

111.000

ZONING ORDINANCE

Adopted: November 23, 1982

111.100 SHORT TITLE AND PURPOSE

111.101 Short title. This Ordinance shall be known as the Zoning Ordinance of Porter Township.

111.102 Scope. Nothing in this Ordinance affects the use or occupancy of lands, buildings, structures or business at the time of its adoption. Any person, or persons, firms, corporations or organizations wishing to enlarge, change or establish a business or recreation center not listed under the District classification, shall make such a request to the Zoning Board of Appeals in writing, giving full detailed information as to their request, which will be handled according to plans as set out elsewhere in this Ordinance.

111.103 Boards. Two official Township boards are involved with the creation and administration of the Zoning Ordinance. The members of the Planning Commission and the Board of Appeals shall be appointed by the Township Board in accordance with Michigan Compiled Laws (M.C.L.) 125.274 and 125.288 as amended, respectively, and shall meet all requirements stated therein. The eight member Township Planning Commission, prepares a zone plan for all portions of the Township as a whole, which plan shall be based upon an inventory of existing conditions and upon a long range plan for development of the Township. The Commission holds one or more public hearings upon its proposed zoning plan and submits the Ordinance and Map to the County Planning Commission, which body has not more than 30 days after receipt of the Ordinance to notify the Township Clerk if it disapproves the proposal. The Commission then submits the Ordinance to the Township Board for adoption. After adoption of the Zoning Ordinance, the Planning Commission continues to serve as judgment board on matters referred to it, revises and makes suggestions for amendments to the Ordinance as changing conditions occur. The Zoning Board of Appeals is a separate Board, composed of a member of the Planning Commission, appointed by the Planning Commission, a member of the Township Board and three members appointed by the Township Board. This Board acts upon matters referred to it by the Ordinance and acts upon and decides appeals from the provisions of the Ordinance (Amended 07-25-05).

111.104 Purpose. The Zoning Districts provided in this Ordinance and the regulations specified for each District have been developed in accordance with the continuing formulation of a plan for the physical development of the Township. In their application and interpretation, the provisions of this Ordinance shall be held to be minimum requirements adopted to promote the public safety, health, moral and general welfare. Among other purposes, these provisions are designed to conserve lands, waters and other natural resources in the Township for their most suitable purposes; to protect productive agricultural lands for agricultural uses; to reduce hazards to life and property from flooding and air and water pollution; to secure safety from fire and other dangers; to promote the orderly development of urbanizing areas and to reduce the dangers of excessive public costs which result from unguided community development; to avoid

undue concentration of population by regulating and limiting the density of use of land; to facilitate the economical provision of adequate streets and highways, educational and recreational facilities, sewage, drainage and water supply systems while avoiding the installation of utility services to illogical locations; and to enhance the social and economic stability of the Township..

111.105 **Other laws and restrictions.** It is not intended by this Ordinance to repeal, abrogate, annul or interfere with the existing provisions of other laws or ordinances. Where this Ordinance imposes a greater restriction than is imposed or required by such rules, regulations or private restrictions, the provisions of this Ordinance shall control.

111.600

ARTICULTURAL DISTRICT “A”

111.601

Purpose. The purpose of this District is to protect and stabilize the essential characteristics of agricultural areas with the township, and to insure proper maintenance of conditions for healthful and economically productive agricultural activities by preserving those areas which are predominantly agricultural in nature, and which are most appropriate for present and future agricultural developments. The requirements of this district are designated so 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.

111.602

Permitted uses. The following building and structures and use of parcels, lots, building and structures are permitted in this District:

(a) One family dwelling.

(b) A parcel 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 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, animals, products and foodstuffs raised or grown on said lot or in said building or structures, provided that any parcel that is kept as idle cropland shall be treated as to prevent soil erosion by wind or water.

(c) An owner-resident may operate in conjunction with farming, certain commercial and light industrial activities, provided they relate directly to agricultural services, or to the sale of agricultural products produced by the owner-resident, or are listed below: Typical example activities are:

1. Sale of seeds agricultural products, or livestock.
2. Hauling of agricultural products, or livestock.
3. Repair, or service of agricultural equipment.
4. Custom services such as baling or harvesting.
5. Earth-moving such as bulldozing, ditching, crane work, grading, or lime spreading.
6. Building construction.
7. Home occupations as covered in 111.503.

8. Indoor storage of boats, cars, recreational vehicles, snowmobiles and similar items so long as such is incidental to agricultural use or farm operation.(Amended 08/11/87, 05/14/96)

(d) Lots of less than 5 acres must meet the requirements of 111.700 (RESIDENTIAL DISTRICT “R-1”) (Amended: No. 1, 11-8-83)

111.603 Regulations. The following regulations shall apply to all Agricultural “A” Districts:

(a) **Farm area.** Minimum farm parcel shall be 5 acres.

(b) **Residence lot area.** Minimum lot size shall be twenty four thousand square feet (24,000 sq ft) unless said lot (s) are located within a municipal sanitary sewer system district. Lot (s) located within such a district shall be a minimum of twenty thousand square feet (20,000 sq ft). (Amended 11/08/2005)

(c) **Setback and yard requirements for residences.**

1. Front yard. Not less than 35 feet from right-of-way line.
2. Side yards. Width of either yard shall not be less than 25 feet.
3. Rear yard. Not less than 30 feet.

(d) **Height.** NO dwelling shall exceed a height of three stories or 40 feet.

(e) Where an agricultural parcel adjoins a residential district, all farm buildings other than the dwelling shall be located a minimum of 90 feet from the adjoining residential district.

(f) **Floor area.** There shall be a minimum floor area of 900 square feet. (Amended: No. 5-D, 8-11-87; 5-14-96)

111.1700

AMENDMENTS

111.1701 Intent Amendments as supplements to the Zoning Ordinance may be made from time to time as provided in Section 14 of Public Act 184 as amended. Any amendment for the purpose of conforming a provision thereof to the decree of a court of competent jurisdiction as to any specific land may be adopted by the Township Board and the amendment published without referring the same to any other board or agency provided for in this Ordinance. (Amended: 11-14-96)

111.1702 Procedure. The procedure for making amendments shall be as follows:

(a) Each proposal not originated by the permanent Township Planning Commission shall be submitted to said Commission for its consideration and advice.

111.1703 Rezoning. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs for processing the application. (Amended 8/9/2006.)(Adopted: 1-8-91)

111.1800

PENALTIES

111.1801 Penalties. Any building or structure which is erected, altered, maintained or changed in violation of any provision of this Ordinance is hereby declared to be a nuisance per se. Any person, firm, corporation or other organization which violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this Ordinance or any amendment thereof, shall be guilty of a misdemeanor Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and be subject to the enforcement penalties of the Decimalization Ordinance, ordinance number 27, adopted June 9, 1998. Each day that a violation is permitted to exist shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance. Any violator shall be permitted 15 days to correct a violation, or show substantial progress toward correction, thereafter each and every day of the violation shall be considered a separate offense.

