. The applicant shall pay the Township in advance for the costs of such consultants and experts. The Township may charge an annual fee to be determined by the Burlington Township Board and assess additional fees in order to execute its responsibilities related to a project. Any fees charged must be reasonable in light of efforts required.*

SECTION 11. SEVERABILITY. If any section, paragraph, clause, or provision of this Ordinance shall be held invalid, its invalidity shall not affect any other provisions of this Ordinance that can be given effect without the invalid section, paragraph, clause, or provision, and for this purpose, the sections, paragraphs, clauses, and provisions of this Ordinance are


hereby declared to be severable.

SECTION 12. REPEAL. All other ordinances, resolutions, orders, or parts of ordinances herewith in effect that are in conflict with this Ordinance are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION 13. SAVINGS CLAUSE. A prosecution which is pending on the effective date of this Ordinance and which arose from a violation of an ordinance repealed by this Ordinance, or a prosecution which is started within one (1) year after the effective date of this Ordinance arising from a violation of an ordinance repealed by this Ordinance and which was committed prior to the effective date of this Ordinance, shall be tried and determined exactly as if the ordinance had not been repealed.


SECTION 14. EFFECTIVE DATE. Pursuant to Section 401 of the Michigan Zoning Enabling Act (MCL 125.3401), this Ordinance shall take effect seven (7) days after publication of this Ordinance or a summary of the regulatory effect thereof which publication shall occur in a newspaper of general circulation in the Township within fifteen (15) days after adoption.

This Ordinance is hereby declared to have been passed and adopted by the Township of Burlington, County of Calhoun, State of Michigan, at a regularly scheduled meeting thereof duly called and held on this 13th day of February, 2020.



Arthur D. Smith, Supervisor

ATTEST:



Darlene Mack, Clerk

Prepared by:
John H. Macfarlane (P29075)
Mumford, Schubel, Macfarlane & Barnett, PLLC

/dlm

ORDINANCE NO. 11-8-18 OF 2018

AN ORDINANCE TO AMEND THE 1977 ZONING ORDINANCE OF BURLINGTON TOWNSHIP, AS AMENDED, IN ORDER TO FACILITATE THE CONSTRUCTION, INSTALLATION AND OPERATION OF SOLAR ENERGY FACILITIES IN THE TOWNSHIP; TO DESIGNATE APPROPRIATE ZONING DISTRICTS FOR DIRECT USE AND PRIMARY USE SOLAR ENERGY SYSTEMS; TO ESTABLISH CONDITIONAL USES, AND TO OTHERWISE PROTECT THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE.

THE TOWNSHIP OF BURLINGTON, Calhoun County, Michigan, ordains:

SECTION 1. Article 4 amended.

- A. Section 4.02 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to add the following subparagraph “m” to read as follow:

[4.02 Permitted Uses]

(m) Direct use solar energy systems

- B. Section 4.03 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to add subparagraph “p” to read as follows:

[4.03 Conditional Uses]

(p) Primary use solar energy systems

SECTION 2. Article 5 amended.

- A. Section 5.02 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to add subparagraph “h” to read as follows:

[5.02 Permitted Uses]

(h) Direct use solar energy systems

- B. Section 5.03 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to add subparagraph “i” to read as follows:

[5.03 Conditional Uses]

(i) Primary use solar energy systems

SECTION 3. Article 6 amended.

- A. Section 6.02 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to add subparagraph “f” to read as follows:

[6.02 Permitted Uses]

(f) Direct use solar energy systems

- B. Section 6.03 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to add subparagraph “j” to read as follows:

[6.03 Conditional Uses]

(j) Primary use solar energy systems

SECTION 4. Article 7 amended.

- A. Section 7.02 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to add subparagraph “e” to read as follows:

[7.02 Permitted Uses]

(e) Direct use solar energy systems

- B. Section 7.02A of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to add subparagraph “b” to read as follows:

[7.02A Conditional Uses]

(b) Primary use solar energy systems

SECTION 5. Article 8 amended.

- A. Section 8.02 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to add subparagraph “o” to read as follows:

[8.02 Permitted Uses]

(o) Direct use solar energy systems

- B. Section 8.04 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to add subparagraph “d” to read as follows:

[8.04 Conditional Uses]

(d) Primary use solar energy systems

SECTION 6. Article 9 amended.

- A. Section 9.02 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to add subparagraph “l” to read as follows:

[9.02 Permitted Uses]

(l) Direct use solar energy systems

- B. Section 9.03 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to add subparagraph “k” to read as follows:

[9.03 Conditional Uses]

(k) Primary use solar energy systems

SECTION 7. Article 10 amended.

- A. Section 10.02 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to add subparagraph “c” to read as follows:

[10.02 Permitted Uses]

(c) Direct use solar energy systems

- B. Section 10.03 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby amended to add subparagraph “f” to read as follows:

[10.03 Conditional Uses]

(f) Primary use solar energy systems

SECTION 8. Article 27 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby created to read as follows:

ARTICLE 27
SOLAR ENERGY SYSTEMS

SECTION 27.01 Purpose

The purpose of this Article is to facilitate the construction, installation, and operation of Solar Energy Facilities (SEFs) in Burlington Township in a manner that protects public health, safety, and welfare and avoids significant impacts to protected resources such as important agricultural lands, endangered species, high value biological habitats, and other protected resources. It is the intent of this Article to encourage solar facilities that

reduce reliance on foreign petroleum supplies, increase local economic development and job creation, reduce greenhouse gas emissions, and/or promote economic development diversification.

SECTION 27.02 *Supplementary Definitions.*

For purposes of this article the following terms shall have the following meanings:

- 1) *“Applicant” means the Landowner, developer, facility owner, and/or operator with legal control of the project, including heirs, successors and assigns, who has filed an application for development of a Solar Energy Facility under this Article.*
- 2) *“Landowner” means the persons or entities possessing legal title to the Parcel(s) upon which a SEF is located.*
- 3) *“Parcel” means all land within a legally established parcel.*
- 4) *“Protected Lands” means, for the purpose of this section only, lands containing resources that are protected or regulated by established regulatory standards of local, state, or federal agencies, conservation easements or other contractual instruments in such a way that prohibits or limits development of those lands.*
- 5) *“Review Authority” means Burlington Township.*
- 6) *“Solar Energy Facility (SEF)” means an energy facility, an area of land, or a structural rooftop principally used to convert solar energy to electricity, which includes, but is not limited to, the use of one or more solar energy systems.*
- 7) *“Solar Electric System (SES)” means the components and subsystems that, in combination, convert solar energy into electric or thermal energy suitable for use, and may include other appurtenant structures and facilities. The term includes, but is not limited to, photovoltaic power systems, solar thermal systems, and solar hot water systems.*
- 8) *“Uses Allowed” means one of the following:*
 - a) *Direct Use – a SEF designed and installed to provide on-site energy demand for any legally established use of the property.*
 - b) *Primary Use – a SEF that is devoted to solar electric power generation primarily for use off-site.*

SECTION 27.03 *Applicability*

- 1) *This Article applies to the construction of any new SEF within the Township.*

- 2) *A SEF legally established or permitted prior to the effective date of this Article shall not be required to meet the requirements of this Article, however:*
 - a) *Physical modification or alteration to an existing SEF that materially alters the size, type, or components of the SEF shall be subject to this Article. Only the modification or alteration is subject to this Article;*
 - b) *Substantial conformance review determinations are not major amendments to a project's existing permits; and,*
 - c) *Routine operation and maintenance or like-kind replacements do not require a permit.*

SECTION 27.04 Parcel Line Setbacks

The following setbacks from the Parcel line to the closest part of the SEF structure, such as panels, racking, or inverters, shall be established as shown in Table 1. Fencing, roads, landscaping, and utility interconnection infrastructure may occur within the setback.

Table 1. Setbacks

	Direct Use	Primary Use
Setback from All Property Lines	<i>Shall conform to the setbacks per zoning for that district.</i>	<i>75 feet</i>

SECTION 27.05 Height

For ground mounted systems, height restrictions will be measured from finished grade below each module in the event the site has topographic changes.

Table 2. Height Limits

Type	Height
<i>Ground Mounted</i>	<i>15'</i>
<i>Roof Mounted</i>	<i>5' above roof surface not to exceed the roof ridge</i>

SECTION 27.06 General Requirements (apply to all SEF Uses unless otherwise noted)

1) Building Permits Are Required –

- a) *Nothing in this Article modifies the minimum building standards required to construct a SEF, consistent with applicable building and fire codes. The SEF components and all accessory equipment shall comply with the most recently adopted Building Code as determined by the Building Official and Fire Code as determined by the Fire Official.*

- b) *A site plan shall be provided at the time of the Building Permit application demonstrating compliance with the setbacks in Table 1.*
 - c) *The Building Permit shall include review by local permitting departments including, but not limited to, the local Fire Authority, for Health and Safety Requirements.*
- 2) *Supplemental Information Required for Primary Use SEFs –*
- a) *The manufacturers or installer's identification and appropriate warning sign shall be posted on or near the panels in a clearly visible manner.*
 - b) *On site power lines between solar panels and inverters shall be placed underground, unless site conditions or a utility does not allow.*
 - c) *If the solar energy facility consists of storage or storage of batteries, adequate design must be provided to ensure all local, state and federal requirements regulating outdoor storage and battery storage have been met.*
 - d) *A copy of the Project's interconnection application with the utility.*
 - e) *An affidavit or evidence of an agreement between the lot owner and the facility's owner or operator confirming the owner or operator has permission of the property owner to apply for the necessary permits for construction and operation of the solar energy facility.*
 - f) *A description of the proposed technology to include type of solar panel and system, fixed mounted verses solar tracking, estimated number of panels, and angles of orientation.*
 - g) *An information sign shall be posted and maintained at the entrance(s) which lists the name and phone number of the operator.*
 - h) *For ground mounted SEF, a description of the ground covering of native Michigan plantings beneath the solar panels (i.e. grass, plantings) and a plan for maintaining the groundcover to the extent feasible and compatible with the climate and pre-project landscaping of the property the site.*
- 3) *Off-Site Facilities – When the SEF is located on more than one Parcel, there shall be proper easement agreement or other approved methods for the notification of all impacted parties.*
- 4) *Glare – Any glass, plastic, or metal panels must not produce excessive glare that is visible from the street or any neighboring home.*

- 5) *Septic System Avoidance – The SEF shall not be located over a septic system, leach field area or identified reserve area unless approved by the County Health Department.*
- 6) *Conform to Development Standards for Underlying Zone – The SEF shall be ground mounted, or when located on structures, the SEF shall conform to the development standards for a principal structure in the zone in which such facilities and structures are to be located, except as otherwise provided herein;*
- 7) *Abandonment*
 - a) *A SEF that ceases to produce energy on a continuous basis for 12 months will be considered abandoned unless the current responsible party (or parties) with ownership interest in the SEF provides substantial evidence (updated every 6 months after 12 months of no energy production) to the Township or its designee of the intent to maintain and reinstate the operation of that facility. It is the responsibility of the responsible party (or parties) to remove all equipment and facilities and restore the Parcel to its condition prior to development of the SEF, unless otherwise approved by the Township.*
 - b) *Upon determination of abandonment or other violation(s), the Township shall notify the party (or parties) responsible that they must remove the SEF and restore the site to its condition prior to development of the SEF within three hundred and sixty five (365) days of notice by the Township.*
 - c) *If the responsible party (or parties) fails to comply, the Township may remove the SEF Primary Use SEFs shall be removed in accordance with the Decommissioning Plan required to be provided in Section 27.08.5, sell any removed materials, and initiate judicial proceedings or take any other steps legally authorized against the responsible parties to recover the costs required to remove the SEF and restore the site to a nonhazardous pre-development condition.*
 - d) *Facilities deemed by the Township to be unsafe and facilities erected in violation of this section shall also be subject to this Section. The code enforcement officer or any other employee of the Planning and Building Departments shall have the right to request documentation and/or affidavits from the Applicant regarding the system's usage, and shall make a determination as to the date of abandonment or the date on which other violation(s) occurred.*

SECTION 27.07 Solar Energy Facilities – Direct Use

- 1) **General Requirements.** *Direct Use Solar Energy Facilities are ground mounted SEFs that provide energy primarily for on-site use, or rooftop systems that*

provide energy for any use. Rooftops or ground mounted systems covering developed parking areas or other hardscape areas are encouraged as preferred locations for a SEF. In addition to the General Requirements in Section 27.06 the following standards shall apply to all Direct Use SEFs, notwithstanding the development standards for the underlying zone:

- a) *Lot Coverage – Rooftop systems can be any size, ground mounted systems allowable lot coverage varies by the underlying zoning district.*
 - b) *Setbacks – Ground mounted structures shall conform to the setbacks per zoning for that district.*
 - c) *Height Limits – Facilities shall conform to the height limits of Table 2, unless demonstrated by a structural engineer to meet public safety standards.*
 - d) *Floodplain – A Direct Use SEF shall not be located in a Floodplain.*
- 2) ***Biological Resources.*** *The protection of high value biological resources is an important consideration. Direct Use SEF projects shall demonstrate that they have completed due diligence so as to minimize impacts on rare species or features protected by local, State, or Federal Agencies. If approvals are required, the Applicant shall obtain them from the applicable agency prior to construction.*

SECTION 27.08 *Solar Energy Facilities – Primary Uses*

- 1) ***General Requirements.*** *Primary Use SEFs are required to obtain to a Conditional land use permit. In addition to the General Requirements in Section 27.06 the following standards shall apply to all Primary SEFs, notwithstanding the development standards for the underlying zone:*
 - a) *Maximum Lot Coverage – Lot coverage for ground mounted structures shall be limited by the setbacks shown in Table 1.*
 - b) *Setbacks – Ground mounted structures shall conform to the setbacks as shown in Table 1. The buffer may be reduced if the decision-making body determines that there is a substantial screen such as existing topography or landscaping vegetation and/or an operational management plan and/or an agricultural operation easement is provided.*
 - c) *Height Limits – Facilities shall conform to the height limits of Table 2.*
 - d) *Grading – Grading within the Township shall be minimized whenever possible.*
 - e) *Permit Validity – An applicant for a Primary Use SEF shall have up to two (2) years to obtain a building permit and start construction of its use,*

trees or bushes may be trimmed but no lower than a height of 8 feet. A buffer area will not be required between a solar energy facility and an industrial or commercial use. A planted buffer will not be required if an opaque fence is installed. The Planning Commission has the authority to reduce the buffer requirements based on site conditions.

b) *All Areas – Additionally, all ground mounted facilities shall:*

1. *If lighting is required for site access or safety, it shall be activated by motion sensors, fully shielded and downcast type where the light does not spill onto the adjacent Parcel or the night sky;*
2. *Not display advertising, except for reasonable identification of the panel, inverter or other equipment manufacturer, warning signs, and the facility owner;*
3. *Be sited behind existing vegetation, when possible (which shall be supplemented with landscaping where not adequate to screen the project) or be sited using the natural topography to help screen the project; and,*
4. *Be enclosed by a fence, barrier, barbwire, or other appropriate means as determined by National Electric Code (NEC), as amended. Fences or barriers shall work to incorporate wildlife friendly design, when identified as appropriate.*

5) ***Decommission Plan***

- a) *The SEF project must contain a Decommissioning Plan to ensure it is properly decommissioned upon the end of the project life or facility abandonment.*
- b) *Decommissioning shall include: Removal of all structures (including transmission equipment and fencing) and debris to a depth of four (4) feet, restoration of the soil, and restoration of vegetation within twelve (12) months of the end of project life or facility abandonment.*
- c) *The Decommissioning Plan shall state how the facility will be decommissioned, the Professional Engineer's estimated cost of decommissioning, the financial resources to be used to accomplish decommissioning, and the type of surety to be provided prior to construction.*
- d) *Surety:*
 1. *The owner(s) and/or operator of the SEFs shall post a surety in a form acceptable to the Township, such as security bond,*

with options for extension from the Township when progress and need has been demonstrated.

- 2) **Biological Resources** – *The protection of high value biological resources is an important consideration. Primary Use SEF projects shall demonstrate that they have completed due diligence as to minimize impacts on rare species or features protected by local, state, or federal agencies. If approvals are required, the Applicant shall obtain them from the applicable agency prior to construction.*
- 3) **Soil Stabilization, Erosion Control and Ground Water Management** – *For Primary Use SEFs, the following requirements shall apply:*
 - a) *To the extent feasible and compatible with the climate and pre-project landscaping of the property the site shall be restored with native vegetation. The re-vegetation plans shall be reviewed and approved by the Township.*
 - b) *A storm water management plan showing existing and proposed grading and drainage demonstrating the project is in compliance with applicable storm water regulations.*
 - c) *A maintenance plan shall be submitted for the continuing maintenance of the SEF, which may include, but not be limited to, planned maintenance of vegetation or ground cover, equipment maintenance, and plans for cleaning of solar panels if required, prior to issuance of a building permit.*
 - d) *After construction is completed as-built surveys for the project must be prepared by a licensed professional surveyor or other approved qualified professional shall be submitted to the reviewing agency's engineer for review and record keeping. The surveys shall show that the as-built conditions are substantially the same as those submitted for building permit.*
- 4) **Visibility**
 - a) *Through the Conditional Use Permit process the Planning Commission may evaluate screening and buffering requirements on a site by site basis to assure the proposed SEF is appropriately screened due to adjacent land uses and existing vegetation. When it is properly that demonstrated there exists no need to buffer due to existing natural vegetation or lack of impact due to adjoining land uses, such as but not limited to crop productions, wood lots, etc., screening and buffering requirements may be excused; provided, however, that Solar energy facilities located in a residential area shall have a minimum landscape buffer of 25 feet. The buffer in a residential area shall contain evergreen trees or bushes planted no more than 8 feet apart and at least 4' tall at time of planting. The buffer shall obtain a height of 8 feet within 3 growing seasons. The*

irrevocable letter of credit, escrow, or other form deemed acceptable by the Township equal to one-hundred fifty (150) percent of the total estimated decommissioning and reclamation costs, prior to issuance of a building permit. The cost of decommissioning shall be reviewed between the operator and the Township Board every five (5) years to ensure adequate funds are allocated for decommissioning; the surety shall be appropriately adjusted to reflect the current decommissioning estimate.

2. *The surety shall be established and maintained with a company licensed in the State of Michigan and/or a Federal- or State-chartered lending institution acceptable to the Township.*
3. *The company providing the surety shall provide the Township with 90 days' notice of the expiration of the surety. Lapse of a valid security bond is grounds for the actions defined in subpart 5 below.*
4. *In the event of sale or transfer of ownership and/or operation of the SEFS, a surety shall be maintained throughout the entirety of the process.*
5. *If at any time during the operation of the SEFS or prior to, during, or after the sale or transfer of ownership and/or operation of the SEFs the surety is not maintained, the Township may take any action permitted by law to revoke the conditional use permit and to order a cessation of operations and or deremoval of the structure and reclamation of the site in accordance with the decommissioning plan.*
6. *The Township shall have access to surety for the expressed purpose of completing decommissioning if decommissioning is not completed by the owner(s)/operator within twelve (12) months of the end of the project life or facility abandonment as defined.*
7. *The Township is granted right of access to the site, pursuant to reasonable notice, in the event that decommissioning is not completed by the owner(s)/operator within twelve (12) months of the end of the project life or facility abandonment as defined.*


SECTION 9. SEVERABILITY. If any section, paragraph, clause, or provision of this Ordinance shall be held invalid, its invalidity shall not affect any other provisions of this Ordinance that can be given effect without the invalid section, paragraph, clause, or provision, and for this purpose, the sections, paragraphs, clauses, and provisions of this Ordinance are hereby declared to be severable.

SECTION 10. REPEAL. All other ordinances, resolutions, orders, or parts of ordinances herewith in effect that are in conflict with this Ordinance are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION 11. SAVINGS CLAUSE. A prosecution which is pending on the effective date of this Ordinance and which arose from a violation of an ordinance repealed by this Ordinance, or a prosecution which is started within one (1) year after the effective date of this Ordinance arising from a violation of an ordinance repealed by this Ordinance and which was committed prior to the effective date of this Ordinance, shall be tried and determined exactly as if the ordinance had not been repealed.

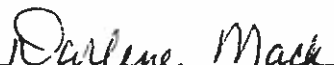
SECTION 12. EFFECTIVE DATE. Pursuant to Section 401 of the Michigan Zoning Enabling Act (MCL 125.3401), this Ordinance shall take effect seven (7) days after publication of this Ordinance or a summary of the regulatory effect thereof which publication shall occur in a newspaper of general circulation in the Township within fifteen (15) days after adoption.

This Ordinance is hereby declared to have been passed and adopted by the Township of Burlington, County of Calhoun, State of Michigan, at a regularly scheduled meeting thereof duly called and held on this 8th day of November, 2018.



Arthur D. Smith, Supervisor

ATTEST:



Darlene Mack, Clerk

Prepared by:
John H. Macfarlane (P29075)
Mumford, Schubel, Macfarlane & Barnett, PLLC

/dlm

THE ZONING ORDINANCE OF THE TOWNSHIP OF BURLINGTON

An Ordinance to establish zoning districts; and to regulate by districts the location and use of buildings, structures and land, including the conditional uses of same; the height and size of buildings and structures; the dimensions of yards, courts, and other open spaces; the use, size and type of signs; parking and loading; the density of population in order to promote the health, safety, morals and general welfare of the people of the Township of Burlington; to provide for the completion, enforcement and amendment of this Ordinance, to provide for the completion, extension, substitution or elimination of nonconforming uses; to provide for a Board of Appeals and to define the powers and duties thereof; to designate and define the powers and duties of the official or officials in charge of the administration and enforcement of this Ordinance; to provide for the payment of fees for building permits; and to provide penalties for the violation of this Ordinance, and to repeal the Township Zoning Ordinance of Burlington, as amended, enacted under the authority of Act 184 of the Public Acts of 1943, as amended.

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TOWNSHIP ZONING MAP

ARTICLE 1

TITLE, PURPOSES AND LEGAL CLAUSES

SECTION 1.01 - Short Title

This Ordinance shall be known and may be cited as:

“The 1977 Zoning Ordinance of Burlington Township”

SECTION 1.02 - Repeal and Savings Clause

Effective on the effective date of this Ordinance, the Burlington Township Zoning Ordinance, enacted July 19, 1968, is repealed. The repeal of said Ordinance shall not have the effect to release or relinquish any penalty, forfeiture or liability incurred under said Ordinance or any part thereof and such Ordinance and all parts thereof shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture or liability.

SECTION 1.03 - Purpose and Basic Plan

The provisions of this Ordinance has been designed in order to implement so far as possible the Master Plan of Burlington Township adopted by the Township Planning Commission on April 7, 1977, and thereby to promote the public health, safety, and general welfare, to encourage the use of lands in accordance with their character and adaptability to limit the improper use of land, to avoid the overcrowding of population, to provide adequate light and air to lessen congestion on the public roads and streets, to reduce hazards to life and property, to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements, and to conserve the expenditure of funds for public improvements and services to conform with the most advantages uses of land, resources and properties and has been designed after giving reasonable consideration to, among other things, the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building and population development.

SECTION 1.04 - Validity and Severalty Clause

If any court of competent jurisdiction shall declare any part of this Ordinance to be invalid, such ruling shall not affect any other provisions of this Ordinance not specifically included in said ruling.

If any court of competent jurisdiction shall declare invalid the application of any provision of this Ordinance to a particular land, parcel, lot, district, use, building or structure, such ruling shall not

affect the application of said provision to any other land, parcel, lot, district, use, building or structure not specifically included in said ruling.

SECTION 1.05 - Conflict with Other Laws

- a. Where any condition imposed by any provision of this Ordinance upon the use of any lot, building or structure is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this Ordinance or by the provision of any ordinance adopted under any other law, or by the provision of any statute, the provision which is more restrictive or which imposes a higher standard or requirement shall govern.
- b. This Ordinance is not intended to abrogate or annul any easement, covenant or other private agreement provided that where any provision of this Ordinance is more restrictive or imposes a higher standard or requirement than such easement, covenant or other private agreement, the provision of this Ordinance shall govern.

SECTION 1.06 - Period of Effectiveness

This Ordinance shall remain in full force and effect henceforth unless repealed.

SECTION 1.07 - Effective Date: 7 days after publication.

This ordinance and any subsequent amendments to this ordinance shall take effect upon the expiration of 7 days after publication of a notice of ordinance adoption including, in the case of an amendment to the existing zoning ordinance, a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.

ARTICLE 2

CONSTRUCTION OF LANGUAGE AND DEFINITIONS

SECTION 2.01 - Rules Applying to Text

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

- a. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- b. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- c. The word "building" includes the word "structure".
- d. A "building" or "structure" includes any part thereof.
- e. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied".
- f. Any word or term not defined herein shall be used with a meaning of common or standard utilization.

SECTION 2.02 - Definitions

For the purposes of this Ordinance the following terms and words are defined as follows:

ACCESSORY BUILDING: A subordinate building, the use of which is clearly incidental to that of the principal building or to the use of the land and which is attached securely to a permanent masonry foundation or similar permanent footings.

ACCESSORY USE: A use subordinate to the principal use on a lot and used for purposes clearly incidental to those of the main use.

AGRICULTURAL: Included purposes related to agriculture, farming, dairying, pasturage, horticulture and animal and poultry husbandry.

ALLEY: A public or legally established private thoroughfare, other than a street, which affords a secondary means of access to abutting property, and not more than twenty (20) feet wide.

ALTERATIONS: Any change, addition or modification in construction, and change in the structural members of a building, such as walls, or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed".

ANIMATED SIGNS: Any sign having a conspicuous and intermittent variation in the illumination of the physical portion of any part of the sign.

APARTMENT: (See Dwelling, Multiple-Family).

AREA, NET SITE: The total area within the property lines of a project excluding external streets.

AUTOMOBILE, VEHICLE OR TRAILER SALES AREA: Any space used for display, sale or rental of motor vehicles, motorcycles or trailers, in new or used and operable condition.

AUTOMOTIVE REPAIR: General repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service such as body, frame or fender straightening and repair, overall painting and undercoating of automobiles when carried on in a completely enclosed room or building.

BASEMENT: That portion of a building which is below the first story, the ceiling of which is less than five (5) feet about the surrounding ground elevation at all points.

BILLBOARD: Any construction or portion thereof upon which a sign or advertisement used as an outdoor display for the purpose of making anything known to the general public is affixed. This definition does not include any bulletin boards used to display official court or public office notices.

BUILDING: Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals, chattels, or property of any kind. This shall include tents and awnings.

BUILDING COVERAGE: That percentage of the plot or lot area covered by the building area.

BUILDING HEIGHT: The vertical distance measured from the established sidewalk grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roof. Where a building is set back from the street line, the height of the building may be measured from the average elevation of the finished grade along the front of the building, provided such average elevation shall not exceed the established sidewalk grade at the center of the front of the building by more than one (1) inch for each front foot that the building sets back from the front line.

BUILDING LINE: A straight line running between the side lot lines, behind which all portions of the building shall exist. The building line will normally be parallel to the front lot line of the subject lot. In the case of an irregularly shaped lot, the building line will be determined by an imaginary line

parallel to the front lot line that is at least a minimum lot width for the zoning district concerned and wholly within the lot. If the front lot line is a curved line, the building line must be at least the minimum front yard setback distance required for the zoning district. In no case will the building line be closed to the front line than the front yard setback, as determined from the appropriate right-of-way, that is authorized for the zoning district concerned.*

BUILDING PERMIT: A permit for commencing construction issued in accordance with a plan for construction that complies with all the provision of this Zoning Ordinance.

CHURCH: A building wherein people regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain worship, together with all accessory buildings and uses customarily associated with such principal purposes.

CLUB OR LODGE, PRIVATE: A non-profit association of persons who are bonafide members paying annual dues, which owns, hires or leases a building or portion thereof, the use of such premises being restricted to members and their guests. The affairs and management of such "private club or lodge" are conducted by a board of directors, executive committee or similar body chosen by the members at a meeting. It shall be permissible to serve food and meals on such premises provided adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their quests shall be allowed provided it is secondary and incidental to the promotion of some other common objective by the organization and further provided that such sale of the alcoholic beverage is in compliance with the applicable federal, state and municipal laws.

COMMUNICATION TOWER: A radio, telephone, cellular telephone or television relay structure of skeleton framework, or monopole design attached directly to the ground or to another structure, used for the transmission or reception of radio, telephone, cellular telephone, television, microwave or any other form of telecommunication signals, except amateur or private non-commercial uses.

CONDITIONAL USE: A use which is subject to conditional approval by the Planning Commission. A conditional use may be granted when specified by this Ordinance and for those uses not specifically mentioned. A permitted conditional use is not considered to be a nonconforming use.

COURT: An unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

COURT, OUTER: A court enclosed on not more than three sides by exterior walls of a building or by exterior walls and lot lines on which walls are allowable, with one side or end open to a street, driveway, alley or yard.

DISTRICT: A portion of the incorporated part of the Township withing which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

DOG KENNEL: Any facility except for a duly licensed pet shop, when three or more does are kept for breeding, sale, sporting, boarding or training purposes. **

DRIVE-IN: An establishment of the "drive-in" type is one which accommodates the patrons automobiles in the off-street parking area accessory to the business from which the occupants may receive a service or obtain a product which may be used or consumed in the vehicle on the same premises.

DWELLING UNIT: A building or portion thereof, designated for occupancy by one (1) family for the residential purposes and having cooking facilities.

* amended 7-12-2007

** amended 12-30-2009

DWELLING UNIT, ONE-FAMILY: A building designed exclusively for one dwelling unit.

DWELLING UNIT, TWO-FAMILY: A building designed exclusively for two dwelling units.

DWELLING UNIT, MULTIPLE-FAMILY: A building, or portion thereof, designed exclusively for occupancy by three (3) or more families living independently of each other.