111.1802 Procedure. The Township Board of Appeals and the duly authorized attorney for the county or any owner or owners of real estate within the Zoning District in which such violation is located, may institute injunction, mandamus, abatement or other appropriate action or proceedings. The right and remedies provided herein are cumulative and in addition to all other remedies provided by law.

111.1803 In the event of the failure of an owner or occupant to remove and demolish a building or structure found to be a nuisance building or structure under the provisions of this Ordinance, the Township Board may direct said removal and demolition to be done by the Township and if expense be incurred in causing same to be done, such expense incurred by the Township may be charged against the property taxes of the owner, or alternately may be the subject of a civil action by the Township against the owner of the premises to recover public funds expended for the removal and demolition of buildings and/or structures found to be nuisance per se.

111.1804 Any property owner who allows a building to be erected without first obtaining a Zoning Compliance Permit, or that does not abide by the provision of an existing Zoning Compliance

Permit, will be guilty of a misdemeanor, and upon conviction shall be fined not more than (See fee Schedule) per day that the violation exists.

111.1805

Reasonable attorney fees shall be recoverable by Porter Township for any action taken pursuant to Article XVIII, Sections 1,2,3, and 4, and they shall be recoverable as expenses are recovered under Article XVIII, Section 3.

PORTER TOWNSHIP
CASS COUNTY, MICHIGAN
AMENDMENT TO THE PORTER TOWNSHIP
ZONING ORDINANCE

Adopted: June 8_, 2021

Effective: _June 20, 2021

An Ordinance to amend the Porter Township Zoning Ordinance (Part 111 of the compiled ordinances of Porter Township, as amended) to provide for general lighting requirements in all zoning districts; to provide for an effective date; and to repeal any parts of the Zoning Ordinance in conflict herewith.

THE TOWNSHIP OF PORTER
CASS COUNTY, MICHIGAN

ORDAINS:

SECTION 1
AMENDMENT TO PART 111.300 “GENERAL PROVISIONS” OF THE PORTER
TOWNSHIP ZONING ORDINANCE

- A. A new subsection entitled “Lighting Requirements” and designated 111.315 is hereby added to the compiled ordinances of Porter Township, Cass County Michigan to read as follows:

“111.315 **Lighting Requirements.** All lighting upon any premises, regardless of zone, shall be arranged so that such lighting does not produce any glare, or direct illumination on neighboring property or roadways, which is a nuisance or annoyance to residents or occupants of adjoining property or to the public traveling on public roads or highways.”

SECTION 2
SEVERABILITY CLAUSE

Should any provision or part of the within ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the enforceability of the balance of this Ordinance which shall remain in full force and effect.

SECTION 3
REPEAL OF CONFLICTING ORDINANCE PROVISIONS

All Ordinance provisions in conflict herewith are hereby repealed.

SECTION 4
EFFECTIVE DATE

The effective date of this amendatory ordinance shall be 8 days following a publication of a summary thereof after adoption by the Porter Township Board.

PORTER TOWNSHIP

Beth Russell, Clerk
PO Box 517
Union MI 49130-0517
(269) 641-2375

Township Hall Address:
69373 Baldwin Prairie Road
Union MI 49130

111.1200

COMMERCIAL “C” DISTRICT

111.1201 Purpose. This District is intended for commercial establishments, but may also contain residences. In this District, planned future developments are located in area considered ideal because of their proximity to roads and population centers.

111.1202 Permitted uses. The following uses are permitted in this District.

- (a) Residences as provided for and meeting the requirements of the bordering District. If bordering more than one District, the highest requirements will apply (i.e. “R-1” would prevail over “R-2”).
- (b) Banks.
- (c) Barber shops and beauty parlors.
- (d) Food catering services.
- (e) Automobile service stations, sales lots, show rooms, repair shops and car washes.
- (f) Business and professional offices (includes doctors, attorneys, realtors, etc.)
- (g) Building trades offices and show rooms.
- (h) Government offices and facilities (Federal, State, County and Township).
- (i) Public utility buildings and offices.
- (j) Restaurants, drive-ins, taverns and carry-out food establishments.
- (k) Private clubs and meeting rooms.
- (l) Food markets, pharmacies and liquor stores.
- (m) Mercantile establishments (includes furniture, appliance, hardware, dry goods, sport and bait stores).
- (n) Arts and crafts studios.
- (o) Light manufacturing (provided the manufactured goods are sold on the premises).
- (p) Veterinary offices and small animal clinics.

- (q) Produce markets, garden supply and horticultural establishments.
- (r) Laundry and dry cleaning establishments.
- (s) Building supply.
- (t) Farm supply.
- (u) Marinas.
- (v) Theatres.
- (w) Printing shops, graphic arts and photographic supply.
- (x) Churches and schools.

111.1203 Prohibited uses Any use which will create detrimental noise, fumes, odors, traffic, constitute a general nuisance or endanger the public health or safety. The following uses are specifically prohibited:

- (a) Junk or salvage yards.
- (b) Keeping of livestock.
- (c) Commercial bulk storage of fuels and solvents.
- (d) Rendering and incineration plants.
- (e) Cartage or freight docks.
- (f) Waste storage or dumping.
- (g) Manufacturing.
- (h) Tattoo parlors.
- (i) Adult book stores, adult movie theaters, adult novelty shops and adult entertainment centers.

(Amended: 5-14-96)

111.1204 Parking, signs and fire hazards. The following regulations shall apply in this District

- (a) Parking: All establishments must provide adequate parking facilities for employees and customers.

(b) Signs: Advertising signs are permitted subject to review by the Planning Commission relative to size, lighting, location and obstruction of view from roadways and adjacent properties, or constitute a hindrance to traffic.

(c) Fire hazards: All commercial establishments must have a minimum of two (2) unobstructed accesses to the structure.

111.1205 Height, area, multiple usage, conversion, living quarters and problem lots.

(a) Height: No building shall exceed a height of 35 feet.

(b) Front yard: A 35 foot minimum front yard is required, provided however, that where an existing business building within 150 feet of either side have a greater or lesser setback, such setback may be permitted by the Zoning Administrator.

(c) Side yard. A 10 foot minimum side yard is required.

(d) Rear yard: A 25 foot minimum rear yard shall be required.

(e) Multiple usage: Not more than one principal commercial structure shall be permitted on each plotted lot. Multiple usage is permitted within one structure, i.e. several businesses sharing one building.

(f) Conversion: Residential structures in the Commercial District may be converted to commercial use, provided they meet the requirements of Sections 2 and 4.

(g) Living quarters: Living quarters may be attached to commercial establishments, provided that they are a minimum of 400 square feet in area, and have an access separate from the commercial establishment.

(h) Problem lots: Usage of problem lots due to corner location, odd shape, unusual terrain, or which would create hardship in complying with the provisions of this section, may be referred to the Planning Commission by the Zoning Administrator.

111.1206 APPLICATION FOR ZONING APPROVAL. Application for zoning approval shall be made to the Zoning Administrator who may refer to the Planning Commission. Commercial development in the downtown corridor must meet the criteria as outlined in the Porter South Development Park, Article 111.1500 Applications referred to the Planning Commission must be accompanied by a site plan, Letter of Intent, and a Timetable of Development. Additional information may be requested, if necessary in making a decision. The Planning Commission will approve or disapprove and may set special requirements. Disapprovals may be appealed to the Township Board.

(Amended 02-08-2000, 11/06, 08/14/07, 10/14/03)

DEFINITIONS

The definition of any work or terms used in this Ordinance and not defined herein shall be construed as defined in Webster's International Dictionary.

The word "**shall**" is always mandatory and not merely directory.

The word "**person**" includes a corporation, firm or partnership, as well as an individual.

The word "**building**" includes the word "structure".

The word "**lot**" includes the word "plot" or "parcel".

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". Words used in the present tense include the future tense. The singular number includes the plural.

1. **Accessory building, structure and use.** A supplemental building or structure on the same lot or parcel of land as the main building or buildings, the use of which is incidental to, subordinated to, devoted to and secondary to that of the main building, but such use shall not include residential or living quarters for human beings. An unattached garage is an accessory building.
2. **Billboard or signboard.** Any structure or portion thereof on which lettered, figured or pictorial matter is displayed for advertising purposes, not related to the premises or nature of the business conducted thereon or the products primarily sold or manufactured thereon. This definition shall not be held to include any sign used for official notices by a court or public office.
3. **Board.** Where the word "Board" is used it refers to the Board of Appeals.
4. **Building inspector.** The person appointed by the Township Board to issue Building Permits and to administer the Building Code as used in Porter Township.
5. **Dwelling.** Any building or part thereof, occupied as the home, residence or sleeping place of one or more persons either permanently or transiently.(a) A one family dwelling occupied by but one family and so designed and arranged as to provide living, cooking and eating space for one family only. (b) A two family dwelling occupied by but two families and so designed and arranged to provide living, cooking, and eating space for two families only.
6. **Essential service.** The erection, construction, alteration or maintenance by private companies or municipal departments of public utilities including gas, electrical, steam, communication, safety, water supply and distribution systems, sanitary sewer and storm water systems.
7. **Family.** A head of household, his or her spouse, children or legal wards living together in a dwelling as a single unit.
8. **Farm.** All the contiguous neighboring or associated land operated as a single unit on which bona fide farming 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 land to be considered a farm hereunder shall include a contiguous, unplotted parcel of not less than 5 acres in area; provided, further, farms may be considered as including establishments operated as bona fide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms, apiaries; but establishments keeping furbearing animals or game or operating fish hatcheries,

stock yards, stone quarries or gravel or sand pits shall not be considered farms hereunder unless combined with bona fide operations on the same contiguous tract of land.

- 9 **Farm buildings.** Any building or structure other than a dwelling, moved upon, maintained, used or built on a farm, which is essential and customarily used on farms of this type for the purpose of their agricultural activities.
- 10 **Floor area.** The area of all floors computed by measuring the dimensions of the outside walls in a building excluding attic and basement floors, porches, patios, terraces, breezeway, carports, verandas, garages and mobile home tongue and hitch assemblies.
- 11 **Garage, private and commercial.** (a) A private garage is any building not over one story in height for storage where no servicing for profit is conducted. (b) A commercial garage is any garage other than private garage.
- 12 **Guest Quarters.** An apartment for visitors in an accessory building not having kitchen facilities and not permanently occupied.
- 13 **Institutional or public uses.** Churches, schools teaching academic subjects, hospitals, convalescent or nursing homes, parks, civic centers, libraries and other public or quasi-public uses.
- 14 **Junk or salvage yard.** An open area used for the collection, storage, dismantling, dumping, display, resale, exchange, bailing, cleaning or handling of second-hand salvaged or wasted materials, machinery, vehicle trailers, equipment, furnishings or part thereof, but excluding automobile, boat or trailer sales areas and similar uses carried on in completely enclosed buildings.
- 15 **Keyholing/keyhole developments.** An act whereby back lots near a lake or stream are provided access to such body of water through a corridor or access lot. To prohibit this is to prevent funneling of non-waterfront residents onto such body of water except at public sites.
- 16 **Lot.** A parcel of land adjoining a dedicated or private street but exclusive of any adjoining street right-of-way or any legal easement, and separated from other parcels by legal description, deed or subdivision.
- 17 **Lot, corner.** A lot situated at the intersection of two or more streets.
- 18 **Lot line.** Lines bounding a lot as herein described.
- 19 **Major street.** A marked Federal, State or County Highway.
- 20 **Minor or local street.** Any street or highway that is not a major street.
- 21 **Mobile Home.** A mobile home is a transportable structure, built on a chassis and designed to be used as a dwelling with a permanent foundation and connected to the required utilities as set forth by the Cass County Health Dept.
- 22 **Multiple dwelling unit.** Any building or part thereof so designed and arranged as to provide living, cooking and eating space for more than one family.
- 23 **Non-conforming use.** A use that is lawfully exercised within a building or on a parcel of land at the time of adoption of this Ordinance, or any amendment thereto, and which does not conform with the regulations of the District in which it is located.

- 24 Parking area.** An area for the parking of motor vehicles and/or boats for a fee or as an accommodation for clients, customers, residents or employees.
- 25 Person.** A farm, association, partnership, corporation or other legal entity or an individual.
- 26 Principal or main use.** The primary or predominant use of the premises.
- 27 Public utility.** Any person, firm, corporation duly authorized to furnish and furnishing to the public under State, County or Municipal regulations electricity, gas, steam, telegraph, transportation or water services.
- 28 Service station or filling station.** A place where fuel or lubrication oils, for motor vehicles is offered for sale at retail to the public, including sale of accessories and repair service.
- 29 Setback lines.** Lines established adjacent and parallel with streets and roads for the purpose of defining limits within which no building or structure or any part thereof shall be erected or permanently maintained. "Within a setback line" means between the setback lines and the nearest boundary or the street or road right-of-way.
- 30 Sign.** Any announcement, declaration, illustration or insignia used to advertise or promote the interest of any person, product or project when the same is placed, painted or displayed out of doors in view of the general public.
- 31 Single ownership.** Ownership by one person or by two or more persons jointly, as tenants by the entirety, or as tenants in common, or a separate parcel of real property not adjacent to the land in the same ownership.
- 32 Story.** That portion of a building included between the surface of any floor and the surface of the floor above it; where there is no second floor, then story shall mean the space between the floor and the ceiling next above it.
- 33 Storage lot.** A place where new or usable items are temporarily parked or stored and the open air warehousing of item not suitable for inside storage, such as gravel, minerals, lumber, construction materials and similar items.
- 34 Street.** A public right-of-way which has been dedicated for the purpose of providing access to abutting private lots of land, including the space for pavement and sidewalks.
- 35 Structure.** Anything constructed or erected which requires permanent location on the ground or attachment to something having such location. The term "building" shall mean the same.
- 36 Swimming pool.** A constructed basin or structure for the holding of water for water for swimming and aquatic recreation. Swimming pool does not include plastic, canvas or rubber portable pool temporarily erected upon the ground holding less than 300 gallons of water.
- 37 Terms.** The present tense shall include the future; the singular number shall include the plural; and the plural the singular. The word "shall" is always mandatory. The words "zone" and "district" are the same. Reference to a whole shall apply to a part thereof. Any word or term not defined herein shall be used with a meaning of common utilization.
- 38 Trailer or mobile home park.** Any site, lot, field, tract or parcel of land upon which two or more occupied trailer or mobile homes are harbored either free of charge, or for a revenue, and shall include any building, structure, tent, vehicle or enclosure used or intended for use, as a part