ESSENTIAL SERVICES: The phrase "essential services" means the erection, construction, alteration or maintenance by public utilities or municipal department or commissions of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, but not including buildings, reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health, safety or general welfare.

FAMILY: One person, or group of two or more persons living together who may or may not be interrelated by bonds of consanguinity, marriage, or legal adoption, occupying the whole or part of a dwelling as a separate housekeeping unit with a common single set of culinary facilities. The persons thus constituting a family may also include foster children, guests and domestic servants. This definition does not include the occupants of a rooming or boarding house as a family unit.

FAMILY CHILD CARE HOME AND GROUP CHILD CARE HOME: Mean those terms as defined in Section 1 of 1973 PA 116, MCL 722.111, and only apply to bona fide residence of the operator of the family or group child care home.

FARM: All of the contiguous neighboring or associated land operated as a single unit on which bonafide agriculture is carried on directly by the owner-operator, manager or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; provided,

however, that the land be considered a farm hereunder shall include a continuous parcel of ten (10) acres or more in area.

FLOOD PLAIN: That portion of land adjacent to a water body or water course which is subject to periodic inundation.

FLOOR AREA: The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The "floor area" of a building shall include the area of any floor when more than one-half ($\frac{1}{2}$) of the room height is above the established curb level, or above the finished lot grade level where curb levels have not been established. "Floor area" shall include elevator shafts and stairwells at each floor, floor space used for mechanical equipment (except equipment, open or enclosed located on the roof), penthouses, attic space having headroom of seven (7) feet, six (6) inches or more, interior balconies and mezzanines. Any space devoted to off-street parking or loading shall not be included in "floor area".

FRONTAGE: All the property fronting one (1) side of the street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street, or political subdivision boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage of the side of the street which it intercepts.

GARAGE, COMMERCIAL: Any garage, other than private garage available to the public, operated for gain, and used for storage, repair, rental, greasing, washing, sales, servicing, adjusting, or equipment of automobiles or other motor vehicles.

GARAGE, PRIVATE: A garage with capacity for not more than four (4) motor-driven vehicles for storage only.

GASOLINE SERVICE STATION: Any building, or premises used for the dispensation, sale or offering for sale at retail or any motor fuels, oils or lubricants. When the dispensing sale or offering for sale is incidental to the conduct of a commercial garage, the premises are classified as a commercial garage.

GRADE: The ground elevation established for the purpose of regulating the number of stories and the height of building. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

GREENBELT BUFFER: A strip or parcel of land privately restricted or publicly dedicated as open space, located between land uses for the purpose of protecting the character of adjacent residential or other uses. Said greenbelt buffer shall include but not be limited to the following materials: open space with maintained grass cover, evergreens, deciduous trees, shrubs, bushes.

GROUP HOUSING: Two or more multiple dwellings on a parcel of land under single ownership.

HIGHWAY: (See "Street-Major").

HOME OCCUPATION: An occupation that is traditionally or customarily carried on in the home, including but not limited to instruction in a craft or fine art within the residence, provided:

- a. That the occupation is incidental to the residential use such that not more than thirty percent (30%) of usable floor area of the principal building, or fifty percent (50%) of an accessory building shall be occupied by such occupation.
- b. That no article or service be sold or offered for sale on the premises except as is produced by such occupation.
- c. That such occupation shall not require internal or external alterations or construction features or equipment or machinery not customarily located in residential areas.
- d. That there is not more than one (1) employee other than members of the resident family.

HOSPITAL: An institution providing health services, primarily for in-patients, and medical or surgical care of the sick or injured, including as a integral part of the institution, such related facilities, central services facilities and staff offices.

HOTEL; MOTEL: A building containing primarily rooming units with the number of dwelling units being not greater than ten percent (10%) of the total number of rooming units, and with the exception of the unit occupied by the management staff, used only for the accommodation of transients.

INDUSTRIAL PARK: A special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors.

JUNK YARD: Any land or buildings where waste, used or second hand materials are bought and sold, exchanged, stored, baled, parked, disassembled or handled including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A "junk-yard" includes automobile wrecking yards and includes any area of more than fifty (50) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

LIVING SPACE: That area within a structure intended, designed, erected or used for human occupancy; that is, the sum of the gross horizontal area of the floor in questions of the building used for occupancy, measured from the exterior faces of the exterior walls, from the centerline of walls separating two buildings, from the centerlines of interior walls, and excluding porches, garages, breezeways not usable the year-round.

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

LOT: A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance (including one (1) principal building together with its accessory buildings) and providing the open spaces, parking and loading spaces required by this Ordinance. Said parcel of land may consist of one or more lots of record according to any recorded plat, but for the purpose of this Ordinance shall be deemed one parcel or lot if title to the property is held under one deed.

LOT, CORNER: A lot where the interior angle of two adjacent sides at the intersection of the two streets is less than one hundred thirty-five (135) degrees. A lot abutting upon a curved street, or streets, shall be considered a corner lot for the purposes of this Ordinance if the arc is of less radius than one hundred fifty (150) feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended from an interior angle of less than one hundred thirty-five (135) degrees.

LOT LINES: The lines bounding a lot as defined herein:

Front Lot Line: In the case of an interior lot, the line separating said lot from the street, in the case of a corner lot or double frontage lot, the line separating said lot from that street which is designated as the front street in the plot. In the case of lots bordering on a lake, river, or canal; the established water or shoreline shall be designated as the rear of such lots.

Rear Lot Line: The lot line opposite the front lot line. In the case of a lot irregularly shaped at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot.

LOT AREA: The total horizontal area withing the lot lines of a lot.

LOT COVERAGE: That part or percent of the lot occupied by building or structures including accessory building or structures.

LOT DEPTH: The horizontal distance between the front and rear lot lines, measured along the median between side lot lines.

LOT OF RECORD: A lot existing prior to the adoption of this Ordinance and recorded int he office of the County Register of Deeds. For the purposed of this Ordinance, land contracts and purchase options not recorded in the County Register of Deeds office, but dated and executed prior to the effective date of this Ordinance shall also constitute a lot of record.

LOT WIDTH: The horizontal distance between the side lot lines measured at the two points where the building lines intersect the side lot lines.

MASTER PLAN: The plan prepared and adopted by the Township Planning Commission under the provisions of The Michigan Zoning Enabling Act , 2006 PA 110, as amended (MCL 125.3101, et seq.) and The Michigan Planning Enabling Act, 2008 PA 33, as amended (MCL 125.3801, et seq.)

MOBILE HOME: A vehicular, portable structure built on a chassis and designed to be used without a permanent foundation as a dwelling when connected to required utilities and which is, or is intended to be attached to the ground, to another structure, or to utility system on the same premises for more than thirty (30) days.

MOBILE HOME PARK: Any subdivision that is occupied or designated for occupancy by more than two (2) mobile homes and which is governed and which must conform to the provisions of the Mobile Home Commission Act 1987 PA 96 as amended (MCL 125.2301, et seq.)

MODULAR HOUSING UNIT: A unit constructed solely within the factory in various sized modules, which are then transported by flatbed, or other means, to the site where they are assembled on permanent foundations, to form single-family dwellings which are either attached (in rows or clusters) stacked or detached.

NONCONFORMING BUILDING: A building or portion thereof, existing at the effective date of this Ordinance, or amendments thereto, and which does not conform to the provisions of the Ordinance not to the use regulations of the district in which it is located.

NONCONFORMING USE: A use which lawfully occupied a building or land at the time of this Ordinance or amendments thereto became effective, and which does not conform to use regulations of the district in which it is located.

NURSING OR CONVALESCENT HOME: A structure with sleeping rooms where persons are housed or lodged and furnished meals and nursing care for hire.

OFF-STREET PARKING LOT: A facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of more than two (2) automobiles.

OPEN SPACE: Any space suitable for recreation, gardens or household service activities such as clothes drying. Such space must be at least seventy-five (75) percent open to the sky, free of automotive traffic, parking and undue hazard, and readily accessible by all those for whom it is required.

PARKING SPACE: A land area of not less than ten (10) by twenty (20) feet, exclusive of driveways and aisles, and so prepared as to be usable for the parking of a motor vehicle and so located as to be readily accessible to a public street or alley.

PLANNED UNIT DEVELOPMENT: This is a tract of land which includes two (2) or more principal buildings, developed under single ownership or control, the development of which is unique and of a substantially different character than that of the surrounding area, and where the specific requirements of a given district may be modified and where the minimum area is fixed. Such development shall be based on a plan which allows for flexibility of design not available under normal zoning district requirements.

PRINCIPAL USE: The main use to which the premises are devoted and the main purpose for which the premises exist.

PUBLIC PARK: Any park, playground, beach, outdoor swimming pool, parkway, within the jurisdiction and control of a governmental agency authorized by State statutes to own and maintain parks.

PUBLIC SEWER SYSTEM: A public sewer system shall be defined as a central or community sanitary sewage and collection system of pipes and structures including pipes, conduits, manholes, pumping stations, sewage and wastewater treatment works, diversion and regulatory devices, and outfall structures, collectively or singularly, actually used or intended for use by the general public or a segment thereof, for the purpose of collection, conveying, transporting, treating or otherwise handling sanitary sewage or industrial liquid wastes of such a nature as to be capable of adversely affecting the public health; operate for the benefit of the general public in a given area whether owned by a public, semi-public or private entity.

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

RECREATION AREA, PRIVATE: All lands and structures which are owned and operated by private individuals, a business or corporation which is predominately intended to accommodate recreational vehicles and provide for outdoor recreation activities.

RECREATIONAL VEHICLE: All those small mobile units principally designed for recreation pastime such as motor homes, camper, trailers, pick-up campers, pop-up tent trailers and similar camping type vehicles or trailers.

RETAIL AND RENTAL STORE: Any building or structure in which goods, wares or merchandise are sold to the ultimate consumer for direct consumption, and not for resale.

RIGHT-OF-WAY: A street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

ROADSIDE STAND: A permanent structure which is used seasonally for the sale of produce. The use of a roadside stand shall not constitute a commercial district.

ROOMING HOUSE: A building, or part thereof, other than a hotel, where sleeping accommodations are provided for hire and where meals may be regularly furnished.

ROOMING UNIT: Any room or group of rooms, forming a single habitable unit used for living and sleeping, but which does not contain cooking or eating facilities.

ROWHOUSE, (TOWNHOUSE): An attached house in a row or group, each house containing not more than two dwelling units and each house separate from adjoining houses in the same row or group by common fire walls or fire separations.

SANITARY LANDFILL: A method of disposing of refuse on land without creating nuisances or hazards to public health or safety, by utilizing principles of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest volume, and to cover at the conclusion of each day's operation or at more frequent intervals as necessary; and maintained in accordance with the provisions of Part 115 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (MCL 324.11501, et seq.)

SETBACK: The minimum horizontal distance between the street, rear or side lines of the lot and the front, rear or side lines of the building. When two or more lots under one ownership are used, the exterior property lines so grouped shall be used in determining offsets.

SCHOOL: A building used for the purpose of elementary or secondary education which meets all requirements of compulsory education laws of the State of Michigan, and not providing residential accommodations.

SHOPPING CENTER: A group of commercial establishments, planned, developed, owned and managed as a unit, with off-street parking provided on the property, and related in its locations, size and type of shops to the trade area which the unit serves.

SIGNS: Any works, numbers, figures, devices, designs, or trademarks, other than billboards, by which anything is made known and which are visible from the exterior of the structure.

STATE LICENSED RESIDENTIAL FACILITY: A structure constructed for residential purposes that is licensed by the State of Michigan under the Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, or 1973 PA 116, MCL 722.111 to 722.128, and provides residential services for 6 or fewer individuals under 24 hour supervision or care.

STORY: The part of a building, included between the surface of one floor and the surface of the next floor, or if there is not floor above, then the ceiling next above.

STREET: A thoroughfare which affords the principal means of access to abutting property.

STREET, MAJOR: A public way, the principal use of which is to provide an arterial route for through traffic and has as its secondary use the provision of access to abutting properties.

STREET, MINOR: A public way, the principal use of which is to give access to abutting properties.

STRUCTURE: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

STRUCTURAL ALTERATION: The erection, strengthening, removal or other change of the supporting elements of a building, such as footings, bearing walls, beams, columns and the like.

SWIMMING POOL: Any artificially constructed, portable or non-portable pool capable of being used for swimming or bathing, having a depth of three (3) feet or more at any point.

TRAILER COACH: Same as Mobile Home.

TRAILER COACH PARK: Same as Mobile Home Park.

UNDEVELOPABLE LAND: Land which as soil types or a high water condition which present severe limitation on septic tank and tile fields.

UNABLE FLOOR AREA: The area for the purpose of computing parking and off-street loading and unloading space, is that area used for or intended to be used for the sale of merchandise or services or for use to serve patrons, clients or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise. Utilities shall be excluded from this computation of "usable floor area". Measurement of floor area shall be the sum of the gross horizontal areas of the several floors of the building measured from the interior faces of the exterior walls.

USE: The purpose for which land or premises of a building thereon is designed, arranged or intended, or for which it is occupied or maintained, let or leased.

VARIANCE: A modification of the literal provisions of this Ordinance which the Zoning Board of Appeals is permitted to grant when strict enforcement of said provision would cause undue hardship owing to circumstances unique to the individual property on which the variance is sought.

YARD: An open space on the same lot with the main building unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance.

YARD, FRONT: A yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the main building.

YARD, REAR: A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest line of the main building.

YARD, SIDE: A yard between the main building and the side lot line, extending from the front yard to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot to the nearest point of the main building.

ZONING DISTRICT: (See District).

ARTICLE 3

GENERAL PROVISIONS

SECTION 3.01 - Establishment of Districts

For the purpose of promoting the public health, safety, and general welfare of the Township, the Township is hereby divided into the following zoning districts. The number of districts, the number of districts, the number, shape, kind and area of each district are deemed to be most suitable to carry out the purpose of this Ordinance:

AA - AGRICULTURAL DISTRICT

RA - LOW DENSITY RESIDENTIAL DISTRICT

RB - MEDIUM DENSITY RESIDENTIAL DISTRICT

MF - MULTIPLE FAMILY DISTRICT

HS - HIGHWAY SERVICE COMMERCIAL

HI - HEAVY INDUSTRIAL DISTRICT

OC - OPEN SPACE AND WATER BODY CONSERVATION DISTRICT

SECTION 3.02 - Provision for Official Zoning Map

These districts, so established, are bounded and defined as shown on the map entitled:

“Zoning District Map of Burlington Township”

adopted by the Township Board, and which, with all notations, references and other information appearing thereon, is hereby declared to be a part of this Ordinance and of the same force and effect as if the districts shown thereon were fully set forth by metes and bounds therein.

SECTION 3.03 - Changes to Official Zoning Map

If, in accordance with the procedures of this ordinance and the Michigan Zoning Enabling Act, 2006 PA 110, as amended (MCL 125.3101, et seq.) a change is made in a zoning district boundary such change will be made by the Zoning Administrator promptly after the ordinance authorizing such change shall have been adopted and published by the Township Board. No change of any other nature shall be made unless authorized by the Zoning Board of Appeals.

SECTION 3.04 - Authority of Official Zoning Map

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the

Township Clerk shall be the final authority as to the current zoning status of any land, parcel, lot, district, use, building or structure in the Township.

SECTION 3.05 - Replacement of Official Zoning Map

In the event that the Official Zoning Map become damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the Township Board may by ordinance adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions on the prior Official Zoning Map, but no such corrections shall have the effect of amending the Zoning Ordinance or the prior Official Zoning Map. The new Official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk, and bear the seal of the Township under the following words:

“This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of Burlington Township”. Adopted on the _____ which replaces and supersedes the Official Zoning Map which was adopted on _____.

SECTION 3.06 - Interpretation of Zoning Districts

Where uncertainty exists as to the boundaries of zoning districts as shown on the official Zoning Map, the following rules for interpretation shall apply:

- a. A boundary indicated as approximately following the centerline of a highway, street, alley, railroad or easement shall be construed as following the centerline.
- b. A boundary indicated as approximately following a recorded lot line, bounding a parcel, section line, quarter section line, or other survey line shall be construed as following such line.
- c. A boundary indicated as approximately following the corporate boundary line of a city, village or township shall be construed as following such line.
- d. A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of change in a shoreline shall be construed as following the actual shoreline.
- e. A boundary indicated as following the centerline of a stream, river, canal, lake or other body of water shall be construed as following such centerline.
- f. A boundary indicated as parallel or an extension of a feature indicated in paragraphs “a” through “e” above shall be so construed.

- g. A distance not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

SECTION 3.07 - Application of Regulations

The regulations established by this Ordinance within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare and shall be uniform for each class of land or building, dwellings and structures throughout each district. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Ordinance, the Board of Appeals shall have power in passing upon appeals to vary or modify any rules, regulations or provisions of this Ordinance so that the intent and purposes of this Ordinance shall be observed, public safety secured, and substantial justice done.

ARTICLE 4

AA - AGRICULTURAL DISTRICT

SECTION 4.01 - Purpose

The purpose of this district is to protect and stabilize the essential character of agricultural areas within the Township, and to insure proper maintenance of conditions for healthful and economically productive agricultural activities in nature, and those areas which are predominately agricultural in nature, and which are most appropriate for present and future agricultural developments. The requirements of this district are designed to as not to impede necessary urban expansion, but to prevent unwarranted premature urban development from encroaching upon legitimate agricultural areas, thus disrupting the agricultural resources, environment and economy, including the tax base. It is essential that development in areas which are predominately agricultural be based on sound principles which realize the importance of such activities to the economy and welfare of the Township.

SECTION 4.02 - Permitted Uses

The following buildings and structures and uses of parcels, lots, buildings and structures are permitted in this district:

- a. One or two-family dwellings.
- b. A parcel may be used for general and specialized farming and agricultural activities, including, but not limited to, the raising or growing of crops, livestock, poultry and other farm animals, products and foodstuffs and any building or structure may be located thereon and used for the day-to-day operation of such activities for the quartering, storage or preservation of said crops, livestock, poultry, or other animals, products and foodstuffs raised on said lot or in said structure.
- c. A parcel may be used and a building or structure located thereon for a riding academy or stable for the raising or keeping of cattle, hogs, ponies, goats or other similar livestock whether for profit or pleasure upon a lot having an area not less than five (5) acres and a width not less than three hundred (300) feet provided that the following requirements are met:
 1. Building and fenced enclosures used for the quartering of said animals shall be located a minimum distance of one hundred (100) feet from the principal dwelling located on said parcel and principal dwelling on adjacent properties.

- d. Public and private conservation areas and structures for the development, protection and conversation of open space, watersheds, water, soil, forest, and wildlife resources.
- e. A parcel may be used for the growing, stripping and removal therefrom of sod provided that said lot or portion thereof shall be seeded after stripping by fall of the year in which it was stripped so as to reduce the actual or potential erosion by water or wind.
- f. Home Occupations: Customary home occupation such as hairdressing, millinery, dressmaking and bookkeeping and accounting services, instruction in a craft or fine art, real estate and insurance sales, professional offices for not more than one (1) physician, surgeon, dentist, attorney, architect, engineer, or similar professional practitioners, provided that such home occupations shall satisfy the following conditions:
 - 1. The non-residential use shall be only incidental to the primary residential use of the property.
 - 2. The home occupation shall be limited to the principal structure only and utilize no more than thirty percent (30%) of the total floor area.
 - 3. There shall be no more than one (1) employee other than members of the immediate family residing on the premises.
 - 4. All activities shall be conducted indoors.
 - 5. There shall be no external evidence of such occupation except a small announcement sign as specified herein.
 - 6. No home occupation shall be permitted which is injurious to the general character of the agricultural district and which creates a hazardous or unhealthy condition.
 - 7. For the purposes of this provision, principal and accessory farm operations shall not be considered home occupations.
 - 8. No structural alterations or additions, either interior or exterior, shall be permitted in order to accommodate a home occupation.
- g. Storage of not more than two (2) non-residential type recreational vehicles provided that such units shall be completely within the side and rear yards.
- h. A sign only in accordance with the regulations specified in ARTICLE 20.
- i. An accessory use, building or structure.

- j. Essential service structures, except as provided in Section 14.17.
- k. A state licensed residential facility.
- l. Family child care home.

SECTION 4.03 - Conditional Uses

The following buildings and structures and uses of parcels, lots, buildings and structures are permitted in this district subject to obtaining a conditional use permit as provided in ARTICLE 14.

- a. Development of natural resources.
- b. Public and private park camping grounds, golf course, golf driving range, clubs, hunting lodge.
- c. Community and governmental buildings.
- d. Airport.
- e. Sanitary landfill site.
- f. Public and private nursery, primary and secondary schools, business school and college and university.
- g. Hospital, nursing home, sanitarium, medical and goods processing, research laboratories.
- h. A church, synagogue, cathedral, mosque, temple or other building used for public worship or a cemetery.
- i. Temporary building or trailer office.
- j. Roadside stand, provided all of the nursery stock or other agricultural products are raised on the premises where situated or in the vicinity.
- k. Veterinarian, animal clinic or kennels.
- l. Commercial radio or television stations or transmitter occupying a site of no less than ten (10) acres.
- m. Agri-Business.

- n. Public and private recreation areas, such as: forest preserve, game refuge; recreational park and reservations and similar public and private use of low-intensity use.
- o. Group child care home if the group child care home meets all of the following standards:
 - (i) Is located not closer than 1,500 feet to any of the following:
 - (a) another licensed group care home;
 - (b) an adult foster care group home or large group home licensed under the Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to MCL 400.737;
 - (c) a facility offering substance abuse treatment and rehabilitation services to 7 or more people licensed under Article 6 of the Public Health Code, 1978 PA 368, MCL 333.6101 to 333.6523;
 - (d) a community corrections center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.
 - (ii) Has appropriate fencing for the safety of the children in the group child care home as determined by the Township Board.
 - (iii) Maintains the property consistent with the visible characteristics of the neighborhood.
 - (iv) Does not exceed 16 hours of operation during a 24 hour period. The Township Board may limit but not prohibit the operation of a group child care home between the hours of 10:00 p.m. and 6:00 a.m.
 - (v) Meets regulations, if any, governing signs used by a group child care home to identify itself.
 - (vi) Meets regulations, if any, requiring a group child care home operator to provide off street parking accommodations for his or her employees.

SECTION 4.04 - Regulations

The following regulation shall apply in all AA - Agricultural Districts:

- a. Lot area: No building or structure shall be established on any lot less than one (1) acre in area unless the open space preservation option is used. See Article 17.
- b. Lot Width: The minimum lot width shall be two hundred (200) feet.
- c. Lot Coverage: The maximum lot coverage shall not exceed fifteen percent (15%).
- d. Minimum First Floor Area: The minimum first floor area shall not be less than seven hundred (700) square feet.
- e. Yard and Setback Requirements:

1. Front Yard: Not less than fifty (50) feet from the right-of-way line.
 2. Side Yards: Least width of either yard shall not be less than fifteen (15) feet; except in the case of a corner lot where the side yard on the road or street shall not be less than fifty (50) feet.
 3. Rear Yard: Not less than fifteen (15) feet.
 4. The above requirements shall apply to every lot, building or structure.
- f. Height: The following height requirements shall apply in this district:
1. For Dwelling and Non-Farm Buildings and Structures: No dwelling or non-farm building or structure shall exceed a height of three (3) stories or forty (40) feet.
- g. Required Off-Street Parking: As required in ARTICLE 21.

ARTICLE 5

RA - LOW DENSITY RESIDENTIAL DISTRICT

SECTION 5.01 - Purpose

The purpose of this district is to provide areas for outlying residential development on lots of sufficient size to accommodate the safe and healthful on-site water supply and liquid wastewater disposal, since these areas will likely remain unserved by public water-sewer services for an extended period of time. It is also the purpose of this district to protect and stabilize the essential characteristics of these areas, in order to promote and encourage suitable environments for low density family life until such time as it may be in the public interest to promote development of greater intensity requiring higher levels of public services and utilities.

SECTION 5.02 - Permitted Uses

The following buildings and structures and uses of parcels, lots buildings and structures are permitted in this district:

- a. One or two-family dwellings.
- b. General and specialized farming and agricultural activities including the raising or growing of crops and other farm products and foodstuffs, but not including the raising of any livestock, poultry or other farm animals, provided that the following conditions are satisfied.
 1. No storage of manure or other order producing materials or activities shall be permitted.
 2. All farm buildings other than dwellings shall be located a minium of ninety (90) feet from an adjacent property line.
- c. A lot may be used for the raising or growing of plants, trees, shrubs and nursery stock.
- d. A sign, only in accordance with the regulations specified in ARTICLE 20.
- e. Essential service structures as provided in Section 14.17.
- f. An accessory use, building or structure.
- g. Family child care home.

SECTION 5.03 - Conditional Uses

The following buildings and structures and uses of parcels, lots, buildings and structures are permitted in this district subject to obtaining a conditional use permit as provided in ARTICLE 14.

- a. Golf course, golf driving range, country club, swimming and recreation club, public and private park and playground.
- b. Churches and community and governmental buildings.
- c. Public and private nursery, primary and secondary schools.
- d. Home occupations as prescribed by Section 4.02, f.
- e. Temporary buildings or trailer offices.
- f. Roadside stands for the display and sale of products raised on the lot, parcel, provided that: Off-street parking and access to such parking shall be provided in accordance with the provisions of ARTICLE 21 and no hazardous traffic conditions shall result from such activity; such building and structures shall be located in conformance with all minimum yard requirements; and no more than one (1) such roadside stand shall be permitted on each lot or parcel.
- g. A planned unit residential development only in accordance with the procedures and regulations specified in ARTICLE 14.
- h. Group child care home if the group child care home meets all of the following standards:
 - (i) Is located not closer than 1,500 feet to any of the following:
 - (a) another licensed group care home;
 - (b) an adult foster care group home or large group home licensed under the Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to MCL 400.737;
 - (c) a facility offering substance abuse treatment and rehabilitation services to 7 or more people licensed under Article 6 of the Public Health Code, 1978 PA 368, MCL 333.6101 to 333.6523;
 - (d) a community corrections center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.
 - (ii) Has appropriate fencing for the safety of the children in the group child care home as determined by the Township Board.
 - (iii) Maintains the property consistent with the visible characteristics of the neighborhood.

(iv) Does not exceed 16 hours of operation during a 24 hour period. The Township Board may limit but not prohibit the operation of a group child care home between the hours of 10:00 p.m. and 6:00 a.m.

(v) Meets regulations, if any, governing signs used by a group child care home to identify itself.

(vi) Meets regulations, if any, requiring a group child care home operator to provide off street parking accommodations for his or her employees.

SECTION 5.04 - Regulations

The following regulations shall apply in all RA - low Density Residential Districts:

- a. No building shall be established in this district in any lot less than thirty thousand (30,000) square feet unless the open space preservation option is used. See Article 17.
- b. The minimum lot width shall be one hundred fifty (150) feet. Waterfront lots shall have a minimum lot width of one hundred (100) feet.
- c. The maximum lot coverage shall not exceed twenty percent (20%).
- d. Minimum First Floor Area: The minimum first floor area shall not be less than seven hundred (700) square feet.
- e. Yard and Setback Requirements:
 1. Front Yard: Not less than fifty (50) feet from the right-of-way line.
 2. Side Yards: Least width of either yard shall not be less than fifteen (15) feet.
 3. Rear Yard: Not less than fifty (50) feet.
- f. Height:
 1. For Buildings and Structures: No building and no structure shall exceed a height of two and one-half (2 ½) stories or thirty-five (35) feet.
 2. For detached Accessory Buildings: No detached accessory building shall exceed a height of twenty-five (25) feet.
- g. Required Off-Street Parking: As required in ARTICLE 21.
- h. Group child care home if the group child care home meets all of the following standards:

- (i) Is located not closer than 1,500 feet to any of the following:
 - (a) another licensed group care home;
 - (b) an adult foster care group home or large group home licensed under the Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to MCL 400.737;
 - (c) a facility offering substance abuse treatment and rehabilitation services to 7 or more people licensed under Article 6 of the Public Health Code, 1978 PA 368, MCL 333.6101 to 333.6523;
 - (d) a community corrections center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.
- (ii) Has appropriate fencing for the safety of the children in the group child care home as determined by the Township Board.
- (iii) Maintains the property consistent with the visible characteristics of the neighborhood.
- (iv) Does not exceed 16 hours of operation during a 24 hour period. The Township Board may limit but not prohibit the operation of a group child care home between the hours of 10:00 p.m. and 6:00 a.m.
- (v) Meets regulations, if any, governing signs used by a group child care home to identify itself.
- (vi) Meets regulations, if any, requiring a group child care home operator to provide off street parking accommodations for his or her employees.

ARTICLE 6

RB - MEDIUM DENSITY RESIDENTIAL DISTRICT

SECTION 6.01 - Purpose

The purpose of this district is to provide a stable environment for medium of high density residential areas with suitable open space. This district shall generally be located on the fringe of urban-type development. The district allows flexibility of lot size dependent upon the availability of public sewer and water service.

SECTION 6.02 - Permitted Uses

The following buildings and structures and uses of parcels, lots, buildings and structures are permitted in this district:

- a. Single-family dwellings and any use, building or structure accessory thereto.
- b. Two-family dwellings and nay use, building or structure accessory thereto.
- c. A sign, only in accordance with the regulations specified in ARTICLE 20.
- d. Essential service structures except as provided in Section 14.17.
- e. Family child care home.

SECTION 6.03 - Conditional Uses

The following buildings and structures and uses of parcels, lots, buildings and structures are permitted in this district subject to obtaining a conditional use permit as provided in ARTICLE 14.

- a. Golf course.
- b. County club and recreation club, private and public park and playground.
- c. Churches and community and governmental buildings.
- d. Public and private nursery, primary and secondary schools.
- e. Mobile home park.