of the equipment of such trailer or mobile home park, meeting the requirements of the State of Michigan, and licensed therefore under Act No. 243, Public Acts of 1959, as amended.

- 39 Travel trailers, motor home, or recreational vehicle.** A vehicular structure containing living quarters which can be drawn by, or hauled on a motor vehicle or self-propelled motor vehicle. Such vehicles are primarily designed and constructed to provide temporary living quarters for recreational, camping or travel use. Travel trailers, motor homes, pickup caps and campers shall not be used as living quarters except in a licensed campground. (Amended: 7-12-94)
- 40 Words requiring special interpretation.** Any words requiring special interpretation and not listed above shall be used as defined in the Housing Law of Michigan, Act. No. 167 of the Public Acts of 1917, as amended.
- 41 Yards.**
- (a) **Front yard:** An open unoccupied space, unless occupied by a use as hereinafter specifically permitted, extending across the full width of the lot, and lying between the front street and the required front yard setback line. See ARTICLE VIII, SECTION 4(b) for exception.(Amended: No. 2-D, 9-10-85)
- (b) **Side yard:** An unoccupied space unless occupied by a use hereinafter specifically permitted, on the same lot with the building, between the foundation or any part of the building and the side lot line, extending from the front yard to the rear yard.
- (c) **Rear yard.** A space unoccupied except by an accessory building or use as hereinafter specifically permitted, extending across the full width of the lot between the rear lot line and the required rear setback line. See Article VIII, Section 4(d) for exception.
- 42 Zoning administrator.** The person or persons appointed by the Township Board to administer this Ordinance.
- 43 Planning Commission.** The Township Planning Commission is referred to in this Ordinance as the Planning Commission as a distinction from the necessary reference to the Township Board and the Township Planning Commission and the township Zoning Board of Appeals.
- 44 Deck.** An open platform or porch like structure not having a permanent roof. Decks may or may not have a handrail, depending on their height above ground level.(Amended: No. 2-D, 9-10-85)
- 45 Right-of-way.** The strip of ground over which is built a public road. The right-of-way line on either side of a road is located half the distance designated by the Highway Dept. as roadway width, as measured from the center of an existing road. In the case of an undedicated road, or where the property boundary line does not specifically locate the roadway, the greater distance from the center of the road to the edge, shoulder, or ditch, will be considered as the right-of-way line.(Amended: No. 2-D, 9-10-85)
- 46 Gazebo.** A free standing roofed structure which shall be open or screened at the sides, with or without a railing. If a railing is provided, it shall not exceed 36 inches above the floor.
- 47 Kennel.** An establishment where more than four (4) dogs are bred or boarded.(Approved: 2-11-92)
- 48 Boat house.** A building near the water's edge used for the storage of boats and associated equipment such as outboard motors, life preservers, oars, etc. Such building will not contain

living facilities. Boat houses are prohibited except for as provided in 111.102. (Approved: 3-9-93, amended 04-2008)

- 49 Beach house.** A cottage type dwelling near the waters edge not meeting the requirements of a principal residence. Such building will not contain living facilities. Beach houses are prohibited except s provided for in 111.102 (Approved: 3-9-93, amended 04-2008)
- 50 Fences.** A railing, wall, or other means of enclosing a yard, garden, field, farm, etc. to show where it ends or to keep people or animals out or in.
- 51 Exotic Animals.** Animals which are not normally considered to be household pets or farm animals, and which are potentially dangerous. Exotic animals include, but are not limited to alligators, apes, bears, caimans, cheetahs, constrictor snakes, cougars, crocodiles, jaguars, leopards, lions, poisonous reptiles and amphibians, tigers and wolves.
- 52 Marinas.** Meets the definition of a marina under Section 30101(f) of Part 301, Inland Lakes and Streams, of the Natural Resources and Environmental Protection Act. 1994 PA 451, as amended (NREPA) Amended 02/08/00)

Adopted - November 14, 1996, Published - December 5, 1996, Effective - January 5, 1997

111.2100 EXOTIC ANIMALS

111.2101 Purpose The intent of this Article is to regulate the keeping of exotic animals so their presence is not hazardous or annoying to neighboring property owners and the animals are treated humanely.

111.2102 Regulation of Exotic Animals. The keeping of exotic animals in any zoning district is expressly prohibited unless authorized as a special land use by the Zoning Commission. In considering whether or not to grant such a special land use authorization for the keeping of exotic animals, the Zoning Commission shall consider the following standards.

- (a) The size, nature and character of the exotic animal(s);
- (b) The proximity of the exotic animal(s) to adjoining properties;
- (c) Potential traffic congestion caused by the exotic animal(s);
- (d) The effect of the exotic animal(s) on the surrounding neighborhood;
- (e) The nature and character of the land, building or structures to be utilized for the keeping of the exotic animal(s); and
- (f) Any other applicable and relevant standards set forth in this Ordinance relative to special uses.
- (g) Compliance with all required local, state and federal licenses and permits.

EFFECTIVE SEPTEMBER 22, 1999

111.300

GENERAL PROVISIONS

111.301 Zoning affects all structures and land and the use thereof. No structure, land or building shall be erected, moved, reconstructed, extended or altered except in conformity with the regulation herein set forth.

111.302 Restoring unsafe buildings. Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any structure declared unsafe.

111.303 Building permits. Refer to the Building Code as used in Porter Township.

111.304 Mixed occupancy. Before issuing a building permit for any premises intended for use as a combination of dwelling and commercial occupancy or where an increased number of dwelling units would result from a proposed alter-action, the Building Inspector shall request a report from the County Health Department as to any hazards that exist or may be expected to exist from the provisions or alterations necessary in the interest of safety or health. Such recommendations shall be complied with before issuance of a permit.

111.305 Yards. Every lot must provide front, rear and side yards as required within its zone district. For purposes of this Ordinance, the front yard will be the one facing upon a public street, regardless of the position of the structure on the lot, except as provided for the Article VIII, Sec. 4. On streets/primary county roads less than 66 feet in width, the required front yard shall be increased by one-half the difference between the width of the street/primary county road and 66 feet. This would mean that a primary county road of 50 feet would calculate the front yard distance from the center of the road as follows: 25 feet right of way, plus 35 feet (normal front yard setback) plus 8 foot (1/2 the difference above) or 68 feet. A rear yard would be calculated similarly with the only difference being the normal setback. In essence the ordinance says that the right of way is to be calculated as the greater between 33 feet and 1/2 the width of the road. This was done so that all primary county roads are measured as if they were at least 66 feet wide. Any exception to this was meant to be refused or appealed. On lots facing yard shall be measured from a line 50 feet from the center of the street. The following modification may be made:

(a) On a lot facing upon A “minor or local street” the front yard is to be the normal set back. If, and only if, the lots adjoining it on BOTH sides are closer than the normal, the front yard can be what is established by those two lots unless that “established” yard is less than 1/2 the zone requirements of the Ordinance. Please note that if one of the adjoining lots has the normal yard then the new one is required to have a normal yard since it states “... where lots adjoining it on both sides have been built upon with a setback less than required by this Ordinance...”

The special provision is only on a Minor or Local street and is never allowed on a street/Primary County Road except by the Board of Appeals. (Adopted August 12, 2003)

111.306 **Principal use.** No lot may contain more than on (1) principal building.

111.307 **Existing platted lots.** . Lots created and recorded prior to the effective date of this Ordinance which do not comply with the minimum requirements of their Zone District may be utilized in the following manner:

- (a) A lot in single ownership at the effective date of this Ordinance which contains less than 80 percent of the Zone District width and area requirements and is not adjacent to lots owned by the same person, family, partnership or corporation may be sold and/or utilized for a single family home. Front and rear yard requirements must be met, but in order to encourage maximum use of such a lot the side yards may be reduced to 80 per cent of the Zone District requirements.
- (b) Any lots which meet 80 per cent of the Zone District requirements may be sold and/or utilized as a separate lot whether in single ownership or not.
- (c) Two or more lots containing less than the 80 per cent of the Zone District requirements and owned by the same person, family, partnership or corporation at the effective date of this Ordinance, shall be redivided to meet at least 80 per cent of the Zone District requirements; provided that the Board may permit the use or redivision of less than four such lots in conformity with the established character of existing homes.

111.308 **Temporary permits.** The following temporary uses are permitted by special temporary permit, issued by the Zoning Administrator, in districts as required herein; all such uses shall be terminated within 30 days after expiration of said permit:

- (a) Mobile homes: A mobile home may be used as temporary living quarters for up to twelve months while a dwelling is being constructed on the same premises provided all sanitary requirements are first approved by the Building Inspector in accordance with standards established by the Cass County Board of Health.
- (b) Trailers: An individual trailer may be used as working quarters, tool and material storage for up to twelve months while a dwelling is being constructed on the same
- (c) Conditional permits for mobile home use may be issued by the Zoning Administrator for immediate family of land owner provided applicable sanitary codes are met for the unit which is being issued the temporary permit.

Permitted conditional uses are: fire, or windstorm, invalid children or invalid or aged parents. Yearly permits required.

- 111.309** **Basement dwellings.** The use of the basement of a partially built or planned building as a residence or dwelling unit is permitted up to twelve months in all zones. The use of a basement more than four feet below grade in a completed building for sleeping quarters or dwelling unit is prohibited unless there are two means of direct access to the outside.
- 111.310** **Sewer and water.** No building permit shall be issued for any building in whole or in part to be occupied by human beings for dwelling, commercial, industrial or recreational purposes unless adequate provisions have been made for a safe water supply and sewage disposal system; evidence of compliance with the requirements of the County Health Department shall accompany the application for a building permit.
- 111.311** **Refuse.** The storage, collection, dumping or placing of discarded material, building materials, inoperable or unlicensed motor vehicles and recreational vehicles, or refuse is prohibited in all zones. See Article IV, Section 8. This section applies to liquid, solids, and any form of radioactive material.
(Amended: No. 6-A; 9-12-89; 7-12-94)
- 111.312** **Restoration.** Any building or structure damaged or destroyed by fire, flood, wind, or other calamity shall be restored or removed from the premises. Any such work shall be started within 12 months and completed within 18 months of the time of such damage.
(Added: 7-12-94)
- 111.313** **Keeping of dogs.** The Keeping of dogs must comply with the Cass County Dog Law Enforcement Ordinance, and meet the following requirements. In the Agricultural District, the keeping of more than four (4) dogs is prohibited except in licensed kennels, provided however, that any litter of dogs which causes the aforesaid limit of four (4) to be exceeded, shall not constitute a violation for a period of four (4) months after birth. In the R-1, R2, LR and MHP Zoning Districts, the keeping of more than three (3) dogs is prohibited, provided however that any litter of dogs which causes the aforesaid limit of (3) to be exceeded, shall not constitute a violation for a period of four (4) months after birth. (Amended 03/13/07)
- 111.314** **Kennels** All kennels must comply with the requirements outlined in the Cass County Dog Law Enforcement Ordinance, and must met the following requirements. All Kennels must be approved through a special land use permit by the Planning Commission.
- (a) Kennels are prohibited within R-1, R-2, LR, SPD and MHP Zoning Districts.

(b) A solid, opaque privacy fence, not less than six (6) feet high must be erected surrounding the area where kenneled dogs are kept.

(c) Kennels must be a minimum of 500 feet from all adjacent property lines unless the adjacent property is owned by the same person.

(d) Kennels must have all applicable state and local licenses and permits.

(e) Kennels must have facilities for all dogs to be inside.

(f) The keeping of kenneled dogs at a proposed location must not create a nuisance due to noise for neighboring property owners in the judgment of the Planning Commission.

(g) Buildings and facilities shall be of such design and quality that the health and Safety of the kenneled dogs are not compromised.

(h) Overall operation of the kennel should assure that all dogs are treated humanely.

Approved-September 10, 1996, Change approved March 13, 2007

111.500 GENERAL PROVISIONS FOR RESIDENTIAL DISTRICTS

111.501 Height and area. Height and area regulations shall be as specified for each Residential Zone, provided however, that the following general regulations shall apply:

(a) If 40 percent of the frontage on one side of a street in a block has been developed, the front yard so established shall prevail.

(b) No accessory building and no structure exceeding a height of 30 inches shall be erected in any required front yard except as provided for in ARTICLE VIII.