- f. Home occupations as prescribed by Section 4.02, f.
- g. A planned unit residential development, only in accordance with the procedures and regulations specified in ARTICLE 14.
- h. Temporary buildings or trailer offices.
- i. Group child care home if the group child care home meets all of the following standards:
 - (i) Is located not closer than 1,500 feet to any of the following:
 - (a) another licensed group care home;
 - (b) an adult foster care group home or large group home licensed under the Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to MCL 400.737;
 - (c) a facility offering substance abuse treatment and rehabilitation services to 7 or more people licensed under Article 6 of the Public Health Code, 1978 PA 368, MCL 333.6101 to 333.6523;
 - (d) a community corrections center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.
 - (ii) Has appropriate fencing for the safety of the children in the group child care home as determined by the Township Board.
 - (iii) Maintains the property consistent with the visible characteristics of the neighborhood.
 - (iv) Does not exceed 16 hours of operation during a 24 hour period. The Township Board may limit but not prohibit the operation of a group child care home between the hours of 10:00 p.m. and 6:00 a.m.
 - (v) Meets regulations, if any, governing signs used by a group child care home to identify itself.
 - (vi) Meets regulations, if any, requiring a group child care home operator to provide off street parking accommodations for his or her employees.

SECTION 6.04 - Regulations

The following shall apply in all RB - Medium to High Density Residential Districts:

- a. Lot Area: Where a lot is served with a public water supply system and a central sanitary sewerage system, there shall be provided a minimum of ten thousand (10,000) square feet of lot area for each single-family dwelling unit and fifteen thousand (15,000) square feet of lot area for each two-family dwelling unit unless the open space preservation option is used. See Article 17. Where a lot is not so served, there shall be provided a minimum of fifteen thousand (15,000) square feet of lot area for each single-family dwelling unit and thirty

thousand (30,000) square feet of lot area for each two-family dwelling unit unless the open space preservation option is used. See Article 17. The minimum lot area for all other buildings and structures shall be two (2) acres.

- b. **Lot Width:** The minimum lot width for lots served with a central water supply system and a central sanitary sewage system shall be seventy (70) feet. Where a lot is not so served, the minimum lot width shall be one hundred (100) feet.
- c. **Lot Coverage:** The maximum lot coverage shall not exceed thirty percent (30%).
- d. **Minimum First Floor Area:** the minimum first floor area shall not be less than seven hundred (700) square feet per dwelling unit.
- e. **Yard Requirements:**
 - 1. **Front Yard:** Not less than twenty-five (25) feet from the right-of-way line.
 - 2. **Side Yards:** Least width of either yard shall not be less than eight (8) feet, but the sum of the two side yards shall not be less than twenty (20) feet: except in the case where the side yard on the road or street side shall not be less than twenty-five (25) feet from the right-of-way line.
 - 3. **Rear Yard:** Not less than thirty (30) feet.
- f. **Height:**
 - 1. **For Buildings and Structures:** No building and no structure shall exceed a height of two and one-half (2½) stories, but not exceeding thirty-five (35) feet.
 - 2. **For detached Accessory Buildings:** No detached accessory building shall exceed a height of twenty-five (25) feet.
- g. **Required Off-Street Parking:** As required in ARTICLE 21.

ARTICLE 7

MF - MULTIPLE FAMILY RESIDENTIAL DISTRICT

SECTION 7.01 - Purpose

The purpose of this district is to provide for various types of multiple family residential dwellings and group developments at a high density, but under specific density controls. The requirements of this district are intended to recognize that various forms of site developments are desirable in order to provide a wide range of choices of living environments, but at the same time to regulate such development in order to prevent congestion of the public streets, reduce hazards to life and property, provide desirable light and air, and to provide for adequate open spaces and basic amenities. These districts will generally be located in areas of concentrated urban development on or near major streets, and should be served by public sewerage systems and other appropriate urban facilities and services, particularly fire protection systems. Provisions are made to accommodate multiple dwellings in areas of transitional development on larger lots than is required where public sewer facilities are not presently available. It would be anticipated that these transitional areas would be provide with public facilities in the near future. There is not intent to promote by these regulations a district of lower quality of desirability than any other residential district, although a greater variety of dwelling types are permitted herein.

SECTION 7.02 - Permitted Uses

The specific uses permitted int eh MF - Multiple Family Residential District shall be the erection, construction, alteration, conversion and use of buildings and/or lands for:

- a. Multiple dwellings.
- b. Group Housing and Garden Apartment Developments: Two or more multiple dwelling structures may be constructed upon a single lot when the final site plan thereof is submitted to and approved by the Planning Commission, subject to the following conditions:
 1. Buildings shall be for residential purposes and customary accessory use only.
 2. Only public sewerage systems shall be utilized.
 3. Any site development for group housing shall be not less than five (5) acres in gross area; shall be developed and maintained as one unified design; and shall remain under the ownership of one legal person.
 4. All requirements for this district shall be complied with.

- c. Two-family dwellings.
- d. Family child care home.

SECTION 7.02A - Conditional Uses

The following buildings and structures and uses of parcels, lots, buildings and structures are permitted in this district subject to obtaining a conditional use permit as provided in Article 14:

- (a) Group child care home if the group child care home meets all of the following standards:
 - (i) Is located not closer than 1,500 feet to any of the following:
 - (a) another licensed group care home;
 - (b) an adult foster care group home or large group home licensed under the Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to MCL 400.737;
 - (c) a facility offering substance abuse treatment and rehabilitation services to 7 or more people licensed under Article 6 of the Public Health Code, 1978 PA 368, MCL 333.6101 to 333.6523;
 - (d) a community corrections center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.
 - (ii) Has appropriate fencing for the safety of the children in the group child care home as determined by the Township Board.
 - (iii) Maintains the property consistent with the visible characteristics of the neighborhood.
 - (iv) Does not exceed 16 hours of operation during a 24 hour period. The Township Board may limit but not prohibit the operation of a group child care home between the hours of 10:00 p.m. and 6:00 a.m.
 - (v) Meets regulations, if any, governing signs used by a group child care home to identify itself.
 - (vi) Meets regulations, if any, requiring a group child care home operator to provide off street parking accommodations for his or her employees.

SECTION 7.03 - Minimum Lot Acres

In the MF - Multiple Family Residential District, every multiple dwelling or group of buildings within a group housing development hereafter constructed or structurally altered shall be located on lots of no less than specified as follows: unless otherwise provided herein:

- a. One (1) acre for the first dwelling unit of each multiple family dwelling structure.

- b. Three thousand (3,000) square feet for each additional dwelling unit containing two (2) or more bedrooms.
- c. Two thousand (2,000) square feet for each additional dwelling union containing less than two (2) bedrooms.

SECTION 7.04 - Minimum Lot Width

All interior lots shall have a minimum width of three hundred (300) feet along the street upon which such lot principally fronts, except in the case where a curvilinear street pattern results in irregularly shaped lots with non-parallel side lot lines, a lesser frontage width at the street line may be permitted provided that in no case shall the frontage width be less than two hundred (200) feet nor shall the lot width at the building line be less than three hundred (300) feet.

SECTION 7.05 - Maximum Lot Coverage

All buildings, including accessory buildings shall not over more than thirty-five percent (35%) of the net area of land. In determining net area, the area used for private access drives shall not be included, but parking area shall be.

SECTION 7.06 - Minimum Yard Dimensions

- a. Front Yard: There shall be a front yard having a depth of no less than thirty-five (35) feet, provided that were established buildings on adjacent lots vary from this minimum, a new building shall be constructed with a front yard of no less depth than the average front yards for those buildings located on each side of the proposed building; provided further that this provision shall not be interpreted to require a front yard of more than forty (40) feet nor less than twenty-five (25) feet.
- b. Side Yards: There shall be a minimum side yard of twenty (20) feet, provided that no building shall be located less than forty (40) feet from the boundary of the single-family residential district, except in the case of a corner lot where the street side yard shall be no less than the minimum residential front yard requirement along such street.
- c. Rear Yard: There shall be a rear yard of no less than thirty-five (35) feet.

SECTION 7.07 - Other Yard and Open Space Requirements

The following requirements shall apply to group housing projects when two or more garden apartment buildings, or mixture of housing types are located on the same lot.

- a. The minimum horizontal distance between buildings (that is, front to front, rear to rear, or front to rear, as the case may be) shall be fifty (50) feet for buildings one (1) story in height, and shall be increased by no less than five (5) feet for each additional story in height.
- b. The horizontal distance between ends of buildings shall be not less than twenty-five (25) feet. Where the end of one building is opposite the face or rear of another building the minimum horizontal distance between them shall be increased by no less than five (5) feet for each additional story in height of each building.
- c. The horizontal distance between corners of adjacent buildings that do not face one another or overlap in any way shall be no less than thirty (30) feet.
- d. Court completely enclosed by building walls shall not be permitted; provided that screens or fences not exceeding eight (8) feet in height shall not be deemed enclosing features.
- e. Distance between wing of a building forming an open court shall not be less than the projection of such wings or less than the heights of the highest wall of such wings, whichever is the greater. The depth of an open court formed by walls on three (3) sides shall be not greater than one and one-half (1½) times the width of such court.
- f. No building shall be closer than twenty-five (25) feet to any street or private access drive, neither shall any entrance to a dwelling unit be closer than twenty-five (25) feet to any street, private access road, driveway or parking area.
- g. Off-street parking as required in ARTICLE 21.
- h. Consistent modifications of the foregoing requirements may be made by the Township Planning Commission in order to accommodate site plans which are not conventional in design and to which these provisions do not practicably apply; provided that such modifications shall not be less restrictive than those specified herein.

The requirements of items f, g and h above shall also apply to multiple dwelling site development.

SECTION 7.08 - Maximum Building Height

No building or structure shall exceed thirty-five (35) feet in height. Accessory buildings shall not exceed fifteen (15) feet in height.

SECTION 7.09 - Minimum Interior Living Space

The minimum square footage of interior living space, exclusive of any area contained within attached garages, porches, balconies, or common hallways, required for each family shall be as specified in the following schedule:

- a. **Two-Family Dwellings:** Six hundred (600) square feet of floor area at ground level per family for single story dwellings, and three hundred sixty (360) square feet of floor area at ground level per family for dwellings over one (1) story in height, provided that the total area shall not be less than six hundred (600) feet per family.
- b. **Multiple Family Dwellings of Three or More Dwelling Units:** The minimum square footage of living space shall include the following, in addition to a bath, utility room, storage space, and other general space requirements, and exclusive of closets, halls and offset entrances:

<u>Number of Bedrooms</u>	<u>Square Feet of Floor Area</u>
0 Bedroom	350 square feet
1 Bedroom	450 square feet
2 Bedrooms	600 square feet
3 Bedrooms	800 square feet
4 Bedrooms	1,000 square feet

SECTION 7.10 - Yard Requirements for Multiple Dwellings not Provided with Public Water and Sewer Services

In the MF Multiple Family Residential District, every multiple dwelling or two-family dwelling not served by public sewer services shall be located on lots of not less area than specified as follows:

Minimum Lot Area: One (1) acre for the first dwelling unit of the first multiple dwelling structure.

Six thousand five hundred (6,500) square feet for each additional dwelling unit containing two (2) or more bedrooms.

Five thousand five hundred (5,500) square feet for each additional dwelling unit containing less than two (2) bedrooms.

Other Yard Requirements: All other yard requirements are as previously stated in this Section.

ARTICLE 8

HS – HIGHWAY SERVICE COMMERCIAL DISTRICT

SECTION 8.01 – Purpose

This district is established for the accommodation of those various retail, service and terminal activities which cater primarily to the traveling public. The provisions of this District are designed to permit and encourage the development of service centers which are typically located along major highways, near the intersections of major routes and adjacent to highway interchanges, and which provide the necessary goods and services for the private and commercial traffic along such routes; and at the same time to discourage the dispersion of such activities on individual sites throughout the Township. These areas will typically not be served by public water service utilities; thus large lot areas and yards will be required in order to provide for on-site water and sewerage facilities, to maintain the open character of such areas, to keep interference with through traffic at a minimum, and to allow for increased future traffic volumes and possible future expansion of such routes.

SECTION 8.02 – Permitted Uses

The following buildings and structures, and uses of parcels, lots, buildings and structures are permitted in this district:

- a. Retail establishments selling principally new merchandise or foodstuffs.
- b. Personal and business services.
- c. Banks.
- d. Drive-in and automobile oriented establishments similar in character to drive-in restaurants, cafes and banks, but not including auto washes and drive-in theaters.
- e. Souvenir and gift shops.
- f. Tourist information centers.
- g. Food and garden stores, nursery stock sales and greenhouses.
- h. Gasoline service stations provided that the following requirements are met:
 1. All activities, except those required to be performed at the service island, shall be conducted entirely within an enclosed principal building.

2. Bumping and painting are specifically prohibited.
 3. Steam and major mechanical repairs are permitted only within an enclosed building.
 4. No outdoor storage of wrecked or partially dismantled vehicles or parts thereof shall be performed. In addition, all vehicles parked on such premises shall have current year license plates.
 5. No installations except permitted walls, fences and lighting structures, shall be permitted nearer than twenty-five (25) feet to the front property line.
 6. No more than two (2) driveway approaches shall be permitted directly from a major street, nor more than one (1) such approach from a minor residential street, each of which shall not exceed twenty-five (25) feet in width at the street line, nor be closer to one another than twenty-five (25) feet. Driveway approaches shall be located as far from the street intersections as practicable, but in no case be located less than fifty (50) feet.
 7. The operation of such use shall not create a hazardous or otherwise objectionable traffic condition.
 8. No such use shall be located within fifty (50) feet of any residential district unless separated from by a public street or alley or an approved fence or masonry wall of not less than four (4) feet or greater than six (6) feet in height.
 9. Signs: Only in accordance with the regulations in ARTICLE 20.
- i. Motels, provided that:
1. Minimum lot area of one (1) acre with a minimum lot width of one hundred fifty (150) feet shall be required.
 2. A minimum of fifteen hundred (1,500) square feet of lot area shall be required for each guest unit.
 3. All buildings, including accessory buildings, shall not occupy more than twenty-five percent (25%) of the total lot area.
- j. Sales, rental, service and repair of motor vehicles, farm machinery and marine vehicles provided that:

ORDINANCE SUMMARY

Burlington Township has adopted an Ordinance amending certain sections of its Zoning Ordinance to allow commercial storage warehouse facilities and special events centers in the HS-Highway Service Commercial District. Pursuant to MCL 125.3401, a summary of the regulatory effect of the Ordinance follows:

1. Definitions. Definitions of "banquet hall" and "mini-storage warehouse" are added.
2. Conditional Uses Added. Banquet halls and mini-storage warehouses (mini-storage or self-storage units) are added as conditional uses to Section 8.04 of the Zoning Ordinance under HS-Highway Service Commercial District.
3. Section 14.20 created. A new Section 14.20 is added to the conditional uses article to describe the requirements for banquet halls.
4. Section 14.21 created. A new Section 14.21 is added to the conditional uses article to describe the requirements for mini-storage warehouse (mini-storage or self-storage units).
5. Severability. The Ordinance is declared to be severable.
6. Repeal. Ordinances and resolutions in conflict with the Ordinance are repealed.
7. Effective Date. The Ordinance shall take effect upon the expiration of 7 days after this publication.
8. Area Affected. The Amendments to the Zoning Ordinance apply to the HS-Highway Service Commercial District
9. Inspection. A true copy of the Ordinance is available for inspection upon request by the public at the Office of the Burlington Township Hall located at 135 North Elm Street, Burlington, MI 49029, by telephoning the Township Clerk at (517) 765-2152.

Date: February 9, 2017

Darlene Mack
Darlene Mack, Township Clerk

Prepared by:

John H. Macfarlane (P29075)

Mumford, Schubert, Macfarlane & Barnett, PLLC

/dlh

1. All service and repair activity shall be carried on completely within an enclosed building.
 2. An outdoor display area can be utilized with the boundaries of the display area to be set by the Township Planning Commission.
- k. Passenger terminals.
 - l. Wholesale business, provided that no manufacturing, assembling, processing or fabrication of goods shall be permitted.
 - m. Publicly owned and operated buildings.
 - n. Essential service structures, except as provided in SECTION 14.17.

SECTION 8.03 – Uses Specifically Prohibited in This District

- a. Any type of manufacturing activity.

No building shall be erected in this District unless prior approval of the proposed water supply and waste disposal systems have been approved in writing by the County Health Department and forwarded to the building inspector prior to the issuance of a building permit.

SECTION 8.04 – Conditional Uses

The following buildings and structures, and uses of parcels, lots, buildings and structures are permitted subject to obtaining a conditional use permit as provided in ARTICLE 14.

- a. Commercial Recreation Facilities: Bowling alleys, theaters, dance halls, skating rinks, miniature golf courses, trampolines or similar public amusement facilities.
- b. Neighborhood shopping centers.
- c. Communication towers and antennae.

SECTION 8.05 – Indoor Service

All commercial and service activities shall be conducted entirely within an enclosed building, except as otherwise provided herein.

SECTION 8.06 – Regulations

The following regulations shall apply in all HS – Highway Service Commercial Districts:

- a. **Lot Area:** In this district every building hereafter constructed or structurally altered shall be located on a lot of not less than thirty thousand (30,000) square feet in area.
- b. **Lot Width:** All interior and corner lots shall have a minimum width of one hundred fifty (150) feet along the street upon which such lot principally fronts.
- c. **Lot Coverage:** All buildings, including accessory buildings, shall not cover more than twenty-five percent (25%) of the total lot area, except as otherwise specified herein.
- d. **Yard and Setback Requirements:**
 1. **Front Yard:** Not less than forty (40) feet from the right-of-way line.
 2. **Side Yards:** The minimum side yard on each side of a building shall be twenty-five (25) feet. Street side yards shall comply with the minimum front yard dimensions.
 3. **Rear Yard:** Not less than thirty (30) feet.
 4. **Side and rear yards may be used for parking,** provided that a fence or masonry wall of not less than four (4) feet nor greater than eight (8) feet shall be constructed on the perimeter of such parking area.
- e. **Height:** No buildings or structures shall exceed twenty-five (25) feet in height, unless each required yard (front, sides and rear) is increased one (1) foot for each additional one (1) foot in height above twenty-five (25) feet.
- f. **Lighting:** All lighting shall be accomplished in a manner such that no illumination source is visible beyond the property lines of the lot upon which it may be located.
- g. **Vehicular Approach:** No establishment in the HS – Highway Service Commercial District shall have more than two (2) driveways, each of which shall not exceed twenty-five (25) feet in width, except as otherwise provided herein. No driveway shall be located closer than fifty (50) feet from an intersection.
- h. **Off-Street Parking:** As required in ARTICLE 21.

ARTICLE 9

HI – HEAVY INDUSTRIAL DISTRICT

SECTION 9.01 – Purpose

This district is designed to provide the location and space for all manner of industrial uses, wholesale, commercial and industrial storage facilities. It is the purpose of these regulations to permit the development of certain functions; to protect the abutting residential and commercial properties from incompatible industrial activities; to restrict the intrusion of non-related uses such as residential, retail business and commercial, and to encourage the discontinuance of uses presently existing in the district, which are nonconforming by virtue of the type of use. To these ends, certain uses are excluded which would function more effectively in other districts and which would interfere with the operation of the uses permitted in this district.

SECTION 9.02 – Permitted Uses

The following buildings and structures, and uses of parcels, lots, buildings and structures are permitted in this district:

- a. Research oriented and light industrial park use.
- b. Contractor's establishment.
- c. Manufacturing.
- d. Trucking and cartage facilities, truck and industrial equipment storage yards, repairing and washing equipment and yards.
- e. Manufacturing product warehousing, exchange and storage centers and yards.
- f. Open industrial uses or industrial product or materials storage, provided that any activity in which products or materials are being processed or stored are located, transported or treated outside of a building and are not within enclosed apparatus vessels, or conduits, such use shall be provided with an opaque permanently maintained wall or fence, n lower than the subject use or storage, and constructed to provide firm anchoring of fence posts to concrete set below the frost line; if a wall is provided, its foundation likewise shall extend below the frost line.
- g. Whole sale businesses, including warehouse and storage, commercial laundries, dry cleaning establishments, ice and cold storage plants, lumber, fuel and feed yards, automobile repair garages, construction and farm equipment sales and contractor's equipment yards.

- h. An accessory use, building or structure.
- i. A sign, only in accordance with the regulations specified in ARTICLE 20 of this Ordinance.
- j. Essential service structures.
- k. Printing, lithographic, blueprinting and similar uses.

SECTION 9.03 – Conditional Uses

The following buildings and structures, and uses of parcels, lots, buildings and structures are permitted subject to obtaining a conditional use permit as provided in ARTICLE 14:

- a. Public or private sanitary landfills, junk yards, inoperative vehicle storage.
- b. Quarries, sand and gravel pits.
- c. Plating shops.
- d. Rendering plants.
- e. Slaughter houses.
- f. Heat treating processors.
- g. Tanneries.
- h. Auctions for livestock.
- i. Temporary building or trailer offices.
- j. Communication towers and antennae.

The following regulations shall apply in all HI – Heavy Industrial Districts:

- a. Lot Area: No building or structure shall be established on any lot less than five (5) acres in area.
- b. Lot Width: The minimum lot width shall be two hundred (200) feet.
- c. Lot Coverage: The maximum lot coverage shall not exceed sixty percent (60%).

d. Yard Requirements:

1. Front Yard: Not less than eighty-five (85) feet from right-of-way line.
2. Side Yards: Least width of either yard shall not be less than twelve (12) feet, except in the case of the corner lot where the side yard on the road or street side shall not be less than eighty-five (85) feet from right-of-way line.
3. Rear Yard: Not less than fifty (50) feet.

e. Height: Except as otherwise provided in this Ordinance, no building or structure shall exceed a height of one hundred (100) feet.

f. Required Off-Street Parking: As required in ARTICLE 21.

ARTICLE 10

OC – OPEN SPACE AND WATERBODY CONSERVATION DISTRICT

SECTION 10.01 – Purpose

It is recognized by this Ordinance that the principal use of certain open areas within the Township is and ought to be the development, management and utilization of the natural resource base processed by these areas. In order that this value may be maintained and this use encouraged, this Ordinance has established, based upon a well-considered plan, a zoning district designed to regulate the location of buildings and structures and the use of parcels and lots in order to protect the natural resources, natural habitats of wildlife, waterways and waterbodies, agricultural capabilities, public and private recreation areas, and the public health, safety and welfare by reducing the hardships and burdens imposed upon the people of the Township by the wanton destruction of resources, the improper and wasteful use of open land, wooded areas and the periodic flooding and overflow of creeks and streams. In addition, this district will help protect human life, prevent or minimize material losses, and reduce the cost to the public of rescue and relief efforts occasioned by unwise occupancy or construction of buildings in areas subject to periodic inundation, such areas being shown as floodplain by soil types as compiled by the U.S. Soil Conservation Service.

SECTION 10.02 – Permitted uses

The following buildings and structures, and uses of parcels, lots, buildings and structures are permitted in this district:

- a. Public and private conservation areas for the development, protection and conservation of open space, watersheds, water, soil, forest, and wildlife resources.
- b. A lot may be used for general and specialized farming and agricultural activities including the raising or growing of crops, livestock, poultry and other farm animals, products and foodstuffs, and provided that any lot that is kept as idle cropland shall be maintained as to prevent soil erosion by wind or water.

SECTION 10.03 – Conditional Uses

The following buildings and structures, and uses of parcels, lots, buildings and structures are permitted in this district, subject to obtaining a conditional use permit as provided in ARTICLE 14:

- a. Public or private forest preserve, game refuse, golf course, park, camping grounds, playground, or other recreation purpose.

- b. The growing, stripping and removal of sod, provided that said lot or portion thereof shall be seeded after stripping by fall of the same year in which it was stripped as to reduce the actual or potential erosion of soil by water or wind.
- c. Country clubhouse, swimming pool, bath house and the sale of food, beverage and recreation equipment which is incidental and accessory to a recreation use.
- d. Landfills.
- e. All buildings and structures accessory and incidental to permitted uses in this district 5.

SECTION 10.04 – Regulations

The following regulations shall apply in all OC – Open Space and Waterbody Conservation Districts:

- a. Lot Area: No building or structure shall be established on any lot less than five (5) acres in area.
- b. Lot Width: The minimum lot width shall be three hundred (300) feet.
- c. Lot Coverage: The maximum lot coverage shall not exceed ten percent (10%).
- d. Yard Requirements:
 - 1. Front Yard: Not less than sixty (60) feet from the right-of-way line.
 - 2. Side Yards: Least width of either yard shall not be less than (30) feet; except in the case of a corner lot where the side yard on the road or street side shall not be less than sixty (60) feet from right-of-way line.
 - 3. Rear Yard: Not less than fifty (50) feet.
 - 4. The above requirements shall apply to every lot, building or structure.
- e. Height: The following height requirements shall apply in this district:
 - 1. For all Buildings and Structures: No building or structure shall exceed three (3) stories or forty (40) feet.
- f. Required Off -Street Parking: As required in ARTICLE 21.

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- g. **Preservation of Environmental Quality and Floodplains:** As required in ARTICLE 10 in a floodplain, the construction or location of bridges, bleachers or other outdoor equipment or appurtenances and the storage of materials and equipment is prohibited unless same would not cause any significant obstruction to the flow of or reduction in the impoundment capacity of the floodplain.

ARTICLE 11

(RESERVED)

ARTICLE 12

COMMUNICATION CORRIDOR DISTRICT

SECTION 12.01 – Purpose

This district is an overlay district and contains regulations that are in addition to any regulations of the underlying zoning districts. It is the purpose of these regulations to provide expanded accommodation of wireless communication facilities than is found in other zoning districts.

SECTION 12.02 – Applicability

Cellular communication towers and related accessory buildings and structures may be located in a corridor described as lying five hundred (500) feet on either side of the M 60 highway right-of-way.

SECTION 12.03 – Regulations and Conditions

- a. Communication towers and associated antennae, accessory buildings and equipment shelters may be permitted as a conditional use according to ARTICLE 14, Section 14.19 of this Ordinance.
- b. Accessory buildings (as identified in Section 12.03.a) which may be permitted according to this Zoning Ordinance, are not subject to the Zoning Ordinance prohibition on the establishment of accessory buildings without a principal building or use.
- c. Conditional use permits may be limited in duration to the active use of the antennae previously approved as part of a conditional use permit.
- d. Conditional land uses as provided herein shall be subject to limitations and conditions as provided in ARTICLE 14.
- e. Leased areas for communication towers, antennae and/or equipment shelters within this overlay district shall be subject to the provisions of the State Land Division Act as applicable.

ARTICLE 13

SUPPLEMENTAL REGULATIONS

SECTION 13.01 – Purpose

There are certain conditions concerning land uses that warrant specific regulations and standards in addition to the requirements of the zoning districts in which they are located.

SECTION 13.02 – Accessory Buildings

- a. Where an accessory building is attached to the side or front of a principal building, such accessory building shall be considered part of the principal building for purposes of determining required yard dimensions, but if such accessory building is attached to the rear of the principal building in such a manner that it is completely to the rear of all portions of said building, it shall be considered a detached accessory building for purposes of determining required rear yard dimensions.
- b. No detached accessory building shall be located nearer to a side lot line than the permitted distance for the principal building on the same lot, unless such accessory building shall be completely to the rear of all portions of the principal building, in which case it may be located no nearer than five (5) feet from any side lot line.
- c. No detached accessory building shall be located nearer than five (5) feet to any rear lot line, except that when such accessory building shall be a garage which is entered at right angles to any alley, it shall be located no nearer than twenty (20) feet from the lot line parallel to the alley.
- d. No accessory building shall project into any front yard setback.
- e. No accessory building shall occupy more than thirty percent (30%) of the area of any rear yard.
- f. Where a corner lot adjoins a side boundary of a lot in any residential district, no accessory building shall be located nearer to the side street lot line than the side yard setback of the principal building on said lot.

SECTION 13.03 – Lot/Building Relationship

Hereafter, every building erected, altered or moved shall be located on a lot as defined herein, and except in the case of an approved multiple dwelling, no more than one (1) principal building and its permitted accessory structures located on each lot in a residential district.

SECTION 13.04 – Accessory Building as Dwelling

No accessory building on the same lot as a principal building shall be used for dwelling purposes.

SECTION 13.05 – Basement as Dwelling

No basement structure shall be used for occupancy unless a completed story is situated immediately above the basement structure and such story is used as a dwelling.

SECTION 13.06 – Required Water Supply and Sanitary Sewerage Facilities

In addition to the requirements established by the Calhoun County Health Department, the following site development and use requirement shall apply.

No structure for human occupancy or use shall hereafter be erected, altered, or moved unless it shall be provided with a safe, sanitary and potable water supply and a safe effective means of collection, treatment and disposal of wastes.

No drain field for a septic tank system shall be located nearer than one hundred fifty (150) feet from the normal high water line of any surface body of water nor located in an area where the ground surface is less than four (4) feet above the normal high water table level.

SECTION 13.07 – Greenbelt Buffer

Prior to the commencement of construction of any structure or building in a commercial district or industrial district where such property abuts, adjoins or is adjacent to a residential zone, a greenbelt shall be established. However, where permitted elsewhere in this Ordinance, an opaque wall or fence may be built in lieu of a greenbelt. A greenbelt, minimum width of fifty (50) feet, which shall be completed within six (6) months from the date of final inspection and shall thereafter be maintained, so as not to create a nuisance, with but not limited to any combination of the following plant materials: grass, evergreens, deciduous trees, shrubs and bushes.

SECTION 13.08 – Access to a Street

Any lot of record created prior to the effective date of this Ordinance without any frontage on a public street or way shall not be occupied except where access to a public street or way is provided by a public or private easement or other right-of-way no less than twenty (20) feet in width. Public access to commercial, industrial or recreational uses shall not be designed so as to pass through the residential neighborhoods. A private road which serves more than one separately held parcel, or more than one dwelling unit, or more than one commercial or industrial activity shall be constructed to Calhoun County Road Commission standards provided, that while such road remains private, hard surfacing will not be required.