(c) Accessory buildings in the rear yard are permitted 3 feet from the lot lines, shall not exceed 21 feet in height, not over 1,200 square feet floor area, shall be at least 10 feet from any dwelling, and at least 5 feet from any other accessory building on the lot. (Amended 11-17-83, 03-11-86, 7-12-94)

(d) Accessory buildings must be situated on lots so as to allow for the eventual construction of a residential building, unless the owner owns an adjoining lot or parcel. (Added 08-11-87)

(e) The eaves of a structure may not extend closer to the property lines than the minimum allowable front, rear, or side yard regulation. (Added 08-11-87) (Amended: No. 1, 11-8-83; No. 3-B, 3-11-86; No. 5-B, 7-12-94)

111.502 Conversion of dwellings. Where permitted, the conversion of any existing dwelling so as to accommodate an increased number of dwelling units shall be limited to not more than two families.

111.503 Home occupation. Home occupations are permitted in any residential zone. A home occupation is any use which:

(a) Is devoted to the offices or studios of the recognized professions of Attorney, Architect, Doctor, Dentist, Engineer, Realtor, Insurance Agent, Designer, Accountant or Artist; Services such as Dressmaking, Beauty Shop, Upholstering, Typing or Drafting or Bed and Breakfast (not exceeding four (4) rented rooms); or uses judge by the Zoning Administrator to be a similar nature or similarly acceptable in relation to the regulations following herein.

(b) Is conducted entirely within a residential or accessory building without being evident in any way from the street or from any neighboring premises, except for a non-illuminated sign not exceeding six (6) square feet in area. (Amended 09/12/89, Amended 02-11-1992)

(c) Does not change the character of the building in which it is conducted and does not constitute, create or increase a nuisance by virtue of noise, dust, storage

of material, vibrations, traffic flow, odors, outdoor burning or other pollution of air or water. (Amended 11-13-07)

(d) Employs only mechanical equipment which is similar in power and type usual for household purposes and hobbies and does not affect the insurance rates on the premises.

(e) Any proposed home occupation not meeting the foregoing provisions in their entirety shall be referred to the Planning Commission for review and approval before a permit may be issued.

(Amended No. 6-B, 9-12-89; 2-11- 92)

111.504 Private Swimming Pools. Private swimming pools are permitted in all Districts, provided the following regulations are complied with:

(a) The pool shall be maintained in a clean and healthful condition in accordance with County health requirements.

(b) No swimming pool shall be emptied in any manner that will cause water to flow upon another lot or be emptied on any land if a storm drain is readily accessible to the premises.

(c) Every swimming pool shall be completely enclosed with a permanent substantial fence with gates, at least five feet in height above the ground level. No opening shall be designed or maintained as to permit access to the pool except under the supervision of the possessor or by his permission.

(d) The swimming pool shall not be closer than 10 feet to any lot line.

111.505 Building requirements. All material and workmanship shall be of good quality, equal to, or above the average home in the vicinity. Prefabricated, ready pre-assembled, factory built or production dwellings and modular dwellings shall be permitted providing building specifications meet the Building Code as used in Porter Township. All dwellings must set on a permanent, masonry foundation, or basement, with footings extending below the frost line. Exception: Single-wide mobile homes as covered in Article X
(Adopted 02/08/2000, Amended 09/11/01).

111.506 Transition zoning. The following transitional uses are permitted on certain residentially zoned premises where the side yard adjoins a “C” or “I” District:

(a) The first residentially zoned lot or lots in single ownership at the effective date of this Ordinance, or the first 150 feet thereof, whichever is the lesser, may be utilized in accordance with the “R-2” Residential Zone Requirements.

(b) The first 150 feet thereof may be utilized for off-street parking.

(c) Any single principal structure located or built completely upon the first 150 feet thereof may be used for professional offices provided:

(1) Yards must meet the district requirements in which such lot is located.

(2) The building shall conform to the residential character of the neighborhood.

111.507 Fences Fences are permitted in all residential districts anywhere within the property owners property lines provided the following regulations are met.

(a) Fences shall not extend closer than three (3) feet to the high water line of any lake or stream.

(b) The maximum fence height above ground level shall be eight (8) feet.

(c) Privacy fences shall not extend into the front yard set-back area for the district involved.

(d) Open style fences (wire, wood, cyclone, etc.) which are at least 80% open and not over four (4) feet in height may extend into the set-back area for the district involved.

(e) At least one entry gate shall be provided.

(f) Fences shall not restrict the view of vehicle traffic sufficient to create a safety hazard. (Amended 11/06)

111.508 Accessory Building May be any of the following, an unattached garage, pole building, storage shed, gazebo, or similar building.

(a) Accessory buildings are defined as a supplemental building or structure on the same lot or parcel of land as the main building or buildings, the use of which is incidental to, subordinate to, devoted to and secondary to that of the main building, but such use **shall not** include kitchens, or full bathroom facilities, for human beings.

(b) No accessory building and no structure exceeding a height of 30 inches shall be erected in any required front yard except as provided for in ARTICLE VIII.

(c) Accessory buildings in the rear yard are permitted 3 feet from the lot lines, shall not exceed 21 feet in height, not over 1,200 square feet floor area, shall be at least 10 feet from any dwelling, and at least 5 feet from any other accessory building on the lot. (Amended 11-17-83, 03-11-86, 07-12-94)

(d) Accessory buildings must be situated on lots so as to allow for the eventual construction of a residential building, unless the owner owns an adjoining lot or parcel. (Added 08-11-87)

(e) Multiple accessory buildings located in all residential districts under 3 acres must not exceed the combined total area of 1500 square feet of floor area. (Amended 04/08/08)

111.509 **Guest Quarters** incorporated into an accessory building may be permitted with the following requirements.

(a) Only one (1) such accessory facility shall be permitted on each parcel.

(b) Accessory guest quarters **SHALL NOT** have kitchen facilities

(c) An accessory building with guest quarters may be permitted to exceed the twenty-one foot (21) height restriction but cannot exceed thirty-five feet (35) and shall be clearly identical to the principle residents. The design of the accessory guest quarters shall not detract from the single family character of the principle residence and shall not be distracting to the surrounding residences in the area.

(d) Accessory guest quarters must comply with residential building codes and setback requirements.

(e) Accessory guest quarters located within a municipal sewer system will be required to be connected to the municipal sanitary sewer system, with a 1/2 REU and associated monthly maintenance fees.

(f) Accessory guest quarters located outside a municipal sanitary sewer system must bring the existing septic system up to current requirements reflecting the increase in sleeping accommodations.

(g) Accessory guest quarters shall be **PROHIBITED** if a principle residence is not currently on site.

(h) The renting of an accessory guest quarters is strictly **PROHIBITED**.

(i) Accessory guest quarters shall not be occupied permanently.

111.1300

INDUSTRIAL “I” DISTRICT

111.1301

Purpose. This District is intended for Industrial and Manufacturing use, but may also contain residences and commercial establishments. In this District, planned future developments are located in areas considered ideal because of their proximity to roads, fire protection, utilities and where normal industrial activity would not constitute a nuisance or safety hazard to the surrounding area.