SECTION 13.09 – Visibility at Intersections

No fence, wall, hedge, screen, sign, structure, vegetation or planting shall be higher than three (3) feet above street grade on any corner lot or parcel within the triangular area formed by the intersecting street right-of-way line at points which are thirty (30) feet distance from the point of intersection, measured along the street right-of-way lines. This provision shall apply in all residential, commercial and industrial zoning districts.

SECTION 13.10 – Street Closures

Whenever any street, alley or other public way is vacated by official action, the zoning district adjoining each side of such public way shall automatically be extended to the center of such vacation, and all areas included therein shall henceforth be subject to all appropriate regulations of that district within which such areas are located.

SECTION 13.11 – Height Regulations

The height requirements established by this Ordinance shall apply uniformly in each zoning district to every building and structure except that the following structures and appurtenances shall be exempt from the height requirements of this Ordinance: spires, belfries, penthouses and domes not used for human occupancy; chimneys; ventilators; skylights; water tanks, bulkheads; utility poles; power lines; radio and television broadcasting and other receiving antennae, silos; parapets; and other necessary mechanical appurtenances; provided their location shall conform where applicable to the requirements of the Federal Communications Commission, the Civil Aeronautics Administration and other public authorities having jurisdiction.

SECTION 13.12 – Fences, Walls and Screens

Within the limits of a side or front yard space of a lot within a residential district, no fence, wall other than necessary retaining wall, or other screening structure shall be higher than five (5) feet. No such fence or wall located within a rear yard shall exceed eight (8) feet in height.

SECTION 13.13 – Shoreline Excavation and Dredging

No person shall alter, change, transform or otherwise vary the edge, bank or shore of any lake, river or stream except in conformance with the following:

- a. As provided in Part 301 of the Environmental Protection Act, 1994 PA 451, as amended (MCL 324.30101, et seq) and in accordance with the requirements of the Michigan Department of Natural Resources and/or the Michigan Department of Environmental Quality.

- b. If any edge, bank or shore of any lake, river or stream is proposed to be altered in any way by any person, such person shall submit to the Planning Commission all data, exhibits and information as required by the Department of Natural Resources.

SECTION 13.14 – Essential Services

For purposes of this Ordinance, the following provisions shall apply:

- a. The surface of land used for pipe line right-of-ways shall be restored and maintained as near as possible to its original condition as prior to the construction of the pipe line.
- b. Essential services shall be exempt from all area requirements in the Agricultural, Industrial and Open Space and Water Body Conservation Districts.

SECTION 13.15 – Swimming Pools

All swimming pools shall conform to the requirements of Public Act 2300 of 1972, the State Construction Code Act, as amended.

SECTION 13.16 – Continued Conformance with Regulations

The maintenance of yards, open spaces, lot areas, height and bulk limitations, fences, walls, clear vision areas, parking and loading spaces, and all other requirements for a building or use specified within this Ordinance shall be a continuing obligation of the owner of such building or property on which such building or use is located.

SECTION 13.17 – RESERVED

SECTION 13.18 – Requirements for Single-Family Homes

The purpose of this provision of the Zoning Ordinance is to provide reasonable standards which ensure that all single-family homes regardless of construction type (e.g. site-built or factory built) are compatible and compare aesthetically within the same residential zone.

Sufficient evidence must be submitted to the Township Building Inspector to assure that the following standards are met by single-family homes prior to location on a site in the Township:

- a. All homes permitted under this Section shall meet all requirements imposed under ARTICLE 13 (Supplemental Regulations).
- b. All mobile homes shall be in compliance with all state and federal laws including “Mobile Home Construction and Safety Standards” as promulgated by the U.S. Department of

Housing and Urban Development, being 24 CFR 3280, and as the same may, from time to time, be amended, and regulations pertaining to mobile homes as well as local and state plumbing and fire codes.

- c. All homes permitted under this Section shall be firmly attached to their foundations in compliance with the provisions of the building code, State law, or manufacturers set-up instructions.
- d. No skirting shall be permitted for homes permitted under this Section. A solid perimeter wall of masonry, non-metallic/fire retardant material and acceptable to the township building inspector, shall be installed prior to the issuance of an occupancy permit.
- e. Any accessory uses involving the construction of accessory buildings and/or additions to the home shall meet the requirements of this Ordinance and the Township Building Code.
- f. All homes permitted under this Section shall be aesthetically compatible in design and appearance with homes within the area including a roof with compatible pitch and overhang, appropriate siding or exterior finishes, front and rear or front and or exterior doors, permanently attached steps or porch areas constructed in a manner consistent with the design of other homes within the area.
- g. All homes shall have a minimum width of fourteen (14) feet as measured across any front, side and rear elevation.
- h. The standards contained in this Section to not apply to mobile homes located in a Mobile Home Parks.
- i. The standards do not allow or permit the placement or construction of a home in those areas where deed restrictions or other covenants prevent it.

SECTION 13.19 – Land Division Regulations

- a. Required Petition: Only upon the filing of a petition by the owner or owners of all interests therein, may acreage parcels be divided, upon resolution of the Township Board.
- b. Required Information:
 - 1. Said petition shall contain at lease the following information:
 - a) The name of the owners or owners of all interests in the subject property.

- b) The legal description of the parcel to be divided together with the number of total acres involved.
 - c) A copy of the most recent tax bill pertaining to the parcel. Satisfactory evidence that all taxes are paid and current shall be provided at the time of application.
 - d) A drawing showing the boundaries of the parcel prior to the proposed division and a drawing showing the proposed division including the square footage of each resulting parcel.
 - e) The proposed use for each of the divided parcels.
 - f) A copy of all deed restrictions and covenants either existing or proposed which shall run with the land, whether recorded or not.
 - g) The date of any previous applications for divisions involving any portion of the subject property together with copies of the decisions rendered with respect to said applications, if any.
 - h) The person to whom all correspondence concerning said petition is to be directed with specific appointment of said person as agent for all owners.
2. Said petition shall be filed with the Township Clerk, Zoning Administrator or other Township Board designee, and upon payment of the fees required under Section g, the petition shall be reviewed by the Zoning Administrator or other designee of the Township Board for the purposes of review for compliance with the land Division Act and this Zoning Ordinance and recommendation to the Township Board for approval or denial.

c. Standards:

1. No division shall be granted which creates a parcel smaller than the minimum size required under the terms of this Ordinance except as provided in Section c-2 as follows:
2. The Township Board may grant the division which creates a parcel smaller than the minimum size required under the terms of this Ordinance where such a division results in an increase in the size of adjacent parcels even though the increased resulting area of such parcels does not conform to the requirements of this Ordinance;

provided, however, that the Township Board shall not grant a division which creates a parcel smaller than 1 acre in size unless the parcel has all of the following: *¹

- a) Public water or county or district health department approval for the suitability of an on-site water supply system under the same standards as set forth for lots under the rules described in Section 105(g) of the Michigan Land Division Act, MCL 560.105.*²
- b) Public sewer or county or district health department approval for on-site sewage disposal under the health department standards as set forth for lots under the rules described in Section 105(g) of the Michigan Land Division Act, MCL 561.105.*³

The Township Board shall not finally approve a division which creates a parcel smaller than the minimum size under this subsection until a petition is presented to the Zoning Board of Appeals and a variance granted allowing a proposed use of the subject parcel.*⁴

3. Each resulting parcel shall have the depth to width ration specified by he Township Zoning Ordinance for the zoning district(s) in which such resulting parcel is located. In the absence of any designation by the Township Zoning Ordinance, each resulting parcel which is 10 acres or less in size shall have a depth which is not more than 4 times the width of the parcel. The depth and width of the resulting parcel shall be measured in the same manner provided by the Township Zoning Ordinance for measuring the depth and width of lots.*⁵
4. For purposes of this sub-section:
"Lot" - In addition to the meaning found in ARTICLE2, "lot" shall also mean a parcel of land shown in a request for an acreage division.
5. All parcels created under the provisions of this amendment shall have direct frontage on a public street or road which is dedicated to the public or on a private road

¹*last amended 8/9/2012

²*last amended 8/9/2012

³*last amended 8/9/2012

⁴*last amended 8/9/2012

⁵*last amended 8/9/2012

provided, however, that no access through easements across other land parcels will be permitted.

6. Where an amendment to the Zoning Ordinance is required, or a variance of the terms of the Ordinance is necessary for a proposed use of any of the subject parcels, the necessary petition shall be submitted in addition to petition for an acreage division.
 7. The minimum road frontage in all acreage divisions shall be one hundred (100) feet. Minimum lot width shall comply with the zoning district(s) in which acreage divisions are located. Created parcels shall have continuous road frontage.
- d. **Deed Restrictions:** In each instance where a divided parcel is to be joined with a neighboring parcel to create the larger building site as authorized in Section c-2, the owner of both the parcel to be divided and the adjoining parcel shall join in a restrictive covenant agreeing to said joining and restricting said property as a single parcel and providing such other restrictions or limitations as the Township Board may require.
 - e. **Survey:** Prior to the entry of an approved division in the Township records, the applicant shall provide the Township with a survey of the subject property together with legal descriptions of all parcels as prepared by a registered land surveyor or civil engineer. The survey shall include all existing buildings and structures on the property and all easements, whether recorded or not. The applicant may submit a scale drawing containing the above information.
 - f. **Entry of Approved Divisions:** Upon the approval of a proposed division by the Township Board, the Township Board shall order all action necessary to effectuate the approved division.
 - g. **Fees:** Fees as established by resolution of the Township Board and kept on file with the Township Clerk shall be paid by each petitioner.

SECTION 13.20 – Private Road Standards and Procedures

- a. **Access Requirements:** All parcels of land which are not part of a recorded plat shall have access to a dedicated public street or access to a private road as described herein.
- b. **Required Approval:** No person shall commence construction of a private road within the Township without prior approval by the Township Board. Applications for approval shall conform to the rules of procedure as promulgated by the Township Engineer and as adopted by the Township.

A construction permit for a private road as approved by the Township Board shall be valid for a period of not more than two years. The developer of a private road shall be responsible for maintenance of the private road until such time a dwelling is built and occupied or a maintenance agreement is in effect. The developer is also responsible for policing all parcels that remain unsold of all dumping and trash.

c. Standards:

1. All private roads shall meet the following specifications:

- a) All private roads shall be a minimum of sixty-six (66) feet in width and shall be created by an easement for purposes of ingress and egress for all abutting lots which must use the private road for those purposes.
- b) Plans shall show all existing and proposed grades, the location of all existing and proposed drainage facilities and structures and any other physical conditions existing adjacent to the subject private road.
- c) Maximum gradient shall be eight (8%) percent on said private road. Vertical curves shall be used at all changes in grade. Site distances on said curves shall be a minimum of one hundred fifty (150) feet.
- d) The angle of intersecting streets shall be between sixty-five (65) degrees and ninety (90) degrees. Minimum radius at intersections shall be thirty (30) feet measured along the parcel boundaries.
- e) There shall be a minimum of fifty (50) feet of flat gradient along the center line profile of the new private road from the center line of the public road before entering into a vertical curve.
- f) An aggregate surface twenty-four (24) feet wide shall be constructed upon prepared sub-grade in accordance with the provisions of this Ordinance. Topsoil shall be stripped and stockpiled outside the 66' right-of-way easement and spread in the ditches and on the slopes at the completions of the project.
- g) The surfacing materials shall be compacted in the excavated area for the full length and width to create a uniform and generally smooth surface. In addition, there shall be a center rise or crowned cross section rising not less than four inches measured from shoulder to shoulder and not more than eight inches measured from shoulder to shoulder.

- h) The top 4" course shall consist of 22A aggregate as defined by the Michigan Department of Transportation Specifications. The subbase shall consist of a minimum of 10" of pit-run gravel laid in two 5" courses, each course compacted with a grader. Maximum stone size of the pit-run gravel shall be 1-1/2". Any stones larger than 1-1/2" shall be removed before placing the top 4" course. All trees, stumps, brushes, and the roots thereof, shall be entirely removed and disposed of outside the sixty-six (66) foot easement area.
 - i) Drainage ditches shall be constructed on each side of the proposed private road in cut sections and fill sections where required to a minimum depth of two feet and deeper where necessary at intersections to permit culverts to be installed. Either concrete or 12 gauge corrugated metal pipe shall be used at intersections and at driveway entrances. Minimum inside diameter of a crossroad culvert shall be fifteen inches and a minimum inside diameter for a driveway culvert of twelve inches with a minimum length of twenty-two feet. Sodding, planting, riprapping, top soil, seeding or other measures of erosion control shall be used where required. In areas of critical drainage, the Township Engineer will specify the culvert size and length.
 - j) Private roads which are cul-de-sacs shall have a maximum length of six hundred feet measured from centerlines of intersections along the centerline to the furthest point of the cul-de-sac. Exceptions may be made where unusual topographic conditions exist or where land configurations require a maximum length extension to otherwise meet the purposes of this Ordinance.
2. No private road shall:
- a) Provide access to more than one dedicated public road.
 - b) Provide access to another private road.
3. The applicant shall submit at least two proposed names for a private road to the Township Board.
4. The applicant shall submit a drawing of said private road, as well as a letter of intent stating general specifications for said private road, including total proposed length. In no event shall any private road be extended beyond the length as shown on said drawings and letter of intent.
5. For any parcel of land not fronting on an established public road, an easement for the construction and maintenance of various public utilities including natural gas, electric telephone, sewer, water, storm sewer, or similar improvement shall be provided. No

building permit shall be granted for any parcel fronting on the private road until such easement has been provided by the applicant.

d. Deed Restrictions

1. Prior to the approval of the proposed private road, the applicant shall submit to the Township a set of deed restrictions in a form acceptable to the Township which shall provide for the creation of the private road easement and the creation of a homeowners association whose members shall be the property owners abutting said road. The association shall be responsible for the up-keep and maintenance of said road. No more than one association shall be responsible for any one private road. The Township shall be given the authority to assess the parcels of owners who become delinquent in the payment of their portion of the maintenance and up-keep costs and fees expended by the Township relating to this assessment. Said restrictions shall be recorded prior to the completion of the road.
2. The applicant shall also submit to the Township a document, in a form sufficient for recording with the County Register of Deeds stating that in no event shall the association, the individual homeowners, the applicant or their heirs or assigns hold the Township liable for the costs of road signs, traffic control signs, maintenance, lighting or snow removal.
3. Owners of private roads existing as of the date of the adoption of this Ordinance may petition the Township Board for permission to enter into a maintenance agreement, with authority given to the Township Board to assess the parcels of owners who become delinquent in the payment of their portion of the maintenance and upkeep costs, as provided in this Ordinance by submitting to the Township Board the following:
 - a) A petition, executed by 100% of the owners of said private road, requesting that the Township be given the authority to make the assessments provided for herein.
 - b) A set of proposed deed restrictions or in the alternative, a proposed maintenance agreement in form acceptable to the Township Board, in a form sufficient for recording with the County Register of Deeds, executed by 100% of the owners of the private road which shall provide for the maintenance and upkeep of the private road and which shall also give the Township Board the authority to make the assessments provided in this Ordinance. In the event of ownership by joint tenant, tenants-in-common, or tenants by the entireties, signatures of all those with an ownership interest in the private road shall be

required. The maintenance agreement or deed restrictions shall be considered covenants running with the land.

- c) One hundred percent of the owners of the private road shall also submit to the Township a document, in a form sufficient for recording with the County Register of Deeds, stating that in no event shall the association, if any, the individual owners, or their heirs or assigns hold the Township liable for the costs of road signs, traffic control signs, lighting or snow removal.

The Township Board shall have the discretion to accept or reject any request to assume partial or total responsibility for the making of the assessments provided for herein. If the Board accepts the request, the proposed deed restrictions and/or maintenance agreement shall be executed forthwith and recorded in the office of the County Register of Deeds, prior to the making of any assessments by the Township. Term owners of private road shall be construed to mean those properties that either abut or front said private road.

- d) Preparation of Plans and Legal Descriptions: All drawings, legal descriptions and private road specifications shall be prepared and sealed by a registered civil engineer and/or registered land surveyor.

- e) Conditions for Issuing of Permit:

- 1) Except as provided in this Ordinance, no building permits shall be issued for parcels abutting private roads until the Township Engineer has reported to the Township Board that said private road meets the standards provided herein.

- 2) Building permits may be issued prior to the required reports by the Township Engineer when any or all of the following conditions are satisfied, and subject to the sub-base being installed within the private road and approved by the Township Engineer.

- a. The subject parcel also abuts a dedicated public county road and,

- 1. Construction permits have been obtained by the applicant for the building permit from the County Road Commission for the construction of an entrance from the subject parcel onto the County right-of-way;

2. The applicant's plans provide that no other parcel shall have access permitted through said entrance to the County right-of-way unless the driveway is improved to the standards contained herein.
 - b. The building permit applicant supplies a performance bond guaranteeing the completion of the private road according to the standards provided herein. The surety bond, to be executed by a surety company authorized to do business in the state of Michigan shall be in an amount determined by the Township Board to be reasonably necessary to insure compliance hereunder.
 - c. In fixing the amount of such surety bond, the Township Board shall take into account the size of the proposed private road, the current prevailing costs of completing the road upon default of the applicant, the estimated expense to compel the applicant to comply with the terms of this Ordinance by court order or such other conditions and facts as might be relevant in determining the sum reasonable in light of all facts and circumstances surrounding each application. In the alternative, the Township Board may accept a cash bond to be held by the Township under the terms of a written agreement between the applicant and the Township.
- 3) Notwithstanding the provisions of this Ordinance, certificates of occupancy will not be issued until the Township Engineer has reported the completion of the road as provided for in this Ordinance.

SECTION 13.21 – Performance Guarantee

In the interest of insuring compliance with this Zoning Ordinance and protecting the natural resources and the health, safety and welfare of the residents of the Township and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Planning Commission as a condition of approval of the proposed use may require the applicant to deposit a performance guarantee as set forth herein to insure completion of improvements connected with the

proposed use required by this Ordinance including but not limited to roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping, and widening strips.

- a. Performance guarantee as used herein shall mean a cash deposit, certified check, or irrevocable bank letter of credit in the amount of the estimated cost of the improvements to be made as determined by the applicant and confirmed and verified by a representative of the Township.
- b. Where the Planning Commission, as a condition of approval of a proposed use of land requires a performance guarantee, said performance guarantee shall be deposited with the Clerk of the Township prior to the issuance of a building permit by the Township for the development and use of the land. Upon the deposit of the performance guarantee the Township shall issue the appropriate building permit and the Township Clerk shall thereafter retain said deposit, however, if said deposit is in the form of cash or certified check, then it shall be transferred to the Township Treasurer for deposit in an interest bearing account.
- c. Where a performance guarantee is required by the Planning Commission as a condition of approval for a proposed use, the Planning Commission shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed, said period to run from the date of the issuance of the building permit.
- d. In the event the performance guarantee deposited is a cash deposit or certified check, the Township shall rebate to the applicant amounts of money in reasonable proportions to the ratio of work completed on the improvements by the applicant as confirmed by the Township Engineer.
- e. Upon the satisfactory completion, as determined by the Township, of the improvement for which the performance guarantee was required, the Clerk shall notify the Treasurer of the Township to return to the applicant the performance guarantee deposited and any interest earned thereon.
- f. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Township, the Township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements.
- g. In the event the applicant defaults in making the improvements and the performance guarantee is not sufficient to allow the Township to complete the improvements for which it was posted, the applicant shall be required to pay to the Township the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited.

SECTION 13.22 – Site Plan Review

All developments in the 'HS', 'HI' and 'OC' Districts and all non-residential land uses within the 'AA', 'RA', 'RB' and 'MF' Districts and all projects with two or more dwelling units or building sites (in the case of condominium dwelling units) shall require site plan approval by the Planning Commission prior to issuance of a building permit and shall comply with the following requirements and standards. Approval will be based on the Articles of this Ordinance and such other conditions as may be imposed pursuant to Special Land Use provisions of this Ordinance.

- a. Approval by the Planning Commission shall be contingent upon a finding that:
 1. The site plan shows that a proper relationship exists between local streets and any proposed service roads, driveways, and parking areas to encourage pedestrian and vehicular traffic safety, and
 2. All the development features including the principal building or buildings and any accessory buildings, or uses, open trash or refuse containers, and any service road, driveways and parking areas are so located and related to minimize the possibility of any adverse effects upon adjacent property, such as, but not limited to, channeling excessive traffic onto local residential streets, lack of adequate screening or buffering of parking or service areas, or building groupings and circulations or routes located as a interfere with police or fire equipment access. Public streets adjacent or through the proposed development shall be required upon a finding that it is essential to promoting and protecting public health, safety and general welfare through continuation of the public street system.
 3. The site plans and elevations of the buildings (principal and accessory) shall be in harmony with the general character of the area.

The required number of copies of the Site Plan Review and/or Special Land Use application together with the sane number of copies of all the required drawings and illustrations shall be presented to the Township Clerk 20 days prior to the next regular meeting of the Commission to be forwarded to the Planning Commission, Community Planner and Township Engineer and/or Township Attorney where necessary. All of the following detailed information must be submitted.

- b. Application Form (obtainable from the Township Clerk).
 1. Applicant's name and address.
 2. Name of the proposed development.

3. Common description of the property.
4. Complete legal description.
5. Dimensions of land, width, length and acreage.
6. Existing zoning and zoning of adjacent properties.
7. Proposed use of land.
8. Name, address, city and phone number of the firm or individual who prepared site plan.
9. Name and address of applicant if not the legal owner.
10. Signature of the legal owner, if not the applicant.

c. Site Plan (Drawing(s) and Illustration(s) fully dimensioned).

1. Location map drawn at scale of 4"-1 mile (show nearest major intersection).
2. Location of all existing and proposed structures and uses.
3. All aisles, drives and parking areas (include the number of spaces in each).
4. Screening and/or protective walls.
5. Principal and accessory buildings.
6. Location of existing and proposed rights-of-way, widths of all abutting streets, alleys and easements.
7. Types of facing materials to be used on structures.
8. Elevations (front, sides and rear views) of all sides of the building(s).
9. Typical floor plan(s).
10. Seal of registered Architect, registered land surveyor, Landscape Architect, Professional Planner or Civil Engineer who prepared the Plan. The Planning Commission may waive this requirement.

11. Density calculations.
12. Existing buildings or improvements on the site and all land adjacent to the site within 100 feet.
13. Designation of units by type of buildings.
14. Interior sidewalls and sidewalks within right-of-way.
15. Exterior lighting locations and methods of shielding.
16. Trash receptacle location and method of screening.
17. Landscape plan.
18. Drive or street approaches including acceleration, deceleration and passing lanes, if appropriate.
19. All utilities located on or serving the site.
20. Loading and unloading area.
21. Total floor area.
22. Designation of fire lanes.
23. Where large equipment or machinery is to be installed as part of the development, the location, type, horsepower, fuel, dimension, noise, vibration and emission levels and other data of such equipment or machinery.
24. Location and extent of development of recreation areas, where necessary.

ARTICLE 14

CONDITIONAL USES

SECTION 14.01 – Purpose

The formulation and enactment of this Zoning Ordinance is based upon the division of the Township into districts, each of which are permitted specified uses which are mutually compatible. In addition to such permitted compatible uses, however, it is recognized that there are certain other uses which may be necessary or desirable to allow in certain locations in certain districts but because of their actual or potential impact on neighboring uses or public facilities, need to be carefully regulated with respect to their location for the protection of the Township. Such uses, on account of their peculiar location, need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as a permitted use.

SECTION 14.02 – Authority to Grant Permits

The Township Board with recommendations from the Township Planning Commission shall have the authority to grant conditional use permits, subject to such conditions of design and operation, safeguard and time limitations as it may determine for all conditional uses specified in the various district provisions of this Ordinance. The decision on a conditional land use shall be incorporated in a statement of findings and conclusions relative to the conditional land use which specifies the basis for the decision and any conditions imposed.

Conditions imposed shall meet all of the following requirements:

- (a) Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well being of those who will use the land use or activity under consideration, residents and land owners immediately adjacent to the proposed land use or activity, and the community as a whole.
- (b) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- (c) Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in the Zoning Ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

SECTION 14.03 – Application and Fee

Application for any conditional use permit permissible under the provisions of this Ordinance shall be made to the Township Board by filling in the official conditional use permit application form, submitting required data, exhibits and information and depositing a fee in accordance with the requirements of Section 24.08. Upon receipt of the application and fee, the Township Board shall

refer the application to the Township Planning Commission for review and action by the Township Planning Commission in accordance with the provisions of this Ordinance.

SECTION 14.04 – Data, Exhibits and Information Required in Applications

An application for a conditional use permit shall contain the applicant's name and address in full, a notarized statement that the applicant is the owner involved or is acting on the owner's behalf, the address of the property involved, an accurate survey drawing of said property, showing the existing and proposed location of all buildings and structures thereon, and types thereof, and their uses and a statement and supporting data, exhibits, information and evidence regarding the required findings set forth in the existing and proposed location of all plant materials and the types thereof, access drives and parking lot layout.

Section 14.05 – Notice and Public Hearing

Upon receipt of an application for a conditional use permit, the township shall provide notice of the request as required under section 103 of the Michigan Zoning Enabling Act, as amended (MCL 125.3103). The notice shall indicate that a public hearing on the special land use may be requested by any property owner or the occupant of any structure located within 300 feet of the property being considered for a conditional land use regardless of whether the property or occupant is located in the zoning jurisdiction.

At the initiative of the township board or upon request of the applicant, a real property owner whose real property is assessed within 300 feet of the property, or the occupant of a structure located within 300 feet of the property, a public hearing shall be held before a discretionary decision is made on the conditional land use request.

SECTION 14.06 – Required Standards and Findings for Making Determinations

The Planning Commission shall review the particular circumstances and facts of each proposed use in terms of the following standards and required findings, and shall find and record adequate data, information and evidence showing that a use on the proposed site, lot or parcel:

- a. Will be harmonious with and in accordance with the general objections, intent and purposes of this Ordinance.
- b. Will be designed, constructed, operated, maintained and managed so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
- c. Will be served adequately by essential public facilities and services, such as: highways, streets, police and fire protection, drainage structures, refuse disposal or that the persons or

agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.

- d. Will not be hazardous or disturbing to existing or future neighboring uses.
- e. Will not create excessive additional requirements at public cost for public facilities and services.
- f. Will not involve uses, activities, processes, materials, facilities and/or equipment and conditions of operation that will be hazardous to any person, livestock, or other property or to the general welfare by reason of unreasonable traffic, noise, smoke, fumes, glare, radiation, toxic chemicals or odors.
- g. Will incorporate procedures, operations, remedial measures, structures, designs and/or facilities to mitigate the effects of permitted levels of traffic, noise, smoke, fumes, glare, radiation, toxic chemicals or odors.

SECTION 14.07 – Compliance Bond

The Township Board shall require the applicant to post bond for compliance with the Township Clerk when deemed necessary and upon recommendation from the Planning Commission. The Township may require such bond to be in the form of a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the Township covering the estimated cost of improvements to be deposited with the Township Clerk to ensure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The Township may not require the deposit of the performance guarantee until it is prepared to issue the permit. The Township shall establish procedures by which a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvement shall be made as work progresses. The amount of said bond shall be determined by the Township Board.

SECTION 14.08 – Junk Yards

- a. Junk yards shall be established and maintained in accordance with applicable laws of the State of Michigan.
- b. It is recognized by this Ordinance that the location in the open of such materials included in this Ordinance's definition of "Junk Yard" will cause the reduction of the value of adjoining property. To the end that the character of the district shall be maintained and property values conserved, an opaque fence or wall at least seven (7) feet in height, and not less in height than the materials located on the lot on which a junk yard shall be operated, shall be located on said lot no closer to the lot lines than the yard requirements for buildings permitted in this

district. All gates, doors and access ways through said fence or wall shall be of solid, unpierced material. In no event shall any materials included in this Ordinance's definition of "Junk Yard" be located on the lot on which a junk yard shall be operated in the area between the lines of said lot and the opaque fence or wall located on said lot.

1. In addition to the foregoing requirement, the Planning Commission may require a greenbelt in accordance with the provisions of ARTICLE 13.
- c. All traffic ingress and egress shall be on major streets, and there shall be not more than one (1) entrance way to the lot on which a junk yard shall be operated from each public road on which said lot abuts.
- d. On the land on which a junk yard shall be operated, all roads, driveways, parking lots, and loading and unloading areas within any yard shall be paved or chemically treated so as to limit on adjoining lots and public roads the nuisance caused by windborne dust.

SECTION 14.09 – Mobile Home Park

- a. A mobile home park and buildings, structures, or parts thereof may be erected or so used in any district except on agricultural, commercial or industrial districts.
- b. No mobile home park shall be developed and constructed unless a public hearing is held prior to approval of a specified site and overall site plan. The preliminary site and development plans of new mobile home parks or additions to existing parks shall be submitted to the Township Planning Commission.

The following information shall be shown on the development plan or submitted in writing with it:

1. The name of the proposed mobile home park.
2. Names, addresses and telephone numbers of the developer or his representative.
3. Location of the mobile home park, giving the numbers of section, township and range, and the name of the township and county.
4. A map of the entire area scheduled for development, if the proposed development is a portion of a larger holding intended for subsequent development.
5. Allocation map showing the relationship of the proposed development and the adjacent tracts.

6. The present land use and existing zoning of the proposed development and the adjacent tracts.
7. Interior streets, streets, street names, right-of-way and roadway widths.
8. Topographic contours shall be shown on the plan at five (5) foot intervals where slope is greater than ten percent (10%) and two (2) foot intervals where slope is ten percent (10%) or less.
10. Delineation of all improvements required in this Section.

c. Permitted Accessory Uses and Requirements Thereof:

1. Accessory buildings or structures under park management supervision, shall be used only as office space, storage, laundry facilities, recreation facilities, garage storage or other necessary service for park residents use only. No accessory building or structure shall exceed twenty-five (25) feet in height, nor two (2) stories; and shall meet the requirements of other applicable codes and ordinances.
2. A mobile home may be displaced and offered for sale, provided that the mobile home is situated on a permanent pad within the mobile home park.
3. One (1) identification sign, approved in conjunction with the final site plan approval of the mobile home park. In no case shall such sign be larger than sixty (60) square feet in surface area nor have any moving parts nor stand higher than ten (10) feet from the ground to the top of the sign. Such sign shall be no closer to the public right-of-way line than thirty (30) feet.
4. No more than one (1) entry and one (1) exit sign at each access drive into the public right-of-way, approved in conjunction with the final site plan approval of the mobile home park, in no case shall the sign be larger than two (2) square feet in surface area, nor have any moving parts, nor stand higher than five (5) feet from the ground to the top of the sign.
5. Not more than one (1) local street sign at a local intersection of such park which identifies the local street by name, the sign approved in conjunction with the final site plan approval of the mobile home park. In no case shall the sign be larger than one (1) square foot in surface area per local street name, nor stand higher than seven (7) feet from the ground to the top of the sign.

- d. Periodic Inspection: The Township Zoning Administrator, police and fire departments or other agents authorized by the Township Board are granted the power and authority to enter

upon the premises of any such park at any time for the purpose of determining and/or enforcing any provision or provisions of this or any other township ordinance applicable to the conduct and operation of mobile home park.

e. Required Development Standards:

1. The land area of a mobile home park shall not be less than fifteen (15) acres.
2. Mobile home sites shall be at least five thousand (5,000) square feet in area.
3. Each mobile home within such park shall contain a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities and plumbing and electrical connections designed for attachment to appropriate external systems.
4. Each mobile home site shall have side yards with each yard having a width of not less than fifteen (15) feet and the aggregate width of both said yards not less than forty (40) feet.
5. Each mobile home site shall have front and rear yards with each such yard not less than ten (10) feet in width and the aggregate width of both said yards not less than thirty (30) feet.
6. For the purpose of this Section, yard width shall be determined by measurement from the mobile home face (side) to its mobile home site boundary from which, every point shall not be less than the minimum width herein provided. Open patios, carports and individual storage facilities shall be disregarded in determining yard widths. Enclosed all-weather patios shall be included in determining yard widths. The front yard is that yard which runs from the hitch end of the mobile home to the nearest side line. The rear yard is at the opposite end of the mobile home and side yards are at right angles to the front and rear ends.
7. From all pads, the following minimum distances shall be maintained:
 - Fifty (50) feet to the boundary of such park which is not a public street;
 - One hundred (100) feet to the right-of-way of any public street or highway;
 - Fifteen (15) feet to any collector street of such park (parking bay, local drive, or central parking drive is not a collector street). A park collector street is that roadway which carries traffic from local park street drives and parking areas to public street(s) outside the park;

- Eight (8) feet to any common walkway or local drive of such park;
 - Fifty (50) feet to any parking area signed for general parking in such park (general parking defines parking bays for other than park residents);
 - Fifty (50) feet to any service building in such park.
8. A mobile home shall not be permitted to occupy single or multiple sites if either its length or width would cause it to occupy the space required by yard setback dimensions.
 9. Each mobile home site shall be provided with a stand consisting of a solid concrete pad not less than four (4) inches thick, and not less than the length and width of the mobile home that will use this site. This pad will be so constructed, graded and placed to be durable and adequate for the support of the maximum anticipated load during all seasons.
 10. Each mobile home shall be supported on uniform jacks or blocks. In addition, each mobile home shall have tie downs or anchors securing both ends and sides.
 11. Alternative pad and support mechanisms (in lieu of items 9 and 10) may be approved by the Planning Commission upon request if accompanied by sketches or other documentation.
 12. An all-weather hard surfaced outdoor patio area of not less than one hundred eighty (180) square feet shall be provided at each mobile home site, conveniently located to the entrance of the mobile home and appropriately related to open areas of the lot and other facilities, for the purpose of providing suitable outdoor living space to supplement the limited interior space of a mobile home.
 13. Storage of goods and articles underneath any mobile home or out of doors at any mobile home site shall be prohibited.
 14. Uniform skirting of each mobile home base shall be required, within thirty (30) days after initial placement, such skirting shall be of twenty-six (26) gauge non-corrosive sheet metal or aluminum or material of equal strength and so constructed and attached to this mobile home so as to deter and prevent entry of rodents and insects.
 15. Canopies and awnings may be attached to any mobile home and may be enclosed and used for recreation or sun room purposes. When enclosed for living purposes, such shall be considered as a part of the mobile home and a permit required, issued by the Township Building Inspector, before such enclosure can be used for living purposes.

16. On-site outdoor laundry space of adequate area and suitable location shall be provided if park is not furnished with indoor dryers. Where outdoor drying space is required or desired, individual clothes drying facilities on each site of the collapsible umbrella type of hanging apparatus shall be allowed, with park management providing a concrete-embedded socket at site.
17. All mobile homes within such parks shall be suitable connected to common sewer and water services provided at each mobile home site.
 - All sanitary sewage facilities, including plumbing connections to each mobile home site, shall be constructed so that all facilities and lines are protected from freezing, from bumping or from creating any type of nuisance or health hazard. Sewage facilities shall be of such capacity to adequately serve all users of park at peak periods. Running water from a State tested and approved supply, designed for a minimum flow of two hundred (200) gallons per day per mobile home site shall be piped to each mobile home.
 - Storm drainage facilities shall be so constructed as to protect those that will reside in the mobile home park, as well as the property owners adjacent to the park. Such park facilities shall be of such capacity to insure rapid drainage and prevent the accumulation of stagnant pools of water in or adjacent to the park.
18. Disposal of Garbage and Trash:
 - All garbage and trash containers shall be placed in a conveniently located similarly designed enclosed structure(s). The removal of trash shall take place not less than once a week. Individual incinerators shall be prohibited.
 - The method used for such removal shall be approved by the State and inspected periodically by the Calhoun County Health Department.
19. Every mobile home shall be equipped at all times with fire extinguishing and smoke detecting equipment in good working order of such type and size so as to satisfy regulations of the State Fire Marshall.
20. All electric, telephone and other lines from supply poles outside the park or other sources to each mobile home site shall be underground.
21. Any common fuel oil storage shall be centrally located in underground tanks, at a distance away from any mobile home sites as it is found to be safe. All fuel lines leading to the park and to mobile home sites shall be underground and so designed

as to conform with any State code that is found to be applicable. When separate meters are installed, each shall be located in a uniform manner. The use of individual fuel oil or propane gas storage tanks to supply each mobile home separately is prohibited.

22. A buffer of trees and shrubs not less than twenty (20) feet in depth shall be located and maintained along all boundaries of such park excepting at established entrances and exist serving such park. When necessary for health, safety and welfare, a fence shall be required to separate park from an adjacent property.
23. Any and all plantings in the park shall be hardy plant materials and maintained in a neat and orderly manner. Withered and/or dead plant material shall be replaced within a reasonable period of time but not longer than one growing season.
24. A recreation space of at least three hundred (300) square feet of land per mobile home site in the park shall be developed and maintained by the management. This area shall not be less than one hundred (100) feet in its smallest dimension and its boundary no further than five hundred (500) feet from any mobile home site served. Streets, sidewalks, parking areas and accessory buildings are not to be included as recreation space in computing the necessary area.
25. All roads, driveways and motor vehicle parking spaces shall be paved and constructed as to handle all anticipated peak loads, and adequately drained and lighted for safety and ease of movement of pedestrians and vehicles. All road and driveways shall have curbs and gutters.
26. Two automobiles parking spaces shall be provided within one hundred fifty (150) feet of each mobile home site. In such park there shall be provided additional parking spaces in number not less than the number of mobile home sites within such park for central storage of all recreational type vehicles including trucks rated not more than one (1) ton. Said parking area shall be properly screened so as not to be a nuisance, and such park central storage shall not be closer than fifty (50) feet to any mobile home when such storage is allowed in the mobile home park. Each parking space shall have a minimum width of ten (10) feet and twenty (20) feet in length.
27. One (1) visitor parking space shall be provided for every two (2) mobile home sites and said parking shall be located within three hundred (300) feet of the mobile home site it is intended to serve.
28. Required standards for roadways, parking and traffic:

Motor Vehicle Parking	Minimum pavement width Traffic Use (curb face to curb face)	
Parking Prohibited	2-way road	22 feet
Parallel Parking (1 side only)	1-way road	22 feet
Parking Prohibited	1-way road	22 feet
Parallel Parking (2 sides)	1-way road	29 feet
Parallel Parking (2 sides)	2-way road	40 feet

29. When a cul-de-sac drive is provided, the radius of such roadway loop shall be a minimum of fifty (50) feet, curb face to curb face, with the drive length a maximum of three hundred (300) feet.
 30. Walkways shall not be less than four (4) feet in width excepting that sideways designed for common use of not more than three mobile home sites shall be not less than three (3) feet in width. Walkways shall be constructed with materials approved by the Planning Commission.
 31. When exterior television antenna installation is necessary, a master antenna shall be installed and extended to individual stands by underground lines. Such master antenna shall be so placed as not to be a nuisance to park residents or surrounding areas.
 32. Park owners and management are required to maintain the physical and natural facilities and features of the park in neat, orderly, safe manner.
- f. Unique Character Design:
1. Purpose of Interest: In the event an applicant of site plan approval desires unique flexibility in a mobile home park design that can be obtained from a unique character of development and still conform to the purpose and intent of this Ordinance even though the proposal does not comply with all provisions, one may apply for such by stating so on the site plan application. Qualifications for such unique character design shall be determined by the Township Planning Commission upon review of the preliminary sketch plan.
 2. Park standards shall be in accordance with the provisions under "required Development Standards", except for the following:

An added degree of flexibility may be granted in the placement and interrelationship of mobile home sites within the mobile home park except gross density of not more than eight (8) mobile home sites per any single acre within park shall be maintained

and no site shall be less than five thousand (5,000) square feet with the five thousand (5,000) square feet general standard being used for recreation purposes.

3. An added degree of flexibility may be granted in the yard dimension of a mobile home site in the following manner:

There shall be unobstructed open spaces of at least fifteen (15) feet between the side or end and sides of adjacent mobile homes for the full length of the mobile home, and at least ten (10) feet of unobstructed open space between the ends of the mobile home.

No window of any mobile home shall open onto any other mobile home face unless such dimension between mobile home is at least fifteen (15) feet.

No main doorway of any mobile home shall open onto another mobile home main doorway unless such dimension between mobile homes is at least thirty (30) feet.

- g. **Permits:** The application for the installation or construction of a mobile home park shall be accompanied by deposit in accordance with the requirements specified in Section 24.08, to defray the expense of hearings, publications and reports by engineers and other experts in assistance to the Township Board in its consideration of said application. The issuance of a permit shall entitle a proprietor to continue to operate a mobile home park so long as he remains in compliance with the regulatory ordinances of the Township and the State of Michigan. The permittee under the terms of this Ordinance does by application for such a permit expressly grant to the Township Board, for enforcement of this Ordinance, power and authority to enter upon the premises of such mobile home park at any time for the purpose of inspection and enforcement of this or any other Township ordinance applicable to the conduct and operation of mobile home parks. The applicant will be refunded the unexpended portion of the deposit within ninety (90) days of the final decision of the Township Board.
- h. **Revocation of Permits:** In the event a mobile home park shall violate any of the regulations of the ordinance or any other Township ordinances applicable to the conduct and operation of a mobile home park, he shall be ordered to show cause before the Township Board at an open public meeting why his permit shall not be revoked, and if it shall appear why his permit shall not be revoked, and if it shall appear that the proprietor has violated any of the provisions of the Township applicable to the conduct and operation of a mobile home park, his permit shall be revoked and he shall cease to operate, or a civil penalty of not to exceed one hundred (100) dollars per day for each day of violation will be imposed.

SECTION 14.10 – Drive-in Theaters and Temporary Transient Amusement Enterprises

- a. Drive-in theaters shall be enclosed for their full periphery with an opaque fence at least seven (7) feet in height. Fences shall be of sound construction, painted or otherwise finished neatly and inconspicuously.
- b. All fenced in areas shall be set back at least one hundred (100) feet from any front street or property line. In addition, the Planning Commission may require a greenbelt in accordance with the provisions of ARTICLE 13.
- c. All traffic ingress and egress shall be on major streets and all local traffic movement shall be accommodated within the site so that entering and existing vehicles will make normal and uncomplicated movements into or out of the public thoroughfares. All points of entrance or exist for motor vehicles shall be located no closer than two hundred (200) feet from the intersection of any two (2) streets or highways.

SECTION 14.11 – Gasoline Service Stations

Any gasoline service station or filling station in any district shall conform at least to the following regulations. Where the intensity regulations for any district in which a gasoline service station is located are more restrictive than the regulations contained hereinafter, all gasoline service stations or filling stations shall conform to the more restrictive dimensional requirements.

- a. **Frontage and Area:** Every gasoline service station shall have a minimum frontage of one hundred twenty (120) feet and a minimum area of twelve thousand (12,000) square feet.
- b. **Setback:** Every structure erected for use as a gasoline service station shall have a minimum setback from the street right-of-way of thirty-five (35) feet and a minimum setback from all property lines of twenty-five (25) feet. A greenbelt area in accordance with the regulations specified in Section 13.07 may be required by the Township Board. No part of the setback or greenbelt area shall be used for the storage of dismantled vehicles or junk.
- c. **Construction Standards:** All vehicles service areas shall be constructed to conform to the following standards:
 1. Suitable separation shall be made between the pedestrian sidewalk and vehicular parking or moving area with the used of appropriate bumper, wheel guards or traffic islands. Where the portion of the property used for vehicular traffic abuts a street, said portion shall be separated from the street line by a curb at least six (6) inches high.

2. The entire area used for vehicle service shall be paved and all other areas shall be landscaped and protected from vehicular use by a low barrier.
 3. Hydraulic hoist, lubricating, greasing, automobile body repair and painting, washing, and repair equipment shall be entirely within a building. Tire and battery service and minor automobile repairs may be carried on outside of the building.
 4. The maximum widths of all driveways at the sidewalk shall be no wider than thirty (30) feet.
 5. Minimum angle of driveway intersection with the street from the curb line to lot line shall be no less than sixty (60) degrees.
 6. The minimum distance between curb cuts shall be no less than forty (40) feet.
- d. Lighting: All lighting shall be accomplished in a manner such that no illumination source causes nuisance to adjacent properties.

SECTION 14.12 – Sanitary Landfill

- a. Provided that such use shall be permitted as a conditional use only in the AA – Agricultural and the HI – Heavy Industrial Districts shall conform to all State of Michigan and County Health Department regulations of such use; and the permit for such use shall be subject to annual renewal.

SECTION 14.13 – Development of Natural Resources

- a. Pits and quarries shall be completely enclosed by a fence four (4) or more feet in height for the safety of the general public. Said fence shall be placed no closer than ten (10) feet to the outside perimeter of the pit or quarry. Said fence shall conform with the minimum setback requirements of the district in which it is located.
- b. No slope shall exceed an angle with the horizontal of more than thirty (30) degrees for the first twelve (12) feet along the horizontal, after which the slope shall not exceed an angle with the horizontal of more than forty-five (45) degrees.
- c. All areas so used shall be rehabilitated progressively as they are worked out or abandoned to a condition entirely free from hazards and blending with the surrounding natural grounds. All slopes and banks shall be reasonably graded to prevent excessive erosion.
- d. The Planning Commission, upon recommendation from the County Road Commission, shall establish routes of ingress and egress for truck movement in order to minimize the wear on

public roads and to prevent hazards to traffic. All interior roadways shall be chemically treated to reduce dust.

SECTION 14.14 – Camps and Lodges

Including private and semi-private camps and lodges for active and passive recreation uses, provided that such activity shall be permitted as a conditional use only in the AA – Agricultural, RA – Low Density Residential and the OC – Open Space and Waterbody conservation districts and shall comply with the following provisions.

- a. No commercial activity shall be conducted on the premises, except as an accessory use.
- b. Such use shall be located on a site of not less than one (1) acre in size.
- c. Building shall not exceed thirty (30) feet in height and shall be located no nearer to any property line than forty (40) feet. Yards may be utilized for parking provided that such parking shall not be closer than ten (10) feet to any side or rear property line, nor twenty (20) feet to any street or highway right-of-way line.
- d. Parking areas located adjacent to any residential or institutional use shall be screened from such use by an approved fence, or masonry wall of not less than four (4) nor greater than eight (8) feet in height. In lieu of screens the parking area from adjacent properties may be planted and maintained at a height of not less than four (4) feet.

SECTION 14.15 – Planned Unit Residential Developments

The owner or owners of any tract of land in the RA, RB or MF Districts comprising in area of not less than five (5) acres may submit to the Township Planning Commission a site plan for the use and development of the tract as a Planned Unit Residential Development (PURD).

- a. Required Standards for Approval:
 1. The maximum number of dwelling units permitted shall be determined by dividing the net development area by the minimum lot area per dwelling unit required by the underlying district or districts in which the PURD site is located. Net development area is determined by subtracting water, muck and peat areas, and areas set aside for churches, schools and similar facilities and the area proposed for streets from the gross development area.

The area of land set aside for common land, open space or recreation, except as above indicated, shall be included as a part of the net development area.

2. The proposed development will be served adequately by essential public facilities and service, such as highways, streets, police and fire protection, drainage structures, refuse disposal; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service. Public water and sewer systems shall serve the development whenever deemed feasible by the Township.
 3. The proposed unit is of such size, composition and arrangement that its construction and marketing operation is a complete unit, without dependence on any subsequent unit of development.
 4. The common open space, any other common properties, individual properties, and all other elements of the Planned Unit Residential Development are so planned that they will achieve a unified environmental scheme, with open spaces, and all other elements in appropriate locations, suitably related to each other, the site and surrounding land.
 5. In view of the "conditional use" nature of the PURD amendment procedure, deed restrictions and covenants entered into or proposed to be contracted for, by the developer become an appropriate consideration of the Township Planning Commission. The Planning Commission shall consider the manner in which the lawful contractual techniques can augment lawful zoning techniques in attaining the objectives of the PURD amendment and may make its recommendations conditional upon these contractual relations between private parties, or may recommend procedures whereby the Township become a party to such contractual relations.
- c. Required Provisions in Site Plan: The Plaintiff shall contain such proposed covenants, easements, and other provisions relating to the bulk, location, and density of residential unit, accessory uses, thereto, and public facilities as may be necessary for the welfare of the Planned Unit Residential Development and not inconsistent with the best interests of the entire Township.

The applicant may be required to dedicate land for street or parking purposes and, by appropriate covenants, to restrict areas perpetually (or for the duration of the PURD) as open space for common use. The development as authorized shall be subject to all conditions of this Ordinance only to the extent specified in the authorization.

- d. Tentative Township Board Approval: The Township Board, upon the receipt of the Planning Commission's report on the proposed plan, may then give tentative approval to such plans, incorporating with the approval such conditions as the Board deems appropriate and in harmony with the general spirit of this Ordinance to promote the public health, safety, convenience and general welfare.

The applicant shall then review his application and plan in final approved form and sign a statement that the Planned Unit Residential Development plan in its final form shall be binding on the applicant, his heirs, successors and assignees.

When the Township Board gives final approval, a conditional use permit shall be issued for the PURD even though the size of lots, the depth of yards and the required distance between grouped buildings and the building height, may not conform in all respects to the regulations of the district in which the project is to be located.

SECTION 14.16 – Planned Neighborhood Shopping Centers

Such centers shall be permitted as a conditional use in the HS – Highway Service Commercial Districts and shall comply with the following provisions:

- a. Uses Permitted: Any use permitted in the HD District.
- b. Site Development:
 1. Such development shall occupy a site of not less than three (3) acres with not less than three hundred (300) feet of street frontage.
 2. No building shall be located nearer to the neighborhood center than a distance equal to twice the height of said building.
 3. No building shall exceed the height limitation specified in the zoning district in which it is located.
- c. Screening: When such development is located in or adjacent to a Residential District, or when located adjacent to a public institution or open space, a greenbelt shall be required in accordance with the regulations specified in Section 13.07.
- d. Lighting: All lighting shall be accomplished in a manner such that no illumination source causes a nuisance to adjacent properties.
- e. Vehicular Approach: Driveways and approaches to the property shall be so designed and located as to create minimum interference with traffic on the surrounding public streets. No more than two (2) driveways shall be located as far from street intersections as practicable, but in no case less than fifty (50) feet.
- f. Parking and Circulation: There shall be provided no less than four (4) square feet of parking and circulation space for every one (1) square foot of floor area within the center. On-site circulation facilities shall be designed so that there shall be no backing upon of traffic into

public street. All areas accessible to traffic shall be paved and maintained so as to provide a smooth, dustless and well drained surface. Such areas shall be lighted for those hours of darkness during which establishments within the center are open for business.

SECTION 14.17 – Essential Service Buildings

In every zoning district, except industrial, the following essential service buildings shall be required to have a conditional use permit prior to their construction: high voltage transmission towers, transformer substations, pumping stations, communications relay stations, gas and steam regulating valves and stations and buildings of similar function.

No building shall be used for residential purposes.

An opaque fence or greenbelt may be required by the Township Board when deemed necessary.

SECTION 14.18 – Agri-Business

- a. Provided that such use be permitted as a conditional use only in the Agricultural District.
- b. An Agri-Business is any buildings, structures, lots, parcels or parts thereof which provide services, goods, storage, transportation or other activities directly related to the production of agricultural commodities. An Agri-Business may include, but is not limited to:
 1. Farm machinery, sales, service, rental and repair
 2. Grain elevators for storage, drying and sales
 3. Bulk feed and fertilizer outlets and distribution centers
 4. Seed dealership outlets and distribution centers
 5. Grain and livestock trucking and cartage facilities
 6. Slaughter houses
 7. Auctions for livestock
 8. Dairy products production and processing operations

SECTION 14.19 – Communication Towers

A. Qualifying Conditions

1. The following requirements shall apply:
 - a. A minimum lot size shall comply with the minimum requirements of the Zoning District within which the tower is proposed.

- b. The use of guyed wires is strictly prohibited within one thousand (1,000) feet of an existing Residential Zoning District (RA < RB or MF).
- c. The base of the tower and wire cable supports shall be fenced with a minimum six (6) foot high chain link fence.
- d. To the extent possible, tower sites shall not be located within one thousand (1,000) feet of an existing Residential Zoning District (as listed in Section 18.20.A.1.b.), unless applicant can demonstrate that no other usable site (including collocation) is available. Upon an adequate showing that a tower siting is not possible to meet the demonstrated need in paragraph e. Of this subsection, the Planning Commission may consider a conditional use permit for a site as near in proximity as possible to the requirements of this zoning ordinance.
- e. All applications shall be accompanied by a written demonstration of need (including height) at the proposed location.
- f. To the extent possible, towers shall be constructed to facilitate collocation.

2. Special Performance Standards:

- a. The tower must be setback from all property lines a distance equal to its height, unless engineering plans and specifications have been verified by the Township Engineer that the structural integrity of the tower will withstand high winds and impacts, and the likelihood of a tower failure is minimal. The applicant shall incur all costs associated with Township Engineering review.
- b. Accessory structures including guyed wire bases, are limited to uses associated with the operation of the tower and may not be located any closer to any property line than thirty (30) feet. Nothing shall prevent an applicant from applying to the Board of Appeals for a setback variance.
- c. Each accessory structure shall not exceed six hundred (600) square feet of gross building area.
- d. All setback requirements within the zoning ordinance shall be met.
- e. All towers shall be equipped with an anticleimbing device to prevent unauthorized access.

- f. The plans of the tower construction shall be certified by a registered structural engineer.
- g. The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.
- h. All towers must meet the standards of the Federal Aviation Administration and the Federal Communications Commission.
- i. Communications towers in excess of one hundred (100) feet in height above grade level shall be prohibited within a two (2) mile radius of a public airport or 1/2 mile radius of a helipad.
- j. No part of any tower or antenna shall be constructed, located, or maintained at any time, permanently or temporarily, on or upon any required setback area for the district in which the antenna or tower is to be located. In no case shall a tower or antenna be located within thirty (30) feet of a property line. Nothing shall prevent an applicant from applying to the Board of Appeals for a setback variance.
- k. Metal towers shall be constructed of, or treated within, corrosive-resistant material.
- l. Antennae and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local structures, regulations and standards.
- m. Towers with antennae shall be designed to withstand a uniform wind loading as prescribed in the building code.
- n. All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight (8) feet above the ground at all points, unless buried underground.
- o. Towers and antennae shall be located and operate so that they do not interfere with reception in nearby residential areas.
- p. Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property owned and or leased by the applicant.

- q. Height of the tower shall not exceed one hundred seventy-five (175) feet from grade if located within one thousand (1,000) feet of an existing Residential Zoning District (as defined in this Section); and shall not exceed the minimum height necessary to meet documented need in any event.
- r. Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA).
- s. Existing on-site vegetation shall be preserve to the maximum extent practicable.
- t. There shall not be displayed advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes.
- u. The antenna shall be treated to match the exterior treatment of the tower. The chosen scheme should be designed to minimize off-site visibility of the antenna.
- v. Structures shall be subject to any state and federal regulations concerning nonionizing electromagnetic radiation. 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 Conditional Use approval will be subject to revocation by the Township Board. Cost for testing and verification of the compliance shall be borne by the operators of the antennae.
- w. There shall be no employees located on the site on a permanent basis to service or maintain the tower and antenna. Occasional or temporary repair and service activities are excluded from this restriction.
- x. An access exclusive to the communication tower shall be required and shall be gated to prevent unauthorized entry by unauthorized vehicles.
- y. Where the property is within one thousand (1,000) feet of any existing Residential Zoning District, the developer shall plant two (2) alternating rows of evergreen trees with a minimum height of five (5) feet on twenty (20) foot centers along the entire perimeter fenced enclosure of the tower and related structures. In no case shall the evergreens be any closer than ten (10) feet to any structure.

- z. The tower shall be removed by the property owner or lessee within six (6) months of being abandoned.
- aa. A performance guarantee, bond or satisfactory financial surety at the discretion of the Planning Commission shall be required to provide for tower removal and site reclamation.
- bb. The demonstrated need, tower height and type (monopole skeleton framework, guyed wire) and any other technical claims shall be subject to independent verification at the applicant's cost.
- cc. The applicant shall indicate to the Township the existing or proposed land line phone service provider to provide for assurance that existing utility franchise agreements are maintained.

B. Additional Requirements

1. Unless the height and transmission power of towers and antennae (cumulative power in the case of multiple antenna structures) are within categorically excluded limits established by the Federal Communications Commission (as documents by the applicant and verifiable by the Township at applicant expense) no radio frequency (RF) measurements shall be required unless item B.2 (below) applies.
2. Any individual residing within close proximity to a tower who complied with FCC procedures for requesting RF emissions testing shall be accommodated by the applicant and comply with testing results as a condition of special land use permit continuance.
3. Periodic verification of tower structural integrity may be required.
4. The applicant shall indemnify the Township from any claims from the operation of the antenna/tower or structural failure of the antenna/tower and shall name the Township as a co-insured in a manner acceptable to the Township.

ORDINANCE NO. 2-9-2017 OF 2017

AN ORDINANCE TO AMEND THE BURLINGTON TOWNSHIP ZONING ORDINANCE TO ALLOW COMMERCIAL STORAGE WAREHOUSE FACILITIES AND SPECIAL EVENT CENTERS IN THE HS-HIGHWAY SERVICE COMMERCIAL DISTRICT AND TO OTHERWISE PROTECT THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE.

THE TOWNSHIP OF BURLINGTON, Calhoun County, Michigan, ordains:

SECTION 1. Section 2.02 of the 1977 Zoning Ordinance of Burlington Township, as amended, is amended to add the following definitions:

BANQUET HALL: A use which provides rental space for such functions as, but not limited to: wedding parties, conferences, service club meetings, and other similar gatherings, along with the catering of food services off the premises. For purposes of this Ordinance, the licensed sale of beer, wine, and/or spirits shall only be permitted in connection with and incidental to those scheduled functions carried out on the premises when a full food service is extended. Compliance of all rules of the Michigan Liquor Control Commission and the laws in the State of Michigan concerning the sale of alcohol is required.

MINI-STORAGE WAREHOUSE: A building or group of buildings in a controlled-access compound that contains varying sizes of individual, compartmentalized, and controlled-access stalls or lockers, each with a separate door and lock, for the commercial storage of customer's goods or wares. Mini-storage warehouses are commonly referred to "mini-storage or self-storage units."