111.1302

Permitted uses. The following uses are permitted

- (a) Residences meeting the requirements of the Residential “R-1” District.
- (b) Commercial establishments meeting the requirements of the Commercial “C” District.
- (c) Metal and wood working shops.
- (d) Food processing.
- (e) Manufactured housing fabricators (includes recreational vehicles).
- (f) Watercraft manufactures.
- (g) Saw mills and lumber finishing mills.
- (h) Lumber yards.
- (i) Plastic molders and processors.
- (j) Cartage and freight docking facilities.
- (k) Truck transport terminals.
- (l) Excavation contractors and equipment storage.
- (m) Storage lots for operable vehicles and machinery.
- (n) Warehouses.
- (o) Gravel pits.
- (p) Electrical components manufacture.
- (q) Assembly plants involving metal, wood, rubber, plastic, fabric, electrical components and similar materials.

111.1303

Prohibited uses The following uses are specifically prohibited:

- (a) Any use which will create a health or safety hazard to the public, or that will cause unreasonable noise, fumes, smoke, odors or traffic.
- (b) Junk yards.

- (c) Dumping of liquid or solid waste.
- (d) Storage of radioactive materials or waste.
- (e) Tattoo parlors.
- (f) Adult book stores, adult movie theaters, adult novelty shops and adult entertainment centers.
(Amended: 5-14-96)
- (g) Smelting plants.
- (h) Incinerators.
- (i) Chemical manufacturing and processing.
- (j) Foundries.
- (k) Asphalt mixing plants and ready-mix cement plants.
- (l) Rubber manufacturers, molders and processors.
- (m) Textile mills.
- (n) Commercial bulk fuel storage.

111.1304 Parking, signs, fire hazards, waste materials, grading, lot specifications, and conversions.

The following regulations shall apply:

- a) **Parking:** All establishments must provide adequate parking facilities for employees, customers and visitors.
- (b) **Signs:** Advertising signs are permitted subject to review by the Planning Commission relative to size, lighting, location and obstruction of view from roadways and adjacent properties, or constitute a hindrance to traffic.
- (c) **Fire hazards:** All buildings shall be situated on the lot so as to allow access by firefighters on all sides. At least one fire lane (alley, road, lane, etc.) must exist from front to rear of the main structure.
- (d) **Waste-materials,** Waste materials shall not be allowed to accumulate in quantity and kind which will create health, safety or fire hazards to occupants of the establishment or to the public.
- (e) **Grading:** All grounds shall be graded in such a way as to keep all drainage from running onto adjacent properties or into lakes or streams.
- (f) **Lot size.** Lot size shall be at least 150 feet wide and contain a minimum of 43,560 square feet (one acre).
- (g) **Set-back.** A 35 foot minimum set-back is required provided however, that where existing buildings within 150 ft. of either side have a greater or lesser set-back, such set-back may be permitted by the Zoning Administrator.

(h) **Side yard.** A 10 foot minimum side yard is required, except that where a property abuts an existing residence or commercial building, a minimum of 35 ft. shall be provided between the existing building and any new industrial building.

(i) **Rear yard.** A 25 ft. minimum rear yard is required.

(j) **Conversion.** Residential or commercial structures in the Industrial District may be converted to industrial use, provided they meet the requirements of section 2 and 4.

(k) **Problem lots.** Usage of problem lots due to corner location, odd shape, unusual terrain, or in which compliance with the provisions of this section would create a hardship, may be referred to the Planning Commission by the Zoning Administrator as provided for in section 5.

111.1305 **Application for zoning approval.** Application for zoning approval shall be made to the Zoning Administrator who will refer it to the Planning Commission. Applications referred to the Planning Commission must be accompanied by a Site Development Plan, Letter of intent, and a Timetable of Development. Additional information may be requested, if necessary, in making a decision. The Planning Commission will approve or disapprove and may set special requirements. Disapproval's may be appealed to the Township Board.

(Amended 02-08-2000, 11/06)

INTENSIVE LIVESTOCK OPERATION

111.2800 Intensive Livestock Operation (ILO)

111.2801 Scope Any farm or farm operation engaged in raising, breeding, or feeding beef or dairy cattle, horses, swine, sheep, poultry/fowl, or other livestock in concentrations of 300 or more animal units, including any buildings, structures, excavations, or enclosed areas directly involved therein, including land used for pasture or feedlot purposes, and any animal waste storage structures, excavations or areas directly connected to or associated with such operations, shall be considered an ILO. In addition, any farm or farm operation using barns with pits or lagoons for manure collection shall be considered and ILO.

For purposes of this Ordinance, an “Animal Unit” (A.U.) means a unit of measure used to compare differences in the production of animal manures that employs as standard the amount of manure produced on a regular basis by a 1,000 pound slaughter/feeder steer or heifer.

ANIMAL	ANIMAL UNIT	NO. OF HEAD NEEDED TO EQUAL 300 A.U.
1 horse	2.0	150
1 mature dairy cow	1.4	215
1 slaughter/feeder steer or heifer	1.0	300
1 swine over 55 pounds	0.4	750
1 duck	0.2	1,500
1 sheep/lamb	0.1	3,000
1 swine under 55 pounds	0.05	6,000
1 chicken/liquid manure system	0.03	10,000
1 turkey	0.02	15,000
1 chicken/overflow watering	0.01	30,000
Other animals - average weight of animal/1,000 =A.U.		

111.2802 PURPOSE The purpose of this Article is to insulate the non-agricultural districts, except for Industrial ”I” and Parks, Campgrounds & Recreational Areas “P”, “CG”, “RA”, from the effects of ILOs such as noise, odor, and ground and surface water contamination, while maintaining the right to farm, including the operation of ILOs, in the Agricultural District “A”. Reciprocal buffer zones are created within the Agricultural District to insulate the ILOs from non-agricultural uses within that district.

111.2803 Reciprocal Buffer Zones. Due to the increasing conflict between normal and accepted practices and non-farm rural residents and commercial business, it is necessary to maintain a space between ILOs and these non-farm uses. Non-farm residents and business may find objectionable normal agricultural practices which often involve odor, noise, traffic, dust, etc. ILOs may suffer adverse economic impact from nuisance complaints, whether verbal, written or legal. This section establishes a reciprocal buffer zone in the Agricultural District. A new home, church, school or commercial building will not be permitted within 750 feet (straight-line measurement) of an existing ILO, unless on the property of the ILO, without prior written consent of the owner of the ILO.