SECTION 2. Subparagraphs "d." and "e." of Section 8.04 of the 1977 Zoning Ordinance of Burlington Township, as amended, are hereby created to read as follows:

- d. *Banquet hall.*
- e. *Mini-storage warehouse (mini-storage or self-storage units).*

SECTION 3. Section 14.20 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby created to read as follows:

SECTION 14.20 – Banquet Halls

Such uses are subject to the following:

- a. *Compatibility with adjacent or existing or proposed residential properties shall be a primary concern.*
- b. *Front, rear and side buildings setbacks shall be not less than eighty (80) feet from any residential district or residentially used property.*

- c. *Screening of residential uses to restrict view from residential property shall be provided by a solid fence or wall six (6) feet in height, or a solid strip of evergreen plantings, pursuant to a plan approved as part of the development, within an area of at least twenty (20) feet in width, with approved trees eight (8) to ten (10) feet in height at planting.*
- d. *All exterior doors and the sides of buildings adjacent to residential properties shall be for emergency exit only, except that such entrances may also be used by caterers and the physically disabled and, in the event of inclement weather, by attendees.*
- e. *All exterior lighting shall be directed along exterior walls and away from residential property.*
- f. *The use must fit into the size, scale, height, texture, material, and landscaping pattern of the existing neighborhood.*
- g. *Adequate measures shall be taken to provide ingress and egress so designed to minimize traffic congestion on public streets. There shall be no ingress or egress from or to a local residential street.*
- h. *Trash receptacles shall be located in fenced area, or there shall be a trash compactor that complies with all applicable noise regulations.*

SECTION 4. Section 14.21 of the 1977 Zoning Ordinance of Burlington Township, as amended, is hereby created to read as follows:

SECTION 14.21 – Mini-Storage Warehouses (Mini-Storage or Self-Storage Units)

- a. *Minimum lot areas shall be two (2) acres or eighty-seven thousand one hundred twenty (87,120) square feet.*
- b. *No more than eighty five (85) percent of the lot may be covered by buildings, on site driveways, parking and loading areas, and vehicular circulation isles.*
- c. *Parking and circulation:*
 - 1. *One (1) parking space shall be provided for each ten (10) storage cubicles and shall be equally distributed throughout the site.*
 - 2. *All driveways, parking and loading areas, and vehicular circulation isles shall be paved.*
- d. *A six (6) foot fence shall surround the property. The fence shall be aesthetically pleasing and be made of an acceptable material, such as, but not limited to, redwood, cedar block, or chain link. The fence must be set back at least twenty (20) feet from the road right of way.*


- e. *The use shall be screened from adjacent residential uses with a proper buffer or greenbelt as described in Section 13.07.*
- f. *The facility shall be fully lighted to ensure optimal security. Any lights shall be shielded to direct light onto the use established and away from the adjacent properties.*
- g. *An office may be permitted on site, but the office area shall be included in calculating the lot coverage.*
- h. *No outdoor storage shall be permitted on the premises.*
- i. *No toxic, hazardous, or flammable materials may be stored in any such unit.*
- j. *The Planning Commission may stipulate additional standards to promote health, safety, and welfare to the public.*

SECTION 5. SEVERABILITY. If any provision of this Ordinance shall be held invalid, its invalidity shall not affect any other provisions of this Ordinance that can be given effect without the invalid provision, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

SECTION 6. REPEAL. All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION 7. EFFECTIVE DATE. Pursuant to Sec. 401 of the Michigan Zoning Enabling Act (MCL 125.3401), this Ordinance shall take effect seven (7) days after publication of this Ordinance or a summary of the regulatory effect thereof which publication shall occur in a newspaper of general circulation in the Township within fifteen (15) days after adoption.

This Ordinance is hereby declared to have been passed and adopted by the Township of Burlington, County of Calhoun, State of Michigan, at a regularly scheduled meeting thereof duly called and held on this 9th day of February, 2017.



Arthur D. Smith, Supervisor

ATTEST:



Darlene Mack, Clerk

Prepared by:
John H. Macfarlane (P29075)
Mumford, Schubel, Macfarlane & Barnett, PLLC

/dlh

ARTICLE 15

RIPARIAN LOT USE REGULATIONS

SECTION 15.01 – 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.

SECTION 15.02 – 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:

- a. That said parcel of land shall contain at least 70 lineal 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.
- b. That in no event shall water frontage of such parcel of land consist of a swamp, marsh, or bog as show 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.
- c. 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.
- d. 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.

SECTION 15.03 – Definition

“Access Property” shall mean 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.

ARTICLE 16

CONDOMINIUM REGULATIONS

SECTION 16.01 – Purpose

This ARTICLE is intended to provide for condominium projects within the Township, establish comparable regulations to guide development of such projects in a manner similar to comparable development allowed within the Zoning Ordinance, and to establish development standards and required information to assure adequate compliance within the purposes of this Ordinance including:

- a. orderly growth and harmonious development of the community as planned for in the Township Master Plan, and
- b. to secure adequate traffic circulation and safety through coordinated street system with relation to the county and state paved road system, future development, public services and facilities, and
- c. to provide for development which can be timed in a manner consistent with planned or needed public improvements so as not to create an undue inconvenience, hazard or financial burden for present residents of the Township, and
- d. to secure adequate provisions for water supply, storm drainage, sanitary sewage disposal and other public health and safety needs, including safe and coordinated interconnection with existing and planned paved roadways, and to provide for the achievement of these purposes, and
- e. to provide for an environmental assessment and when necessary to evaluate the impact of proposed developments to assure minimum impact of the natural environment including but not limited to the wetlands, surface waters, groundwater, flora and fauna of the community.

SECTION 16.02 – Definitions

In addition to the terms defined in the Township Zoning Ordinance and Subdivision Ordinance and the following terms shall have the meanings as shown in this Section. Terms defined in the Condominium Act, in addition to the terms defined herein, shall have the meanings as defined therein:

- a. **Building Site:** The condominium unit including the building envelope and contiguous limited common area or element. The functional equivalent of a lot when lot is used as a reference in the Zoning Ordinance the regulation shall also refer to building site.

- b. Condominium Act: Public Act 59 of the 1978 Acts of the Michigan Legislature, as amended (Section 559.101 et. seq. of the Michigan Compiled Laws).
- c. Condominium Plan: The drawings and information prepared in compliance with the Zoning Ordinance which display the proposed site layout, survey and utility plans; floor plans; floodplain plans; and sections, as appropriate, showing the existing and proposed structures and improvements including the location thereof on the land. The condominium plan shall show the size, location, area and horizontal boundaries of each unit as well as vertical boundaries and volume for each unit comprised of enclosed air space. A number shall be assigned to each condominium unit. The condominium plan shall include the nature, location and approximate size of common elements.
- d. Condominium Project. A plan or project consisting of not less than two condominium units if established and approved in conformance with the Condominium Act.
- e. Condominium Subdivision Plan: Shall mean the same as Condominium Plan.
- f. Condominium Unit. That portion of the condominium project designed and intended for separate ownership and use as described in the master deed and shall be equivalent to the term 'lot' as used in Township Ordinances.

SECTION 16.03 – Required Information

Concurrently wit notice required to be given the Township pursuant to Section 71 of Public Act 59 of 1978, as amended (MCL 559.171) a person, firm or corporation intending to develop a condominium project shall provide the following information with respect to the project:

- a. The name, address and telephone number of:
 - 1. All persons, firms or corporations with an ownership interest in the land on which the condominium project will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee or land contract vendee).
 - 2. All engineers, attorneys, architects or registered land surveyors associated with the project.
 - 3. The developer or proprietor of the condominium project.
- b. The legal description of the land on which the condominium project will be developed together with appropriate tax identification numbers.
- c. The acreage content of the land on which the condominium project will be developed.

- d. The purpose of the project (for example, residential, commercial, industrial, etc.)
- e. Approximate number of condominium units to be developed on the subject parcel.
- f. Whether or not a community water system is contemplated.
- g. Whether or not a community septic system is contemplated.

SECTION 16.04 – Current Information

All information shall be furnished to the Zoning Administrator and shall be kept updated until such time as a Certificate of Occupancy has been issued.

SECTION 16.05 – Site Plans – New Projects – Master Deed, and Engineering and Inspections

Prior to recording of the Master Deed required by Section 72 of the Condominium Act, as amended (MCL 559.108), the condominium project shall undergo site plan review and approval. In addition, the Township shall require appropriate engineering plans and inspection prior to the issuance of any Certificate of Occupancy. Prior to expansion or conversion of a condominium project to additional land the new phase of the project shall undergo site plan review and approval.

SECTION 16.06 – Master Deed, Restrictive Covenants and “As-Built” Survey to be Furnished

The condominium project developer or proprietor shall furnish the Zoning Administrator with the following: One copy of the recorded Master Deed, one copy of all restrictive covenants and two copies of an “as-built survey”. The “as-built survey” shall be reviewed by the Township Engineer for engineering aspects and the Township Planner for compliance with Township Ordinances. Fees for these reviews shall be established by resolution of the Township Board in addition to those otherwise required by Township Ordinances.

SECTION 16.07 – Monuments Required – Site Condominium Projects

All condominium projects which consist in whole or in part of condominium units which are building sites, mobile home sites, or recreational sites shall be marked with monuments as provided in this Section.

- a. Monuments shall be located in the ground and made according to the following requirement, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium project if the angle points can be readily reestablished by reference to monuments along the sidelines of the streets.

- b. All monuments used shall be made of solid iron or steel bars at least one-half (½) inch in diameter and thirty-six (36) inches long and completely encased in concrete at least four (4) inches in diameter.
- c. Monuments shall be located in the ground at all angles in the boundaries of the condominium project; at all intersection lines of streets and at the intersection of the lines of streets with the boundaries of the condominium project and at the intersection of alleys with the boundaries of the condominium project; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in all side lines of streets and alleys; at all angles of an intermediate traverse line and at intersections with elements and all common elements.
- d. If the required location of a monument is an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plans and referenced to the true point.
- e. If a point required to be monumented is on a bedrock outcropping, a steel rod, at least one-half (½) inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight (8) inches.
- f. All required monuments shall be placed flush with the ground where practicable.
- g. All unit corners shall be monumented in the field by iron or steel bars or iron pipes at least eighteen (18) inches long and one half (½) inch in diameter, or other approved markers.
- h. The Township Board may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one (1) year, on the condition that the proprietor deposits with the Township Clerk cash or a certified check, or irrevocable bank letter of credit running to the Township, whichever the proprietor selects, in an amount set by resolution of the Township Board. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.

SECTION 16.08 – Monuments Required – All Condominium Projects

All condominium projects shall be marked at their boundaries with monuments meeting the requirements of Section 16.07, c above.

SECTION 16.09 – Compliance with Federal, State and Local Law

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

SECTION 16.10 – State and County Approval

The developer or proprietor of the condominium project shall establish that appropriate state and county approvals have been received with regard to the fresh water system for the proposed project and with regard to the wastewater disposal system for the proposed project.

SECTION 16.11 – Temporary Occupancy

The Zoning Administrator may allow occupancy of the condominium project before all improvements required by this Ordinance are installed provided that a bond is submitted 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.

SECTION 16.12 – Street Standards, Site Plan Submittal, Inspections

All streets located within a Condominium Project shall be constructed and paved in accordance with the standards and specifications of the County Road Commission and Township Subdivision Ordinance for developments comparable in use, frontage, etc., to the condominium project. All condominium roads shall be designated and remain common elements as specified in the Master Deed. The Master Deed shall contain a clause approved by the Township Board which allows an assessment against condominium owners for road maintenance for the purposes of public safety and welfare. Where standards differ, the more restrictive standard shall apply. After submittal of the condominium plan and bylaws as part of the Master Deed, the proprietor shall furnish to the Township a copy of the site plan on a Mylar sheet twenty-four by thirty-six (24 x 36) inches with an image not-to-exceed eight and one-half by fourteen (8-1/2 x 14) inches.

Prior to issuance of a Final Certificate of Occupancy by the Township, the Township Engineer shall inspect all site improvements, including roads, water, sanitary and storm sewer facilities, grading and road signs, and determine compliance with all applicable Township Ordinances and requirements.

ARTICLE 17

OPEN SPACE PRESERVATION OVERLAY DISTRICT

SECTION 17.01 – Purpose

This Article is intended to provide an alternative development option for land owners of parcels in the following zoning districts in accordance with Section 506 of the Michigan Zoning Enabling Act, 2006 PA 110, as amended (MCL 125.3506): AA Agricultural District, RA Low Density Residential District, and RB Medium Density Residential District. Residential Density which could be developed under any other provisions of this Zoning Ordinance may be developed on not more than fifty percent of the land in question subject to the provisions contained herein. In this manner, the preservation of the balance of the land in question will be assured to meet the objectives of open space preservation. Definitions of words used in this Article shall have the meaning as contained in 2006 PA 110, as amended.

SECTION 17.02 - Overlay District Established

Pursuant to the requirements of the Michigan Zoning Enabling Act, 2006 PA 10, as amended (MCL 125.3101, et seq.) an Open Space Preservation Overlay District is hereby created. This district permits, at the option of the landowner, for the development of residential units on a portion of the property provided that fifty percent or more of the land is preserved in permanent open space. The district is an overlay over those existing districts that have a residential density of three units per acre or less (with public sewer) or two units per acre or less (without public sewer). This shall be a development option for land owners within the following districts: AA Agricultural, RA Low Density Residential District, and RB Medium Residential Density District.

SECTION 17.03 – Design Criteria

The following standards shall be met by development proposals under this Article:

- a. The total number of residential building sites which can be created is based upon the number which could be developed on the subject parcel in the absence of this Article. The Planning Commission shall determine the number of residential sites based upon a review of a traditional layout design submitted by the applicant. The traditional layout is required to meet all zoning ordinance requirements. Lands within public rights-of-way shall not be included within the minimum lot area calculation. Each parcel shall meet minimum public health requirements for on-site water supply and suitability of soils for on-site sewage disposal.
- b. Open space shall comprise of at least 50% of the subject parcel outside the proposed area of each building site. Such open space shall remain perpetually in an undeveloped state by

means of a conservation easement as defined in Section 2140 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (MCL 324.2140), plat dedication, restrictive covenant, or other legal means that runs with the land acceptable to the township board and the township attorney.

- c. Any reduction in the area requirements (minimum area, lot width or yard and setback requirements) shall be the minimum necessary (but in no case less than fifty percent) to meet the purpose of this Article.

SECTION 17.04 - Procedure for Approval

A. Application procedure.

1. An application will be filed identifying the landowner's desire to exercise the open space preservation development option. With the application, the landowner shall submit a comparison plan that adheres to site development requirements for the underlying zoning district. This can be in the form of a proposed plat establishing lots, a land division plan creating parcels, or a planned unit residential development creating sites and/or units. This comparison plan will determine the number of dwelling units that can be developed within the open space preservation plan. This application and comparison may be reviewed administratively with the applicant prior to the submission of a site plan.

2. A site plan, adhering to the standards within the ordinance under section 13.22, will be submitted for review and approval by the planning commission. It will be entitled "Open Space Preservation Plan" and a copy of the comparison plan will be included with the site plan. A copy of these plans will be submitted to the Calhoun County Health Department by the applicant for their review and any correspondence received from them will be submitted by the applicant to the township.

3. The planning commission will review the site plan and determine compliance with the ordinance standards for:

- a. Site plan review;
- b. Requirements within the underlying zoning district; and
- c. The requirements of this overlay district including site development requirements listed in section 17.04.B below.

The Planning Commission may approve the site plan as presented, approve subject to conditions or changes reflected in the motion to approve, table

pending the submission of additional information, or deny the request based upon noncompliance with the ordinance standards.

4. The applicant shall submit a time-line for development and identify any phases that may require further township review and approval. The planning commission may impose conditions on this development and in no case can required open space in each phase not meet a minimum of 50 percent of the area for that phase.

B. Conditions for approval. The required conditions will be based upon the layout and design of the dwelling units and preservation of the open space as follows:

1. Initial conditions. New parcels within the AA and RA districts may be created in accordance with the open space preservation option if both of the following apply:

a. The development does not depend upon the extension of a public sewer or a public water supply system, unless development of the land without the exercise of the option provided by this article would also depend upon such an extension.

b. The option provided pursuant to this section has not previously been exercised with respect to that land.

2. Open space preservation option. A maximum of 50 percent of any parent parcel buildable area may be divided into new parcels as described below. The remaining 50 percent plus of the parent parcel shall be kept as open space in perpetuity by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land acceptable to the planning commission and township attorney. Development rights shall be transferred from the portion of the parent parcel kept as open space to the parent parcel's buildable area such that the same number of dwelling units as would otherwise be allowed on the entire area in the absence of the open space preservation option shall be allowed on the parent parcel's buildable area.

3. Layout/design provisions. The layout and design of the dwelling units will be in a manner that achieves the greatest compatibility with surrounding land use and with the intent and purpose of this overlay district and the underlying zone. It will balance what is economically feasible for efficient conservation development with the need to preserve the character of the area.

4. Additional provisions. The intent of this overlay district is to preserve land in an undeveloped state as well as to preserve the character of the area consistent with that of the underlying zone. In order to achieve this intent, the following conditions will apply:

a. The applicant will provide documentation of the means to preserve the open space, whether in the form of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land acceptable to the planning commission. The applicant shall likewise identify the party responsible for maintenance of the open space area. If proposed for dedication to the public, a letter of support from the public entity, indicating acceptance and responsibility for maintenance, will be included with the application. The planning commission and township attorney may impose conditions on the preserved open space, and any change in use shall require a formal amendment of the site plan.

b. No part of the developed parcels, lots or sites will be counted toward the open space, nor shall any land devoted to roadways or other impervious surfaces, other than those of a recreational nature (such as bike paths, recreational trails or linear park paths).

c. The open space will be arranged in a manner so that it is contiguous and accessible by residents within the residential development. It shall also be arranged to connect to other open space areas on adjoining properties and/or connected to possible pedestrian or nonmotorized trails. The planning commission shall approve open space preservation project with the goals and objectives for establishing the district.

d. The open space shall preserve those areas where protection of the highest quality of natural resource is achieved. This includes areas of mature tree stands or forested areas, habitat areas for wildlife or similar areas that could otherwise be developed.

ARTICLE 18

(RESERVED)

ARTICLE 19

NONCONFORMING BUILDINGS AND USES

SECTION 19.01 - Nonconforming Uses of Land

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

- a. No such nonconforming use shall be enlarged or increased to occupy a larger area, nor moved in whole or in part to any other portion of the lot or parcel occupied at the effective date or adoption or amendment of this Ordinance.
- b. Any nonconforming use of land abandoned for a period of more than ninety (90) days shall subsequently conform to the requirements of this Ordinance.

SECTION 19.02 - Nonconforming Uses of Buildings

Where a lawful building exists at the effective date of this Ordinance, or amendment thereto, that could not be build under this Ordinance by reason of its location on the lot, lot coverage, height, yard or other characteristics, such structure may be continued, subject to the following:

- a. Any structure existing at the effective date of this Ordinance, devoted to a use not permitted by this Ordinance in the district in which it is located shall not be altered, enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

- b. When a nonconforming use of a building is vacated or abandoned for six (6) consecutive months, the building shall not be used thereafter except in conformance with the regulations of the district in which it is located.

SECTION 19.03 - Nonconforming Buildings

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

- a. No such structure may be enlarged or altered in a way which increases its nonconformity, except that buildings and structures on lots of record at the effective date of this Ordinance shall be exempt from this requirement.
- b. All lots of record at the effective date of this Ordinance shall be exempt from Sections 19.03 d., and 4.04 a.
- c. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved, provided that mobile homes may be replaced with similar units.
- d. Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. Such repairs shall be initiated within ninety (90) days.

SECTION 19.04 - Illegal Nonconforming Uses and Buildings

Those alleged nonconforming uses of land, uses of buildings and buildings which cannot be proved conclusively to have been existing prior to the effective date of this Ordinance, or any amendment thereto, shall be declared illegal nonconforming uses of land, nonconforming uses of building and nonconforming buildings and shall be discontinued upon written notification from the Zoning Administrator.

ARTICLE 20

SIGN REGULATIONS

SECTION 20.01 - General Sign Regulations

No sign shall be erected at any location, where by reason of the position, size, shape, color, movement or illumination, it may interfere with, obstruct the view of, be confused with any authorized traffic sign, signal or device so as to interfere with, mislead or confuse traffic. Consideration of traffic visibility and injuries effects on adjacent properties is essential. All signs shall be designed, constructed and maintained so as not to change the essential character of such area. The Township Board, upon recommendation of the Planning Commission, may require the applicant to post a compliance bond as provided in Section 24.12 of this Ordinance.

SECTION 20.02 - Permitted Signs in 'AA' and 'OC' Districts

In the AA - Agricultural and OC - Open Space and Waterbody Conservation Districts, only one (1) sign on each of the following types shall be permitted on each lot or parcel unless otherwise specified herein.

- a. A nonilluminated sign advertising the sale or rental of the building or premises not exceeding six (6) square feet in area and placed no nearer to the street line than one-half ($\frac{1}{2}$) the required front yard depth.
- b. Nonilluminated trespassing, safety directional, caution or announcement signs each not exceeding two (2) square feet in area. More than one sign shall be permitted in these districts provided that said signs shall be placed no closer than fifty (50) feet between signs.
- c. A nonilluminated sign announcing a home occupation, service or produce offered on the premises, provided that such sign shall not exceed twelve (12) square feet in area; and shall be located no closer to the street line than one-half ($\frac{1}{2}$) the required front yard depth.
- d. A sign or bulletin board identifying a church, school, park or other authorized use not to exceed twelve (12) square feet in area and placed no nearer than fifteen (15) feet to any property line. Such sign may be illuminated by a nonflashing reflective light and the source of illumination shall not be visible.

SECTION 20.03 - Permitted Signs in Residential Districts

In any residential district only one (1) sign of each of the following types shall be permitted on each lot or parcel unless otherwise specified herein.

- a. A nonilluminated sign advertising the sale or rental of the building or property not exceeding six (6) square feet in area and placed no nearer to the street line than one-half ($\frac{1}{2}$) of the required front yard depth.
- b. A nonilluminated sign announcing a home occupation or service that is offered on the premises provided that such sign shall not exceed two (2) square feet in area and shall be attached flat against a building wall.
- c. One sign advertising lots for sale in a recorded subdivision or development which shall not exceed eighteen (18) square feet in area and which shall be placed no closer to any street right-of-way than one-third ($\frac{1}{3}$) the minimum authorized front yard depth. Such sign shall be removed within one year after there is no one titleholder who owns more than ten percent (10%) of the lots or units in the subdivision.
- d. One sign identifying a multiple family building, subdivision or development, not having commercial connotations, not to exceed eighteen (18) square feet in area and placed no closer to any street right-of-way line than one-third ($\frac{1}{3}$) the minimum authorized front yard depth.
- e. A sign or bulletin board identifying a church, school, or other authorized use not to exceed twelve (12) square feet in area and placed no nearer than fifteen (15) feet to any property line. Such sign may be illuminated by a nonflashing reflective light and the source of illumination shall not be visible.

SECTION 20.04 - Permitted Signs in Commercial and Industrial Districts

A sign in any commercial or industrial district is permitted only when such sign occupies the same lot on which the building or structure is located and shall conform to the building setback and height requirements applicable to the district in which it is located except as modified by the following requirements:

- a. In any commercial or industrial district a sign may be affixed flat against the wall of the building, or may project therefrom not more than forty-eight (48) inches, provided that such

signs do not project over a sidewalk or public right-of-way. Projecting signs shall be at least twelve (12) feet above finished grade. The total sign area shall not exceed one (1) square foot for each foot in length or height of the wall, whichever is greater, to which it is affixed. No such sign shall extend more than four (4) feet in height above the building to which it is affixed.

- b. One free-standing identification sign may be erected for a shopping center or other integrated group of stores or commercial buildings. The area for said sign shall be based on one (1) square foot for each foot of building frontage, however, it shall not exceed two hundred (200) square feet in area, nor be closer to the front, side or rear property line than one-third (1/3) the distance of the required building setback.
- c. One free-standing identification sign may be erected for each separate enterprise situated on an individual's lot not located within a shopping center. Such sign shall not exceed eighty (80) square feet in area, except in the HS - Highway Service Commercial District, where such sign shall not exceed thirty-six (36) square feet in area, nor be closer to the front, side or rear property line, than one-third (1/3) the distance of the required building setback.
- d. All signs may be illuminated internally or by reflected light, provided the source of light is not directly visible and is so arranged to reflect away from the adjoining premises and provided that such illumination shall not be so placed as to cause confusion or hazard to traffic or conflict with traffic control signs or lights. No illumination involving movement by reason of the lighting arrangement or other devices shall be permitted.

SECTION 20.05 - Outdoor Advertising Signs

Outdoor advertising signs (billboards) located along roads maintained by the Court Road Commission shall be permitted under the following conditions:

- a. Outdoor advertising signs (billboards) are permitted only in the agricultural, commercial and industrial districts.
- b. Outdoor advertising signs are required to have the same setback as other principal structures or buildings in the zone in which they are situated.

- c. Where two (2) or more outdoor advertising signs are along the frontage of a single street or highway, they shall not be less than one thousand (1,000) feet apart. A double face (back to back) sign or V-type structure shall be considered a single sign.
- d. The total surface area, facing the same direction of any outdoor advertising sign shall not exceed two hundred (200) feet.
- e. No outdoor advertising sign shall be erected on the roof of any building, nor have one sign above another sign.
- f. Outdoor advertising signs may be illuminated by reflected light only, provided the source of light is not directly visible and is so arranged to reflect away from the adjoining premises and provided that such illumination shall not be so placed as to cause confusion or a hazard to traffic or conflict with traffic control signs or lights. No illumination involving movement by reason of the lighting arrangement or other devices shall be permitted.
- g. Outdoor advertising signs shall be designed, constructed, operated, maintained and managed so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that use will not change the essential character of the same area.
- h. Outdoor name or identification signs are exempt from the provisions of this Section provided that all such signs shall be flush with the building wall or roof.

SECTION 20.06 – Signs for Gasoline Service Stations

Notwithstanding other provisions of this Ordinance, signs for gasoline service stations shall conform to the following requirements:

- a. One (1) permanently installed sign shall be permitted for each service station and shall be installed in such a manner that vision shall not be obstructed in any other way than by necessary supports to a height of sixteen (16) feet, but no such sign shall exceed fifty (50) feet in height or sixty (60) square feet in area.
- b. All appropriate legends may be attached against the main building or on gasoline pumps.
- c. All temporary signs to be viewed from outside the building shall be firmly attached flat against a wall or said building, but in no case shall said cover more than twenty-five percent (25%) of the total exterior wall space of any gasoline service station.

SECTION 20.07 – Nonconforming Signs; Elimination

All signs and billboards erected after the effective date of this Ordinance shall conform to the regulations as set forth in this Ordinance and its amendments. Any existing sign or billboard not conforming shall be deemed a nonconforming use, and shall either be made to conform or shall be removed by the owner within three (3) years from the effective date of this Ordinance. If the owner of said sign fails to remove such nonconforming sign or billboard, it shall be deemed a violation and the property owner shall be charged with a violation and subject to the provisions of the Zoning Ordinance.

ARTICLE 21

PARKING AND LOADING REQUIREMENTS

SECTION 21.01 – General Parking Requirements and Application of Regulations

- a. In all districts, except Agricultural, there shall be provided at the time any building is erected, or uses established, enlarged or increased in capacity, off-street parking spaces for automobiles with the requirements as specified.
- b. No parking area or parking space which exists at the time this Ordinance becomes effective or which subsequent thereto is provided for the purposes of complying with the provisions of this Ordinance shall thereafter be relinquished or reduced in any manner below the requirements established by this Ordinance, unless additional parking area or space is provided sufficient for the purpose of complying with the provisions of this Ordinance and the distance requirements as specified in Section 21.01, d.
- c. Plans and specifications showing required off-street parking spaces including the means of access and interior circulation, shall be submitted to the Zoning Administrator for review at the time of application for a building permit.
- d. Required off-street parking facilities shall be located on the same lot as the principal building or on a lot within three hundred (300) feet thereof except that this distance shall not exceed one hundred fifty (150) feet for single-family and two-family dwellings. This distance specified shall be measured from the nearest point of the lot occupied by the building or use that such facility is required to serve.

SECTION 21.02 – Off-Street Parking Requirements in the ‘AA’ District

- a. Off-street parking areas shall be drained so as to prevent drainage to abutting properties and shall be constructed of material which have a dust-free surface resistant to erosion.
- b. Off-street parking spaces shall not be closer than five (5) feet to any property line, except where a wall, fence or compact planting strip exists as a parking barrier along the property line.
- c. Parking spaces for all types of vehicles and equipment may be provided either in garages or parking areas entirely within the rear or side yard.

- d. Outdoor storage or overnight parking of a commercial vehicle over one (1) ton capacity shall be permitted if such vehicle is necessary to the function of the premises and provided that such vehicle(s) be parked entirely within a side or rear yard or enclosed within a structure.

SECTION 21.03 – Off-Street Parking Requirements in the ‘RA’ and ‘RB’ Districts

In ‘RA’ and ‘RB’ Districts the use or occupancy of buildings, structures or land is prohibited unless the following requirements are met and maintained:

- a. Parking of motor vehicles shall be limited to passenger vehicles, one (1) non-residential type recreational vehicle per dwelling unit, and not more than one (1) commercial vehicle of the light delivery type, not to exceed three-fourths (3/4) ton shall be permitted per dwelling unit. The parking of any other type of commercial vehicle, or bus, except for those parked on school or church property, is prohibited in a residential zone. Parking spaces for all types of uses may be provided either in garages or parking areas entirely within the rear or side yard.
- b. Off-street parking spaces shall not be closer than five (5) feet to any property line, except where a wall, fence or compact planting strip exists as a parking barrier along the property line.
- c. Off-street parking area shall be drained so as to prevent drainage to abutting properties and shall be constructed of materials which will have a dust-free surface resistant to erosion.

SECTION 21.04 – OFF-STREET Parking Requirements in the ‘MF’ District

- a. All private drives and parking areas shall be paved.
- b. All private drives shall have a minimum width of twenty-two (22) feet and each parking space shall not be less than eight and one-half (8-1/2) feet in width nor less than eighteen (18) feet in length.
- c. At least two (2) parking spaces shall be provided for each dwelling unit.
- d. No private drive cul-de-sac shall be more than three hundred (300) feet in length nor shall have a turning diameter of less than seventy-five (75) feet at the terminus of each cul-de-sac.

- e. The parking spaces provided for each dwelling unit shall be located no further than one hundred twenty-five (125) feet from a street or private access drive.

SECTION 21.05 – Design Requirements of Off-Street Parking Areas in Commercial and Industrial Districts

- a. Each off-street parking space for automobile shall not be less than two hundred (200) square feet in area, exclusive of access drives or aisles and shall be of usable shape and condition. There shall be provided a minimum access drive of ten (10) feet in width, and where a turning radius is necessary, it will be of such an arc as to reasonably allow an unobstructed flow of vehicles. Parking aisles for automobiles shall be of sufficient width to allow a minimum turning movement in and out of parking space. The minimum width of such aisle shall be:
 - 1. For ninety (90) degree of perpendicular parking, the aisle shall not be less than twenty-two (22) feet in width.
 - 2. For sixty (60) degree parking, the aisle shall not be less than eighteen (18) feet in width.
 - 3. For forty-five (45) degree parking, the aisle shall not be less than thirteen (13) feet in width.
 - 4. For parallel parking, the aisle shall not be less than ten (10) feet in width.
- b. Off-street parking facilities, required for churches may be reduced by fifty percent (50%) where churches are located in nonresidential districts and within three hundred (300) feet of usable parking or private off-street parking areas. Off-street parking facilities for trucks at restaurants, service stations and other similar and related uses shall be sufficient size to adequately serve truck and not interfere with other vehicles that use the same facilities. Such truck spaces shall not be less than ten (10) feet in width and sixty-five (65) feet in length.
- c. Every parcel of land hereafter used as a public or private parking area shall be developed and maintained in accordance with the following requirements:
 - 1. All off-street parking spaces shall not be closer than five (5) feet to any property line, except where a wall, fence or compact parking strip exists as a parking barrier along the property line.

2. Off-street parking areas shall be paved and drained so as to prevent drainage onto abutting properties.
 3. Any lighting fixtures used to illuminate any off-street parking area shall be so arranged as to reflect the light away from any adjoining premises and streets.
 4. Any off-street parking area providing spaces for five (5) or more vehicles shall be effectively lighted and screened on any side which adjoins or faces property adjoining a residential lot or institution by a wall, fence or compact planting not less than four (4) feet in height. Plantings shall be maintained in good condition and not encroach on adjoining property.
 5. All off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited, provided that this prohibition shall not apply to off-street parking areas of one or two-family dwellings.
 6. Combined parking facilities are allowed where two or more uses occur on one property or when a building(s) on one property contain two or more uses provided that the permanent allocation of the required number of parking spaces shall be the sum of the requirements for the various uses and computed in accordance with this Ordinance. Parking facilities for one use shall not be considered as providing the required parking facilities for any other use, except churches.
- d. Any sign intended to advertise parking or loading facilities shall be constructed in accordance with the regulations specified in ARTICLE 20.
 - e. A business involving the repair, service, sale or display of vehicles is prohibited in areas used for parking or loading.

SECTION 21.06 – Off-Street Parking Space Requirements

- a. For the purposes of determining off-street parking requirements in accordance with the provisions of this Section, the following definitions shall apply:
 1. **FLOOR AREA** – In the case of uses where floor area is the unit for determining the required number of off-street parking spaces, said unit shall mean the gross floor area, except that such floor area need not include any area used for incidental service storage installation of mechanical equipment, penthouses, housing ventilators and heating systems and similar uses.

2. **PLACES OF ASSEMBLY** – In stadiums, sport arenas, churches and other places of assembly in which those in attendance occupy benches, pews or other similar seating facilities, each eighteen (18) inches of such seating facilities shall be counted as one (1) seat. In cases where a place of assembly has both fixed seats and open assembly area, requirements shall be computed separately for each type and added together.
 3. **FRACTIONS** – When units of measurement determining the number of required parking spaces result in requirements of a fractional space, any fraction shall require one (1) parking space.
- b. In the applicable districts, unless otherwise specifically provided, no building, structure or land shall be used or occupied unless the following off-street parking requirements are met and maintained:

<u>USE</u>	<u>PARKING SPACE REQUIREMENTS</u>
Automobile or Machinery Sales and Service Garages	One (1) space for each two hundred (200) square feet of showroom floor area, plus six (6) spaces for each service bay plus one (1) space for each two (2) employees on the maximum shift and one (1) space for each used car display area.
Banks, Business and Professional Offices	Two (2) parking spaces for each two Hundred (200) square feet of floor area plus one (1) parking space for each employee working within the building.
Barber Shops & Beauty Parlors	Two (2) spaces for each chair plus one (1) space for each employee.

Boarding & Lodging Houses, Fraternities	Two (2) parking spaces for each three (3) beds.
Bowling Alleys	Five (5) parking spaces for each alley plus one (1) space for each employee per shift.
Churches, Auditoriums, Stadiums, Sports Arenas, Theaters, Dance Halls, Assembly Halls other than schools	One (1) space for each four (4) seats or for each four persons permitted in such edifices stated by the Fire Marshall
Clinics	Four (4) spaces for each doctor plus one (1) space for each employee per shift
Convalescent Home, Orphanage or Similar Use	One (1) parking space for each four (4) beds plus one (1) space for each two (2) employees, including nurses, per shift and one (1) staff doctor
Drive-in Banks, Cleaners and Similar Businesses	Storage space for five (5) cars between the sidewalk area and the service window and one (1) parking space for each two (2) employees and one (1) space for each two hundred (200) square feet of floor area
Drive-in Eating Establishments	Ten (10) parking spaces, plus one (1) parking space for each twenty (20) square feet of floor area

Dwellings (Single & Two-Family)

Two (2) parking spaces for each family dwelling unit

Dwellings (Multiple-Family)

Two (2) parking spaces for each family unit

Funeral Homes & Mortuaries

Four (4) spaces for each slumber room or one (1) space for each fifty (50) square feet of floor area, whichever is greater, plus one (1) space for each fleet vehicle

Furniture, Appliance Stores,
Household Equipment &
Furniture Repair Shops

One (1) space for each four hundred square feet of floor area

Gasoline Filling & Service
Stations

One (1) parking space for repair and service stall, one (1) space for each employee per shift

General Office Buildings

One (1) parking space for each four hundred (400) square feet of gross floor area excluding auto parking within or on the building plus one (1) parking space per two (2) employees per shift

Hospitals

One (1) space for each bed plus one (1) space for each two (2) employees and one (1) space for staff doctor

Hotels, Motels, Lodging Houses,
Tourist & Boarding Homes

One (1) space for each living unit plus
one (1) space for each two (2) employees per
shift

Libraries, Museums, Post Offices

One (1) parking space for each eight hundred
(800) square feet of floor area plus one (1)
parking space for each two (2) employees per
shift

Livestock Auction

Two (2) square feet of parking area for each
one (1) square foot of buildings, pens, & all
enclosed areas on the premises of the auction
facility

Manufacturing, Fabricating,
Processing and Bottling Plants,
Research and Testing Laboratories

One (1) space for each employee per
shift plus two (2) spaces for each pur-
chasing agent and ten (10) visitor spaces

Restaurants, Beer Parlors, Taverns,
Night Clubs & Private Clubs

One (1) parking space for each four
(4) patron seats, plus one (1) parking space for
each two (2) employees per shift

Retail Stores, Except as Otherwise
Specified Herein

One (1) parking space for each one
hundred fifty (150) square feet of floor area
excluding auto parking space within or on the
building

Roadside Stands

Five (5) parking spaces for each twenty-five (25) square feet of floor area

Schools, Private or Public

Elementary & Junior High Schools

One (1) space for each employee normally engaged in or about the building or grounds plus one (1) space for each thirty (30) students enrolled

Senior High School & Institutions

of High Learning, Private or Public

One (1) parking space for each employee (including teachers and administrators) plus one (1) for each ten (10) students in addition to the requirements of the auditorium

Self-Service Laundry or Dry

Cleaning Stores

One (1) space for each two (2) washing and/or dry cleaning machines

Wholesale Establishments

and Warehouses

One (1) space for each four hundred (400) square feet of floor area plus one (1) space for each two (2) employees

Where a use is not specifically mentioned in subparagraph b. of Section 21.06, the requirements of a similar or related use shall apply, as determined by the Zoning Administrator.

SECTION 21.07 – Off-Street Loading and Unloading Requirements in the ‘HS’ and ‘HI’ Districts

In all districts, except in the case of single-family and two-family dwelling unit structures, no building, structure or land shall be used or occupied unless the off-street loading and unloading requirements set forth below are met and maintained:

- a. Plans and specifications showing required loading and unloading spaces including the means of ingress and egress and interior circulation shall be submitted to the Zoning Administrator for review at the time of application for a building permit for the erection or enlargement of a use or a building or structure.
- b. Each off-street loading/unloading space shall not be less than the following:
 1. In a residential district a loading/unloading space shall not be less than ten (10) feet in width and twenty-five (25) feet in length and if a roofed space, not less than fourteen (14) feet in height.
 2. In any commercial or industrial district a loading/unloading space shall not be less than ten (10) feet in width and sixty-five (65) feet in length and if a roofed space not less than fifteen (15) feet in height.
- c. Subject to the limitations of the next paragraph, a loading/unloading space may occupy all or any part of any required side or rear yard; except the side yard along a side street in the case of a corner lot. In no event shall any part of a required front yard be occupied by such loading space.
- d. Any loading/unloading space shall not be closer than fifty (50) feet to any other lot located in any residential district unless wholly within a completely enclosed building or unless enclosed on all sides by a wall, fence or compact planting not less than six (6) feet in height.
- e. In the case of mixed uses, on one lot or parcel the total requirements for off-street loading/unloading facilities shall be the sum of the various uses computed separately.
- f. All off-street loading/unloading facilities that make it necessary to back out directly into public road shall be prohibited.
- g. Off-street loading space and access drives shall be paved, drained in accordance with County Drain Commission standards, lighted and shall have appropriate bumper and wheel guards where needed and any light used for illumination shall be so arranged as to reflect the light away from the adjoining premises and streets.

- h. Off-street loading/unloading requirements for multiple family dwellings, hotels, hospitals, mortuaries, public assembly, offices, retail, wholesale, industrial or other uses similarly involving the receipt or distribution by vehicle, the uses having over five thousand (5,000) square feet of gross floor area shall be provided with at least one (1) off-street loading/unloading space, and for every additional twenty thousand (20,000) square feet of gross floor space, or fraction thereof, one (1) additional loading/unloading space the size of such loading/unloading space subject to the provisions of this Ordinance.
- i. Where a use is not specifically mentioned, the requirements of a similar or related use shall apply, as determined by the Zoning Administrator.

ARTICLE 22

(RESERVED)

ARTICLE 23

(RESERVED)

ARTICLE 24

ADMINISTRATION AND ENFORCEMENT

SECTION 24.01 – Purpose

The provisions of this ordinance shall be administered by the township planning commission and the township board in accordance with the Michigan Zoning Enabling Act, 2006 PA 110, as amended. (MCL 125.3101, et seq.)

SECTION 24.02 – Administration

The Township Board shall appoint a Zoning Administrator to act as its officer to effect proper administration of this Ordinance. The individual selected, the terms of employment and the rate of compensation shall be established by the Township Board. For the purpose of this Ordinance, the Zoning Administrator shall have the powers of a police officer.

In the absence of the Zoning Administrator, the Township Clerk or other Township official as designated by the Township Board, shall assume all the powers and duties of the Zoning Administrator.

SECTION 24.03 – Duties of the Zoning Administrator

- a. Review all applications for building permits and/or use and occupancy permits and approve or disapprove such application based on compliance with the provisions of this Ordinance and other codes and ordinances adopted by the Township Board and approve issuance of the permit if the use and the requirements of this Ordinance and other laws are fulfilled.
- b. Receive all applications for conditional use permits, conduct field inspections, surveys and investigations, prepare maps, charts and other pictorial materials when necessary or desirable, and otherwise process applications so as to formulate recommendations; and notify the applicant, in writing, of any decision of the Planning Commission.
- c. Receive all applications for appeals, variances, or other matters which the Zoning Board of Appeals is required to decide under this Ordinance, conduct field inspections, surveys and investigations, prepare maps, charts and other pictorial materials when necessary or desirable, and otherwise process applications so as to formulate recommendations to the Zoning Board of Appeals for determination.

- d. Receive all applications for amendments to this Ordinance, conduct field inspections, surveys and investigations, prepare maps, charts and other pictorial materials when necessary or desirable, and otherwise process applications so as to formulate recommendations; report to the Planning Commission all such applications together with recommendations.
- e. Be responsible for updating the Township Zoning Map and keep it correct.
- f. Prepare and submit to the Township Board and the Planning Commission a written record of all building permits issued during each month. The record shall state the owner's name, location of property, intended use and estimated cost of construction for each permit. The Zoning Administrator shall maintain and post monthly a list in the Township Hall of all building permits issued.
- g. Maintain written records of all actions taken by the Building Inspector.
- h. Be responsible for providing forms necessary for the various applications to the Building Inspector, Planning Commission, Township Board or Zoning Board of Appeals as required by this Ordinance and shall be responsible for what information is necessary on such forms for the effective administration of this Ordinance, subject to the general policies of the Township Board, Planning Commission and Zoning Board of Appeals.

SECTION 24.04 – Duties of the Building Inspector

The building inspector referred to in this ordinance is and shall be the building inspector appointed by the township board pursuant to the provisions of Act 230 of the Public Acts of 1972, as amended, named the “Stille–DeRossette–Hale Single State Construction Code Act” and the building inspector shall have and perform duties as set forth herein.

Section 24.05 – Building and Zoning Compliance Permits Required*⁶

A zoning compliance permit shall be obtained from the zoning administrator prior to obtaining a building permit from the building inspector before the construction, enlargement, alteration, conversion or moving of any building or structure or any part thereof, except under the following circumstances:

1-*Amended 2-2013

- a. A building permit is not required for a building incidental to the use or agricultural purposes of the land on which the building is located if it is not used in the business of retail trade. A zoning compliance permit shall nonetheless be required.
- b. A building permit shall not be required for the erection and placement of a portable structure necessary to an agricultural operation in an agricultural district. A zoning compliance permit shall be required.
- c. Neither a building permit nor a zoning compliance permit shall be required for repairs of a minor nature such as painting and general maintenance and upkeep which will not change the use, occupancy area, structural strength, fire hazard, fire protection, exits, light and ventilation of the building or structure.

SECTION 24.06 – Application for a Building Permit

Application for a building permit and/or occupancy permit shall be made in writing upon a blank form furnished by the Zoning Administrator and shall state the name and address of the owner of the building and the owner of the land upon which it is to be erected, enlarged, altered or moved. There shall be submitted with all applications for building permits and/or occupancy permits one copy of a site layout or plot plan showing:

- a. The address, shape, area and legal description.
- b. The location or the proposed construction, upon the lot, lots or acreage affected.
- c. The dimensions, height and bulk of structures.
- d. The nature of the proposed construction, alteration, or repair and the intended use.
- e. The proposed number of sleeping rooms, dwelling units, occupants employees, customers and other uses.
- f. The present use of any structure affected by the construction or alteration.
- g. The yard open area and parking space dimensions, if applicable.
- h. The proposed design and construction standards of parking spaces, if applicable.
- i. The number of loading and unloading spaces provided, if applicable.

- j. Any information deemed necessary by the Zoning Administrator to determine compliance with and provide for the enforcement of this Ordinance.
- k. Certified permit from the County Health Department stating that the proposed on-site water and sewer system is in conformance with the county sanitary code.
- l. A conditional use permit issued by the Township Board, if required by this Ordinance.
- m. All other licenses and permits required by law for the construction, enlargement, alteration, conversion or moving of the building or structure for which a building permit is being applied under this Ordinance.

If the information shown on the site layout is in compliance with the above requirements and all other provisions of this Ordinance, the Building Inspector shall issue a building permit upon payment of the required building permit fee.

Any building permit granted under this Section shall be null and void unless the development proposed shall have its first inspection within one hundred eighty (180) days from the date of the granting of the permit and otherwise the life of the building permit shall be covered by the provisions of the Stille-DeRossett-Hale Single State Construction Code Act, being 1972 PA 230, as amended. The Building Inspector shall make every effort to notify the holder of a permit that he is liable for voiding action before voidance is actually declared. The Building Inspector may suspend or revoke a permit issued in error on a basis of incorrect information supplied by the applicant or his agent or in violation of any of the ordinances or regulations of the Township.

SECTION 24.07 – Occupancy Permit

A lot, building or structure for which a building, conditional use or other permit has or should have been obtained under this Ordinance or other law, shall be occupied or used until an occupancy permit shall have been issued by the Building Inspector. The Building Inspector shall inspect the lot and building and structure which is the subject of an application for a building permit at the time of the staking out of the building foundation, at the completion of the work authorized by the permit and at such other times as are required by the State construction Code (Act 230) and shall determine on such inspections whether or not the construction or alteration of the building or structure or the use or occupancy of the lot conforms to the information provided in the application for the building permit, the conditional use permit, and the provisions of this Ordinance and all other laws relating

to the construction, alteration, conversion or moving of the building or structure. It shall be the duty of the holder of every building permit and every conditional use permit to notify the Building Inspector of when the lot, building or structure is ready for inspection. Following each inspection, the Building Inspector shall notify the holder of each permit or his agent, as to whether or not the construction is in compliance with the application and this Zoning Ordinance at the time of inspection. Should the Building Inspector determine that the use, building or structure is not in compliance with the application or this Ordinance, further construction or use of the lot, building or structure or any part thereof, shall cease until such lot, building or structure has been brought into compliance and approved by the Building Inspector following notice of and request for reinspection and reinspection duly made by the Building Inspector. Should a permit holder fail to comply with the requirements of the Building Inspector or this Ordinance at any Inspection stage, the Building Inspector shall report in writing such failure to the Township Clerk and revoke all building, conditional use or occupancy permits issued. The Building Inspector shall cause notice of such permit cancellation to be securely and conspicuously posted upon or affixed to the construction not conforming to the Ordinance requirements and such posting shall be considered as service upon and notice to the permit holder of the cancellation thereof, no further work upon said construction shall be undertaken or shall be permitted until the issuance of a new permit after reapplication therefore in accordance with the provisions of this Ordinance. Failure of the permit holder to make proper notification of the time for inspection shall automatically cancel the permits requiring the issuance of new permits before construction may proceed.

Following the final inspection of the lot, building or structure and the finding of the Building Inspector that said lot, build or structure or use thereof is in conformance with the applications and information on file and meets the requirements of this Ordinance, the Building Inspector shall issue an occupancy permit therefore.

SECTION 24.08 – Fees, Charges and Expenses

The Township Board shall establish a schedule of fees, charges and expenses, and a collection procedure for building or occupancy or conditional use permits, appeals, variances or other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Zoning Administrator, and may be altered or amended only by the Township Board. No permit, certificate, conditional use approval or variance shall be issued until such costs, charges, fees or expenses have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals, until preliminary charges and fees have been paid in full.

SECTION 24.09 – Violations – Nuisances Per Se

Any building or structure, including tents and mobile homes, which are erected, constructed, reconstructed, altered, converted, maintained or changed in violation of any provision of this Ordinance, is prohibited and hereby declared to be a nuisance per se.

SECTION 24.10 – Penalties (Municipal Civil Infraction)

Any person or the agent in charge of such building or land who violates, disobeys, omits, neglects or refuses to comply with any provision of this ordinance is responsible for a Class C municipal civil infraction punishable by a civil fine or not less than \$50 nor more than \$500 together with costs and other sanctions for each infraction as provided in Section 3 of the Burlington Township Municipal Civil Infraction Ordinance. Each and everyday during which any illegal erection, construction, reconstruction, alteration, maintenance or use continues shall be deemed a separate offense. In addition thereto, or in lieu of a civil infraction, the Township Board, the Township Planning Commission, the Township Building Inspection, Board of Appeals, the attorney of the Township, or any other owner or owners of real estate within the district in which such building, structure or land is situated may institution injunction, mandamus, abatement or any other appropriate action or proceedings to prevent, enjoin, abate, or remove any said unlawful erection, construction, maintenance or use. The rights and remedies provided herein are cumulative and are in addition to all other remedies provided by law. *⁷

SECTION 24.11 – Enforcement of Zoning by Township Board

In addition to all other remedies provided herein, the Township Board in the event they determine a structure, including tents and mobile homes, which are erected, constructed, reconstructed, altered, converted, maintained or used, or any use of land or premises which is begun, maintained, changed or abandoned in violation of any provision of this Ordinance, may following the expiration of thirty (30) days after notice of intent to proceed under this Section, is given to the owner of record of said land or premises at the last address shown on the records of said township, undertake to correct the violation and to assess the land or premises for the cost thereof, which said assessment shall become a lien upon said land and shall be collected in the same manner as township taxes in accordance with the law in such case made and provided.

⁷* Amended 7-12-2007

SECTION 24.12 – Compliance Bond

In authorizing any variance, the erection of any sign, the issuance of any permit, except a conditional use permit, (see Section 14.07), the Township Board or the Township Board of Appeals, as the case may be, may require that a bond in a sum of not-to-exceed five thousand dollars (\$5,000) be furnished in favor of the Township to insure compliance with the requirements, specifications, conditions, regulations and provisions of the variance or permit as the case may be.

ARTICLE 25

ZONING BOARD OF APPEALS

SECTION 25.01 – Board of Appeals Established

There is hereby established a Zoning Board of Appeals in accordance with Section 601 of the Michigan Zoning Enabling Act, 2006 PA 110, as amended (MCL 125.3601.)

SECTION 25.02 – Membership: Terms of Office, Expenses, Removal of Members

The Township Zoning Board of Appeals (ZBA) shall consist of three members who shall be appointed by majority vote of the township board. One of the regular members of ZBA shall be a member of the township planning commission. The remaining members and any alternate members shall be selected from the electors residing in the unincorporated area of the township. The members selected shall be representative of the population distribution and of the various interests present in the township. A regular or alternate member of the ZBA may be a member of the township board but such a member may not serve as chairperson of the ZBA. An employee or contractor of the township may not serve as a member of the ZBA.

A member of the zoning board of appeals may be paid a reasonable per diem and reimbursed for expenses actually incurred in the discharge of his or her duties.

Members of the Zoning Board of Appeals shall be removable by the township board for non-performance of duty or misconduct in office upon written charges and after a public hearing.

The terms of office for an appointed member of the Zoning Board of Appeals shall be three years, except for a member serving because of his or her membership on the planning commission or township board, whose time shall be limited to the time he or she is a member of that body.

SECTION 25.03 – Meetings; Powers and Duties of Chairman; Records

Meetings of the Township Zoning Board of Appeals shall be held at the call of the chairman and at such other times as the Board in its rules of procedure may specify. The chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Board of Appeals shall

be open to the public. The Board shall maintain a record of its proceedings which shall be filed in the office of the Township Clerk and shall be a public record.

SECTION 25.04 – Duties; Rules; Hearing and Decision of Appeals; Right to and Grounds of Appeal

The Township Zoning Board of Appeals shall act upon all questions as they may arise in the administration of the Zoning Ordinance, including the interpretation of the zoning maps, and may fix rules and regulations to govern its procedures sitting as such a Zoning Board of Appeals. It shall hear and decide appeals from and review any order, requirements, decisions or determination made by an administrative official charged with enforcement of any ordinance adopted pursuant to the provisions of the Michigan Zoning Enabling Act. It shall also hear and decide all matters referred to it or upon which it is required to pass under any ordinance adopted pursuant to the Michigan Zoning Enabling Act. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant any matter upon which they are required to pass under any such ordinance or to effect any variation in such ordinance. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the Township, County or State. The ground of every such determination shall be stated.

SECTION 25.05 – Time to Appeal and Notice of Appeal; Transmission of Record

Such appeal shall be taken within such time as shall be prescribed by the Township Board of Appeals by general rule, by the filing with the officer from whom the appeal is taken and with the Board of Appeals of a Notice of Appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

SECTION 25.06 – Stay of Proceedings Pending Appeal

An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Township board of Appeals after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not e stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by the circuit court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.

SECTION 25.07 – Hearings and Notices; Right to be Heard; Disposition of Appeals; Decision Not Final

a. Variance. Following receipt of a written request for a variance, the Township Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties pursuant to Section 103 of the Michigan Zoning Enabling Act, 2006 PA 110, as amended (MCL 125.3103) and decide the same within a reasonable time. Where there are practical difficulties in the way or carrying out the strict letter of such Ordinance, the Board of Appeals shall have power in passing upon appeals to vary or modify any of its rules, regulations or provisions so that the spirit of the Ordinance shall be observed, public safety secured and substantial justice done.

b. Interpretation. If the Zoning Board of Appeals receives a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, the ZBA shall conduct a public hearing on the request. Notice shall be given as required under section 103 of the Michigan Zoning Enabling Act, 2006 PA 110, as amended (MCL 125.3103). However, if the request does not involve a specific parcel of property, notice need only be published as provided in section 103(1) and given to the person making the request as provided in section 103(3) of the Michigan Zoning Enabling Act, 2006 PA 110, as amended (MCL 125.3103).

Upon the hearing, any party may appear in person or by agent or by attorney. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made on the premises, and to that end shall have all the power of the officer from whom the appeal was taken and may issue or direct the issuance of a permit.

c. Decision Final. The decision of such Board shall be final. Any person aggrieved by the decision shall have the right to appeal to the circuit court on questions of law and fact.

SECTION 25.08 – Fee for Appeal; Representation at Hearing

At the time of the filing of the Notice of Appeal there shall be paid a fee prescribed by the Township Board, which fee shall immediately be placed in the Township's General Fund. Upon the hearing on the appeal, any party may appear in person or be represented by an agent or attorney-at-law.

SECTION 25.09 – Variance

Upon receipt of a Notice of Appeal as provided for in this Ordinance which requests that a variance be granted, the Board of Appeals, following a hearing in accordance with the terms of this ARTICLE, shall have the power to authorize specific variances from such dimensional requirements as lot area and width regulations, building height and bulk regulations, yard width and depth regulations, and such requirements as off-street parking and loading space as specified in this Ordinance when all of the basic conditions together with any one of the special conditions listed in the following subsections can be satisfied:

- a. Basic Conditions: That any Variance granted:
 - 1. Where there are practical difficulties in the way of carrying out the strict letter of this Ordinance.
 - 2. Will not be contrary to public interest and will insure that the spirit of this Ordinance shall be observed.
 - 3. Shall not permit the establishment within a district any use which is prohibited, or any use or dimensional variance for which a conditional use permit is required.
 - 4. Will not cause a substantial adverse effect to property or improvements in the vicinity or in the district in which the property of the applicant is located.
 - 5. Is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of general regulation for such conditions reasonably practicable.
 - 6. Relates to property that is under control of the applicant.
 - 7. Shall include as a condition to the variance the building area, any accessory structures, fences and other similar appurtenances, none of which shall be altered without authorization by the Board.

- b. Special Conditions:
 - 1. Where there are exceptional or extraordinary circumstances or conditions applying to the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the vicinity in the same zoning district; and have not resulted from any act of the applicant subsequent to the adoption of this ordinance.

2. Will not cause a substantial adverse effect to property or improvement in the vicinity or in the district in which the property of the applicant is located.
- c. Rules: In addition to the foregoing conditions, the following rules shall be applied in the granting of the variances:
1. In granting a variance, the Board may specify, in writing, to the applicant such conditions in connection with the granting that will, in its judgment secure substantially the objectives of the provision to which such variance applies. The breach of any such condition shall automatically invalidate the variance granted.
 2. No more than the minimum variance from the terms of this Ordinance shall be granted which is necessary to relieve the practical difficulty or unnecessary hardship.
 3. Each variance granted under the provisions of this Ordinance shall become null and void unless:
 - (a) The construction authorized by such variance has been commenced within one (1) year after the granting of the variance and is being carried progressively to completion.
 - (b) The occupancy of land, premises or buildings authorized by the variance has taken place within one (1) year after the variance was granted.

SECTION 25.10 – Decision of the Board of Appeals and Appeals to the Circuit Court

The Board of Appeals shall decide upon all appeals within a reasonable time and reverse or affirm wholly or partially or may modify the order, requirement, decision or determination as in its opinion ought to be made on the premises and to that end shall have all the powers of the Zoning Administration from whom the appeal is taken. The Board of Appeals' decision of such appeals shall be in the form of a resolution containing a full record of the findings and determination of the Board of Appeals in each particular case and the signatures of each member of the Board of Appeals in each particular case and the signatures of each member of the Board of Appeals affixed thereon. Any persons having an interest affected by such resolution shall have the right to appeal to the Circuit Court on questions of law and fact.

SECTION 25.11 – Temporary Housing

- a. In situations where a home or dwelling has been damaged by fire, explosion, weather or natural disaster, the zoning administrator may issue a temporary housing permit for up to ninety (90) days to allow for site clean-up and reconstruction. Such a temporary housing permit shall be subject to compliance with public health requirements and applicable building, plumbing and electrical codes and yard requirements of the zoning ordinance. Such a permit shall be subject to Zoning Board of Appeals review and can be extended up to a total of twelve months (non-renewable) by the Zoning Board of Appeals.
- b. Temporary housing permits for purposes of housing a valid permit holder on site for the site of new construction during the construction phase for a period not to exceed one year may be issued by the Zoning Board of Appeals subject to the provisions of this Article and any condition required by the Zoning Board of Appeals.

ARTICLE 26

AMENDMENT PROCEDURES

SECTION 26.01 – Initiating Amendments and Fees

The Township Board may from time to time, on recommendation from the Planning Commission, amend, modify, supplement or revise the district boundaries of the provisions and regulations herein established whenever the public necessity and convenience and the general welfare require such amendment. Said amendment may be initiated by resolution of the Township Board, the Planning Commission or by petition of one or more owners of property to be affected by the proposed amendment. Except for the Township Board or the Planning Commission, the petitioner or petitioners requesting an amendment shall at the time of the application pay the fee in accordance with the requirements specified in Section 24.08.

Section 26.02 – Amendments and Supplements to Zoning Ordinance

The procedure for making amendments to this Ordinance shall be as follows:

- a. Each petition for amendment initiated by one or more owners of property shall be submitted to the Township Board who shall refer it for recommendation to the Planning Commission.
- b. After deliberations on any proposal, the Township Planning Commission shall conduct at least one hearing, notice of the time and place of which shall be given as required under Section 103(1) of the Michigan Zoning Enabling Act, 2006 PA 110 (MCL 125.3101, et seq.) for the initial adoption of the zoning ordinance or Section 202 of the Michigan Zoning Enabling Act, 2006 PA 110 (MCL 125.3101, et seq) for any subsequent zoning text or map amendments. Notice of the time and place of the public hearing shall also be given by mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the clerk of the township for purposes of receiving notice of public hearing. The notices required under this section shall include the places and times where the proposed text and any maps of the zoning ordinance may be examined.
- c. Upon completion of the public hearing provided above, the proposed amendment or supplement shall be submitted to the Calhoun County Metropolitan Planning Commission for review and recommendation. The petition shall then be returned to the township board by the Calhoun County Metropolitan Planning Commission for action in accordance with Section 307 of the Michigan Zoning Enabling Act 2006 PA 110, MCL 125.3101, et seq.

- d. After receiving the proposed amendment, the township board may adopt the amendment with or without changes in accordance with the provisions and procedures of Michigan Zoning Enabling Act, 2006 PA 110, MCL 125.3101, et seq.
- e. All provisions of this Article shall be subject to the provisions of the Michigan Zoning Enabling Act, 2006 PA 110, as amended, MCL 125.3101, et seq, as the same may be from time to time amended, which Act is incorporated herein by reference.

SECTION 26.03 – Conformance to Court Decree

Any amendment for the purpose of conforming a provision thereof to the decree of a court of competent jurisdiction shall be adopted by the Township Board and the amendments published without referring the same to any other board or agency.

Prepared by:
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/tlj

**TOWNSHIP OF BURLINGTON
CALHOUN COUNTY, MICHIGAN
135 ELM STREET
PO BOX 69
BURLINGTON, MI 49029**

ORDINANCE NO. 05-11-2023 B

ADOPTED: 05-11-2023
EFFECTIVE: 06-11-2023

AN ORDINANCE TO AMEND BURLINGTON TOWNSHIP'S ZONING ORDINANCE, ARTICLE 27, TITLED "SOLAR ENERGY SYSTEMS" TO ADD A NEW SECTION "COMMERCIAL SOLAR ENERGY SYSTEMS"; TO ADD TERMS REGULATIONS REQUIRE DECOMMISSIONING PLAN AND BOND; AND TO REPEAL ANY ORDINANCES IN CONFLICT THEREOF; AND TO PROVIDE AN EFFECTIVE DATE HEREOF.

The Township of Burlington
Calhoun County, State of Michigan,

Ordains:

COMMERCIAL SOLAR ENERGY SYSTEMS

- A. **PURPOSE:** To provide for the land development, installation and construction regulations for photovoltaic Commercial Solar Energy Systems (SES) subject to reasonable conditions that will protect the public health, safety and welfare. These regulations establish minimum requirements and standards for the placement, construction and modification of Commercial SES/Solar Farm facilities.

This section is intended to:

1. Protect Township areas from any potentially adverse effects, such as visual or noise impacts, of Solar Energy Systems, and related structures or devices so that the public health, safety, and welfare will not be jeopardized.
2. Provide for a land use that will provide an energy source with low associated environmental impacts.
3. Provide for the removal of abandoned or noncompliant Commercial SES/Solar Farm facilities, and related structure or devices.
4. Allow as a Conditional Land Use for Commercial SES/Solar Farm facilities, and related structures or devices in the Township districts zoned for Agricultural (A-1) and Agricultural (A-2) and Development District (D).
5. Prohibit Commercial SES/Solar Farm facilities where not expressly permitted.

6. Require an Escrow Account to reimburse the Township for costs connected to processing an application for a Conditional Use Permit and Site Plan.
7. Requires the Applicant to execute a Development Agreement with the Township Board of Trustees after the Commercial SES Conditional Permit is approved but before construction of the Commercial SES begins.

B. **DEFINITIONS:** The following terms and phrases shall have the meanings set forth below:

AC Power (Alternating Current): An electrical current whose magnitude and direction varies. It is considered the "standard" electrical power.

Attached System: A solar system in which solar panels are mounted directly on the building, typically the roof.

DC Power (Direct Current): An electrical current whose magnitude and direction stay constant. The photovoltaic cells on solar panels capture energy from sunlight in the form of DC and must be converted to AC by an inverter.

Detached Systems: Also known as a Ground Mounted Systems or Freestanding shall mean any solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure.

Distributed Generation: As opposed to centralized generation, distributed generation refers to a number of small power-generating modules located at or near the point of energy consumption.

Gigawatt: A unit of power equal to one billion watts.

Grid: The infrastructure of power lines, transformers and substations that delivers electric power to buildings. The utility grid is owned and managed by electric utility companies.

Installer: A contractor that installs solar systems.

Interconnection: A link between utility company power distribution and local power generation that enables power to move in either direction.

Inverter: A device that converts DC power captured by the photovoltaic cells on solar panels into AC power.

Kilowatt: A unit of power equal to one thousand watts.

Megawatt: A unit of power equal to one million watts.

Net Metering: A policy whereby utility customers with small-scale renewable power sources, including solar, receive credit from their utility provider for electricity generated in excess of their needs (also known as "net excess generation").

On/Off Grid System: A solar energy system that is interconnected with the utility grid is an on-grid or grid-tied system, while a system not interconnected is an off-grid system.

Permitting: The process by which a local unit of government allows for certain development, changes, and activities in their jurisdiction.

Person. Person means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

Photovoltaic (PV): A method of generating electrical power by converting solar radiation (sunlight) into direct current electricity using semiconductors.

Photovoltaic System: Photovoltaic (PV) Systems shall mean a solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells that generate electricity whenever light strikes them to convert solar energy suitable for connection to utilization load.

Professional Engineer (licensed): A licensed professional engineer must meet all of the following: (a) at least 8 years of professional experience in engineering work acceptable to the board of professional engineers, including not more than 5 years of education, (b) completion of a baccalaureate degree in engineering from an accredited program or its equivalent, as determined by the board of professional engineers, (c) pass the engineering fundamentals and professional practice examinations or provide equivalent proof of qualification to practice professional engineering acceptable to the department and the board, and (d) be of good moral character.

Rooftop and Building-Mounted Solar System: Any solar power system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle

Solar Energy System (SES): Any equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed. Solar energy systems consist primarily of solar thermal, photovoltaic and concentrated solar but may include other various experimental solar technologies. These devices may be either freestanding or attached to a structure and are sized to meet the various user needs and/or utility requirements.

- a. **Commercial SES:** Also known as *Solar Farms*, means any SES facility and accessory structures or use that is designed and built to exclusively provide electricity to the electric utility's power grid and is not accessory to any other use. The Commercial SES is a principal use of property and may occupy the same property as another principal use, subject to a conditional land use permit.

Commercial SES/Solar Farms do not include small scale solar panels or technologies installed at individual residential or commercial locations (e.g. roof or ground mounted panels) that are used exclusively for private purposes and not utilized for any commercial resale of any energy, except for the sale of surplus electrical energy back to the electrical grid.

Time-of-Use (TOU) Rates: A utility billing system in which the price of electricity depends upon the hour of day at which it is used. Rates are higher during the afternoon when electric demand is at its peak. Rates are lower during the night when electric demand is off peak.

C. GENERAL STANDARDS: The following standards shall apply to all Commercial SES/Solar Farm unless otherwise specifically noted:

- 1. Commercial SES/Solar Farms.** Commercial SES/Solar Farms are only permitted in Township districts zoned as Agricultural (A-1) and Agricultural (A-2) and Development District (D), subject to a conditional land use permit.

- 2. Design Safety Certification.** The safety of the design of all Commercial SES shall be certified by a licensed Professional Engineer acceptable to the Zoning Administrator. The standard for certification shall be included with the application for development.

- 3. Electrical and Building Codes.** All electrical compartments, storage facilities, wire conduit, interconnections with utility companies and interconnections with private structures will conform to national and local electrical codes. All SES shall comply with local building permit requirements.

- 4. Compliance with Township Ordinances.** Commercial SES shall be in compliance with all Township Ordinance requirements and other applicable ordinances, rules and regulations.

- 5. Site Plan:** In addition to those requirements of Article 27 of the Zoning Ordinance, and the Site Plan Review Application, all applications for a conditional land use permit for a Commercial SES/Solar Farm shall be subject to Conditional Land Use standards in Agricultural (A-1) and Agricultural (A-2) and Development District (D), except as where noted in this section. All applications must also include the following:
 - a. Equipment and unit renderings;
 - b. Elevation drawings;
 - c. Setbacks from property lines and adjacent structures, and height of proposed structures;
 - d. Notarized written permission from the property owner authorizing the Solar Energy System;
 - e. All additional plans and requirements set forth in this Section and the Planning Commission.

- 6. Minimum Lot Size:**
 - a. Commercial SES/Solar Farm shall not be constructed on parcels less than twenty (20) acres in size.

- 7. Height Restrictions:**

- a. All photovoltaic panels located in a Commercial SES/Solar Farm shall be restricted to a height of maximum sixteen (16) feet measured from the natural grade below the unit to the highest point of the unit at full tilt.
8. **Setbacks:** All photovoltaic solar panels and support structures associated with such Commercial SES/Solar Farm (excluding perimeter security fencing) shall be a minimum of one-hundred (100) feet from a side or rear property line, and a minimum of one-hundred (100) feet from any road right-of-way. A Commercial Solar Energy System is not required to meeting the minimum setback requirements at any lot line where the adjacent parcel is participating in the project, regardless of whether solar energy collectors are located on the adjacent parcel, except that the 100-foot setback must still be met at any public road. The Planning Commission shall have the authority to increase minimum setback standards to protect surrounding residential uses from the Commercial SES development site.
9. **Maximum Lot Coverage:** Maximum lot coverage restrictions shall not apply to Commercial SES/Solar Farm facilities.
10. **Safety/Access:** A six (6) foot in height security fence (construction materials to be established through the conditional land use permit process) shall be placed around the perimeter of the Commercial SES/Solar Farm photovoltaic solar panels, solar power plant, and electrical equipment shall be locked. Knox boxes and keys shall be provided at locked entrances for emergency personnel access. Electric fencing is not permitted.
11. **Sound - Noise Level:** The sound - noise generated from a Commercial SES shall not exceed forty (40) dB(A) at the exterior of any habitable structure, also measured at the closest property line to the SES. This sound pressure level may be exceeded during short-term events such as utility shortages or severe wind storm. If the ambient sound pressure level exceeds forty (40) dB(A), the standard shall be the ambient dB(A) plus five (5) dBA.
12. **Glare and reflection.** SES facilities shall be located or placed so that concentrated solar glare shall not be directed toward or onto nearby properties or roadways at any time of the day or located so that sunlight or glare is reflected into neighboring dwellings or onto adjacent roadways or private roads.
13. **Installation Certification.** A licensed Professional Engineer shall certify that the construction and installation of the Commercial SES/Solar farm project meets or exceeds the manufacturer's construction and installation standards.
14. **Fire Risk.** Commercial SES/Solar Farm facilities must adhere to all applicable electrical codes and standards, remove fuel sources, such as vegetation, from the immediate vicinity of electrical equipment and connections.
15. **Waste.** All solid wastes, whether generated from supplies, equipment parts, packaging, operation or maintenance of the Commercial SES/Solar Farm facilities shall be removed from the site and disposed of in an appropriate manner. All

hazardous waste generated by the operation and maintenance of the improvement shall be removed from the site immediately and disposed of in a manner consistent with all local, state, and federal rules and regulations.

16. Liability Insurance. The owner or operator of the Commercial SES/Solar Farm shall maintain a current insurance policy with a bond rating acceptable to the Township to cover installation and operation. The amount of the policy shall be established as a condition of conditional use permit approval.

17. Landscaping: The perimeter of a Commercial SES/Solar Farm facilities shall be screened and buffered by installed evergreen or native vegetative plantings whenever existing natural vegetation does not otherwise reasonably obscure the Commercial SES/Solar Farm facilities from any public street and/or adjacent, residential structures, subject to the following requirements:

- a. The Commercial SES/Solar Farm facilities shall be subject to the requirements of this Ordinance and exempt from the landscape requirements of Article VII. Landscaping and Buffering and subject to the requirements of this section.
- b. The evergreen or native vegetative buffer shall be composed of native or evergreen trees that at planting shall be minimum of four (4) feet in height and shrubs two (2) feet in height. The evergreen trees shall be spaced no more than fifteen (15) feet apart on center (from the central trunk of one plant to the central trunk of the next plant), native trees shall be placed no more than thirty (30) feet apart on center and shrubs shall be spaced no more than seven (7) feet apart on center. All unhealthy (sixty (60) percent dead or greater) and dead material shall be replaced by the applicant within one (1) year, or the next appropriate planting period, whichever occurs first.
- c. All plant materials shall be installed between March 15 and November 15. If the applicant requests a final certificate of occupancy from the Township and the applicant is unable to plant during the installation period, the applicant will provide the Township with a letter of credit, surety or corporate guarantee for an amount equal to one and one-half (1.5) times the cost of any planting deficiencies that the Township shall hold until the next planting season. After all plantings have occurred, the Township shall return the financial guarantee.
- d. Failure to install or continuously maintain the required vegetative buffer shall constitute a violation of this Ordinance and any Conditional Land Use Permit may be subject to revocation.

18. Local, State and Federal Permits: Commercial SES/Solar Farm facilities shall be required to obtain all necessary permits from the U.S. Government, State of Michigan, and Burlington Township, and comply with standards of the State of Michigan adopted codes.

19. Electrical Interconnections: All electrical interconnection or distribution lines shall

comply with all applicable codes and standard commercial large-scale utility requirements. Use of above ground transmission lines shall be prohibited within the site.

20. Signage: No advertising or non-project related graphics shall be on any part of the solar arrays or other components of the Commercial SES/Solar Farm facilities. This exclusion does not apply to entrance gate signage or notifications containing points of contact or any and all other information that may be required by authorities having jurisdiction for electrical operations and the safety and welfare of the public.

21. Abandonment and Decommissioning: Commercial SES/Solar Farm facilities considered under this Section must contain a Decommissioning Plan acceptable to the Planning Commission to ensure that structures and appurtenances are properly decommissioned upon the end of their operational life, inoperability or improvement abandonment.

a. A Decommissioning Plan shall be submitted for review and approval detailing the expected duration of the project, how the improvements will be decommissioned, a licensed Professional Engineer's estimated cost of decommissioning, the financial resources to be used to accomplish decommissioning, and the surety bond holder with which the financial resources shall be deposited. The estimated costs of decommissioning for the purposes of financial security shall include actual labor and materials, including attorney and professional service fees, permit fees and other fees necessary for decommissioning ("Actual Costs") and shall not use or incorporate the salvage value or other potential cost savings. The Applicant shall provide proof of financial security covering the actual costs of the Decommissioning Plan to the Planning Commission. Every three (3) years after Conditional Use Permit approval and Site Plan approval, whichever is later, the Applicant shall provide an updated estimate of the Actual Costs of the Decommissioning Plan to the Township, subject to the approval of the Planning Commission. The Applicant shall provide the Township proof of financial security covering the Actual Costs of the Decommissioning Plan to the Planning Commission. Failure to provide an updated actual cost estimate acceptable to the Planning Commission for the Decommissioning Plan shall be considered a violation of this Ordinance subject to enforcement as provided by law and may result in revocation of the Conditional Use Permit.

b. Any Commercial SES/Solar Farm facility or any portion thereof, including but not limited to panels or accessory structures, that is not operated or found to be inoperable due to disrepair for a continuous period of twelve (12) months shall be considered abandoned. If it is found that a Commercial SES/Solar Farm is abandoned, the Planning Commission upon notice by the Burlington Township Zoning Administrator, or their assign, shall provide written notice to the applicant/owner/operator of a hearing before the Planning Commission to hear evidence that the Commercial SES/Solar Farm should not be decommissioned. Furthermore, it shall constitute abandonment or non-use of any portion of individual panels or accessory structures or any portion are no operated for twelve (12) consecutive

months and necessitate decommissioning of said portion.

- c. If a Commercial SES/Solar Farm is repaired, a licensed Professional Engineer (hired at the expense of the owner or operator) shall certify the Commercial SES/Solar Farm's safety prior to the resumption of operation.
- d. Within ninety (90) days of the hearing where the Planning Commission has determined that a Commercial SES/Solar Farm is abandoned or inoperable, the owner/operator shall obtain a demolition permit to remove any Commercial SES/Solar Farm.
 - i. Failure to obtain a demolition permit within the 90-day period provided in this subsection shall be grounds for the Township to remove the Commercial SES/Solar Farm at the Owner's expense.
- e. Decommissioning shall include removal of all equipment associated with the Commercial SES/Solar Farm including all materials above and below ground, up to four (4) feet in depth. The site shall be restored to a condition that reflects the specific character of the site including topography, vegetation, soils, drainage, and any unique environmental features.
 - i. The restoration shall include: road repair and hazardous waste cleanup, if any, all regrading, soil stabilization, and re-vegetation necessary to return the subject property to a stable condition consistent with conditions existing prior to establishment of the Commercial SES/Solar Farm.
 - ii. The restoration process shall comply with all state, county, or local erosion control, soil stabilization and/or runoff requirements or ordinances and shall be completed within one (1) year.
 - iii. Extensions may be granted upon request to the Planning Commission prior to that expiration of the one (1) year requirement for completed decommissioning.
- f. The Decommissioning Plan shall also include an agreement between the applicant and the Township that includes, but is not limited to the following conditions: The financial resources for decommissioning shall be in the form of a surety bond with a replenishment obligation and shall be deposited by a bonding agent acceptable to Burlington Township.
 - i. The financial resources for decommissioning shall be 125% of the estimated removal and restoration cost. The Planning Commission shall require independent verification of the adequacy of this amount from a licensed Professional Engineer.
 - ii. The Planning Commission shall annually review the amounts deposited for removal, site restoration, and administration costs are adequate for these purposes. If the Planning Commission determines that these amounts are not adequate, the Township shall require the owner/operator to make additional deposits to increase the amount of the surety bond to cure such inadequacy.

- iii. The Township shall have access to the surety bond funds for the expressed purpose of completing decommissioning. If decommissioning is not completed by the applicant within one (1) year of the end of project life, inoperability of Commercial SES/Solar Farm facility or facility abandonment. Surety bond funds may be used for administrative fees and costs associated with decommissioning.
- iv. The Township is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.
- v. The Township is granted the right to file a municipal civil infraction for violation of any provision of this ordinance and may obtain an order of compliance to compel compliance to the provisions of this ordinance, may seek injunctive relief to effect or complete decommissioning, as well as the Township's right to seek reimbursement from the applicant or applicant's successor for decommissioning costs in excess of the surety bond amount and to file a lien against any real estate owned by applicant or applicant's successor, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce said lien. The Township may take any other action as provided by law to enforce the provisions of this Ordinance. Any State regulatory compliance orders, Township obtained injunctions, or other court orders/orders of compliance shall not affect the time calculation of abandonment of non-operability as described herein.
- vi. An abandoned or inoperable Commercial SES/Solar Farm, as determined by the Planning Commission, is a nuisance per se. The Township may seek injunctive relief or other legal measures as provided by law against persons alleged to be in violation of this section, and such other relief as may be provided by law.

22. Inspection: The Township shall have the right at any reasonable time, to provide same-day notice to the applicant to inspect the premises on which any Commercial SES/Solar Farm is located. The Township may hire one or more consultants, with approval from the applicant (which shall not be unreasonably withheld), to assist with inspections at the applicant's or project owner's expense. Inspections must be coordinated with, and escorted by, the applicant's operations staff at the Commercial SES/Solar Farm facilities to ensure compliance with the Occupational Safety and Health Administration (OSHA), NESC and all other applicable safety guidelines.

23. Maintenance and Repair: Each Commercial SES/Solar Farm facility must be kept and maintained in good repair and condition at all times. If the Township Building Official determines that a Commercial SES/Solar Farm facility fails to meet the requirements of this ordinance and the Conditional Land Use Permit, or that it poses a safety hazard, the Building Official, or his or her designee, shall provide notice to the applicant of

the safety hazard. If, after a reasonable cure period (not to exceed seven (7) days), the safety hazards are not corrected, the applicant shall immediately shut down the Commercial SES/Solar Farm facility and not operate, start or restart the Commercial SES/Solar Farm facility until the issues have been resolved. Applicant shall keep a maintenance log on the solar array(s), which shall be available for the Township's review within 48 hours of such request. Applicant shall keep all sites within the Commercial SES/Solar Farm facility neat, clean and free of refuse, waste or unsightly, hazardous or unsanitary conditions.

Violation of this section is a nuisance per se. The Township may seek injunctive relief or other legal measures as provided by law against persons alleged to be in violation of this section, and such other relief as may be provided by law.

24. Roads: Any material damages to a public road located within the Township resulting from the construction, maintenance or operation of a Commercial SES/Solar Farm facility shall be repaired at the applicant's or the Commercial SES/Solar Farm's expense. In addition, the applicant shall submit to the appropriate State or County agency a description of the routes to be used by construction and delivery vehicles; and road improvements that will be necessary to accommodate construction vehicles, equipment or other deliveries. The applicant shall abide by all State or County requirements regarding the use and/or repair of the roads.

D. ADDITIONAL CONDITIONAL LAND USE CRITERIA.

The following topics shall be addressed in a Conditional Land Use application for such Commercial SES/Solar Farm facilities in addition to Section C, General Standards.

- 1. Project description and rationale:** Identify the type, size, rated power output, performance, safety and noise characteristics of the system, including the name and address of the manufacturer, and model. Identify time frame, project life, development phases, likely markets for the generated energy, and possibly future expansions.
- 2. Analysis of onsite traffic:** Estimated construction jobs, estimated permanent jobs associated with the development.
- 3. Visual impacts:** Review and demonstrate the visual impact using photos or renditions of the project or similar projects with consideration given to tree plantings and setback requirements.
- 4. Wildlife:** Review potential impact on wildlife on the site.
- 5. Environmental analysis:** Identify impact analysis on the water quality and water supply in the area, and dust from project activities.
- 6. Waste:** Identify solid waste or hazardous waste generated by the project.
- 7. Lighting:** Provide lighting plans showing all lighting within the facility. No light may adversely affect adjacent parcels. All lighting must be shielded from adjoining parcels, and light poles are restricted to eighteen (18) feet in height.

8. **Transportation plan:** Provide access plan during construction and operation phases. Show proposed project service road ingress and egress access onto primary and secondary routes, layout of the service road system. Due to infrequent access to such facilities after construction is completed, it is not required to pave or curb solar panel access drives. It will be necessary to pave and curb driveway and parking lots used for occupied offices that are located on site.
 9. **Public safety:** Identify emergency and normal shutdown procedures. Identify potential hazards to adjacent properties, public roadways, and to the community in general that may be created.
 10. **Sound limitations and review:** Identify noise levels at the property line of the project boundary when completed.
 11. **Telecommunications interference:** Identify electromagnetic fields and communications interference generated by the project.
- E. **SEVERABILITY:** The provisions of this Ordinance are hereby declared to be severable and if any provision, section or part of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall only affect the particular provisions, section or part involved in such decision and shall not affect or invalidate the remainder of such Ordinance, which shall continue in full force and effect.
- F. **Escrow Fee Account:** An escrow account shall be deposited with the Township by the Applicant when the Applicant applies for a Conditional Land Use Permit for a Commercial SES. The monetary amount deposited by the Applicant in escrow with the Township shall be the amount of \$10,000, to cover all reasonable costs and expenses associated with the Conditional Use review and approval process, which costs shall include, but are not limited to, reasonable fees of the Township Attorney, Township Planner and Township Engineer, as well as costs for any reports or studies that are reasonably related to the zoning review process for the application. Such escrow amount shall be in addition to any filing or application fees established by resolution. At any point during the Conditional Use review process, the Township may require that the Applicant place additional funds into escrow with the Township if the existing escrow amount deposited by the Applicant is deemed insufficient by the Township. If the escrow account needs replenishing and the Applicant refuses to do so within thirty (30) days, the Conditional Use process shall cease unless and until the Applicant makes the required additional escrow deposit. Any applicable zoning escrow Resolutions or other Ordinances adopted by the Township must also be complied with by the Applicant. The Township shall provide a summary of all account activity to the Applicant within a timely manner upon request. Any funds remaining within the escrow after approval of the Conditional Use shall be returned in a timely manner to the Applicant.
- G. **Development Agreement.** Approval of the Conditional Land Use Permit for a Commercial SES and approval of final Site Plan for a Commercial SES shall not be in effect until a Development Agreement is signed by the Township. The Applicant shall be required to execute a Development Agreement that is acceptable to the Burlington Township Board of Trustees if the Commercial SES application is approved. The Development Agreement with the Township is intended to incorporate the terms and conditions of final Site Plan approval, to ensure proper completion of the plan, which may include but not limited to the Township's


oversight fees during construction, and record the same in the Office of the Register of Deeds for Calhoun County.

- H. **REPEAL:** Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict, specifically ordinance 11-8-18 of 2018.
- I. **EFFECTIVE DATE:** This Ordinance shall become effective eight (8) days after its publication following final adoption or as required by law.


, Supervisor


, Clerk

I, Darlene Mack, Clerk of the Township of Burlington, do hereby certify that the above is a true action taken by the Township Board of Trustees on the 11th day of May, 2023.


, Clerk

TOWNSHIP OF BURLINGTON
CALHOUN COUNTY, MICHIGAN
135 ELM STREET
PO BOX 69
BURLINGTON, MI 49029

ORDINANCE NO. 05-11-2023 C

ADOPTED: 05-11-2023

EFFECTIVE: 06-11-2023

AN ORDINANCE TO AMEND BURLINGTON TOWNSHIP'S ZONING ORDINANCE, ARTICLE 27, TITLED "SOLAR ENERGY SYSTEMS" TO ADD A NEW SECTION "PRIVATE / RESIDENTIAL SOLAR ENERGY SYSTEMS"; AND TO REPEAL ANY ORDINANCES IN CONFLICT THEREOF; AND TO PROVIDE AN EFFECTIVE DATE HEREOF.

The Township of Burlington
Calhoun County, State of Michigan,

Ordains:

SECTION 16-577. PRIVATE / RESIDENTIAL SOLAR ENERGY SYSTEMS.

- a. **Purpose:** It is the purpose of this sub-section to promote the safe, effective, and efficient use of private or residential (non-commercial) solar energy systems to generate electricity. Further, it is the purpose of this sub-section to standardize and streamline the review and permitting process for solar energy systems.
- b. **Findings:** The Township recognizes that solar energy is an abundant, renewable, and nonpolluting energy resource of which some residents and utility companies would like to make use. Generation of electricity by these facilities will reduce dependence on non-renewable energy resources and decrease air and water pollution that results from the use of conventional fossil fuels. Solar energy systems will also enhance the reliability and power quality of the power grid, reduce peak power demands, and help diversify the Township's energy supply.

c. Definitions:

- i. A “solar energy system,” in the context of this ordinance, means the solar panels and associated technology needed to harness the sun’s energy and make it usable.
- ii. A “solar panel” is a flat panel that uses arrays of photovoltaic cells to convert sunlight into electricity.
- iii. A “utility grade” solar energy system is one that is operated by a non-commercial operator for private use primarily to the principal structure located on the parcel.
- iv. “Private” or “Residential” means a property owner or occupant who applies for a solar energy system to provide energy primarily to the primary structure and accessory structures on the property in which it is located.

d. Solar Energy Systems – On-Site Use:

- i. **Roof-Mounted Solar Energy Systems:** Roof- and building-mounted solar energy systems for residential use are permitted accessory structures in all zoning districts, subject to the following regulations:
 - **Height:** Roof-mounted systems shall not extend more than four (4) feet above the roofline. Solar energy systems shall not protrude beyond the edge of the roof.
 - **Building and Electrical Permits:** A building and electrical permit shall be required for installation of roof, and building mounted systems.
- ii. **Ground-Mounted Solar Energy Systems:** Ground mounted and freestanding solar energy systems for residential use are permitted accessory structures in all zoning districts, subject to the following regulations:
 - **Location and Setbacks:** Where feasible, ground mounted solar energy systems shall be located to the rear or the side-yard of the dwelling unit. Solar energy systems shall also meet the minimum setbacks of the zoning district.

- **Height:** The height of the solar energy system and any mounts shall not exceed fifteen (15) feet when oriented at maximum tilt, measured from the natural grading of the property.
 - **Permits:** The Applicant shall obtain all required permits and inspections for any ground-mounted solar energy system, including but not limited to building permits and electrical permits.
 - **Area:** Ground-mounted solar energy systems shall be subject to the maximum lot coverage standards of the zoning district. Such structures shall be subject to the limitations for accessory buildings.
- iii. **Batteries:** When solar storage batteries exceeding one (1) kWh per hour are included as part of the solar collector system, they must be placed in a secure container or enclosure when in use subject to Fire Chief approval, and when no longer used shall be disposed of in accordance with applicable laws and regulations.
- iv. **Removal:** If a solar energy system ceases to perform its intended function (generating electricity) for more than twelve (12) consecutive months, the property owner shall remove the collectors, mounts, and associated equipment and facilities no later than ninety (90) days after the end of the twelve (12) month period. Where the removal has not been lawfully completed as required above, and after at least thirty (30) days written notice, the Township may remove or secure the removal of the solar energy system or portion thereof, with the Township's actual cost and reasonable administrative charges to be placed as a lien on the property. A lien on the property shall be superior to all other liens except taxes.
- e. **REPEAL:** Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.
- f. **EFFECTIVE DATE:** This Ordinance shall become effective fifteen (15) days after its publication following final adoption or as required by law.


, Supervisor

Darlene Mack

, Clerk

I, Darlene Mack Clerk of the Township of Burlington, do hereby certify that the above is a true action taken by the Township Board of Trustees on the 11~~th~~ day of May ~~2022~~ 2023

Darlene Mack

, Clerk