111.2804 Waste Management Requirements All ILOs in Porter Township shall, at all times, be operated and maintained in accordance with the recommendations set forth in the Generally Accepted and Good Livestock Waste management Practices as published by Michigan State University, June 1, 1988, and in accordance with subsequent revisions thereto developed under the auspices of the Michigan State Agricultural Commission, and in accordance with the Interim Generally Accepted

Agricultural and Management Practices For Manure Management and Utilization guidelines, adopted June, 1996 by the Michigan Agriculture Commission, as referenced by the Michigan Right to Farm Act, Public Act 93 of 1981, as amended, and in accordance with such additional rules, regulations and guidelines as may from time to time be established by the Agriculture Commission or other appropriate state agency in accordance with Public Act 93 of 1981, as amended. Where differences exist between any state rules, regulations or guidelines and the requirements of this Ordinance, the requirements of this Ordinance should be met.

- 111.2805** **Procedure for Enforcement of Ordinance.** Any complaint by an individual or business entity, including an ILO, as to a suspected violation of this Ordinance, shall be directed to the Porter Township Enforcement Officer or the Porter Township Supervisor. The Township Enforcement Officer, or the Township Supervisor, if they consider it valid, shall within 48 hours of receiving the complaint, notify the Michigan Department of Agriculture, Right to Farm Program. The Michigan department of Agriculture (MDA) acting in conjunction with the Michigan Department of Natural Resources (MDNR), shall be responsible for handling the complaint. The Township Enforcement Officer shall act as liaison between Porter Township and the MDA and the MDNR.
- 111.2806** **Repeal** All Ordinances inconsistent with the provisions of this Ordinance are hereby repealed.
- 111.2807** **Effective date** The Ordinance shall be effective after legal publication and in accordance with the Act governing the same.

Adopted May 12, 1998, Published MAY 26, 1998, Effective JUNE 26, 1998, Amended 12/10/2002, Effective 01/10/2003

111.800

LAKE RESIDENTIAL DISTRICT “LR”

111.801

Permitted uses. This district is intended for detached single family residential use, year-round lake resort dwellings and the safe and healthful development of the lake shores and streams of Porter Township. The following uses are permitted:

- (a) The uses permitted in the Residential “R-1” District.
- (b) **Pump houses**, provided that they shall not exceed sixteen square feet in area and not be of a height exceeding three feet above ground level and that they shall be located not closer than five feet to any side lot line.
- (c) **Sheds** - where the lot is located on a lake or stream shall not be:
 - 1. situated closer than 20 feet to the lake or stream.
 - 2. closer than 3 feet to any side lot line;
 - 3. not of a height exceeding 10 feet; and
 - 4. not over 100 square feet floor area.
- (d) **Gazebos** are considered accessory buildings and shall be treated as same except:
 - 1. said gazebo shall not exceed 12 feet in height; and
 - 2. shall not exceed 150 square feet of floor area.(Amended: No. 1, 11-8-83; 2-11-92; 7-12-94)
- (e) **Decks** meeting the following regulations are permitted:
 - 1. Decks attached to a residential dwelling are not considered a part of that dwelling and can not be included when calculating residential floor area.
 - 2. Decks shall not extend into the front, rear, or side yard set backs beyond that specified for the district.
 - 3. Unattached, free standing decks shall not exceed 30 inches floor height.
 - 4. Decks shall not unreasonable restrict the view of roads and lakes from neighboring property.
 - 5. A Zoning Compliance Permit is required for all decks.

111.802

Prohibited uses. The following uses are prohibited:

- (a) All uses prohibited in the Residential “R-1” district are prohibited in the Lake Residential “LR” District.
 - (b) The use of watercraft as living quarters while on land or water.
 - (c) Beach houses, except as provided for in 111.102.
 - (d) Boat Houses, except as provided for in 111.102
- (Approved: 3-9-93) Amended 08/14/07

111.803 Limited waterfront use/keyhole developments. (Also see Riparian Waterfront Use Regulations - Keyhole or Funnel Waterfront Access Ordinance Number 53.000).

(a) Where a parcel of land contiguous to a body of water is used for residential purposes involving more than one dwelling unit; a recreational park bordering on said body of water may be dedicated for the purposes of swimming, fishing, and picnicking, the privileges of which are to be reasonably enjoyed by the owners and occupants of the contiguous lots; provided however, that in said recreational park there is dedicated at least fifty (50) lineal feet of water frontage for each dwelling unit; provided further that no recreational park so created shall have less than two hundred (200) feet of water frontage. The launching and docking of power boats exceeding 10 H.P. from said recreational park shall not be permitted. No use shall be made of any such recreational land or water for public or commercial beaches or recreational use operated for profit. This applies to lots platted from the effective date of this ordinance and October 10, 1989.

(b) Any individual owning a lake front lot and a row of platted back lots on the effective date of this Ordinance may use this lot for access for not more than one row of platted back lots; provided however, that there are at least 20 lineal feet of water frontage for each dwelling unit. (Amended: No., 6-C, 10-10-89)

(Amended: No. 1, 11-8-83; No. 5-C, 8-11-87; 1-8-91; 5-14-96; 2-08-2000)

111.804 Height and area. The following Height and Area regulations shall apply:

(a) **Height:** No building shall exceed a maximum height of two and one-half stories or 35 feet, whichever is the lesser.

(b) **Front yard:** There shall be a front yard of not less than 35 feet depth. Where the lot is located on a lake or stream, the water frontage shall be considered the front yard, and no boat houses and accessory buildings, except as provided for in SECTION 1, (c), and (d) are permitted. (Amended 11-17-83)

(c) **Side yard:** There shall be two side yards totaling at least 20 feet and no side yard shall be less than six feet, provided however, that when a side lot line adjoins a street a minimum yard of 15 feet is required. This applies to lots platted before February 8, 2000 and having a lot width of less than 100 feet. All lots exceeding 100 feet shall have two side yards totaling at least 30 feet and no side yard shall be less than 10 feet, provided however, that when a side lot line adjoins a street a minimum yard of 20 feet is required. (Amended 11/13/2006)

(d) **Rear yard:** There shall be a rear yard of at least 30 feet, except that where the lot is located on a lake or stream, and the water frontage is considered the front yard, the rear yard setback may be established by 40% of the dwellings in the immediate area, but in no case less than 15 feet. Both residential and accessory buildings must conform to this requirement.

(e) **Minimum lot size** shall be twenty four thousand square feet (24,000 sq ft) unless said lot (s) are located within a municipal sanitary sewer district. Lot (s) located within such a district shall be a minimum of twenty thousand square feet (20,000 sq ft). (Amended 02-08-2000, 11/08/2005)

(f) **Lot width:** The minimum width for lots platted after February 8, 2000 shall be 100 feet at the waterfront. For the purpose of computing the length of frontage, the measurement shall be along the water's edge in a straight line from lot line to lot line at the normal high water mark as determined by the Department of Natural Resources, or if the department has not made such a finding, the normal high water mark location shall be determined at the discretion of the Township. (Amended 02-08-2000, 09/11/07)

(g) **Floor area:** There shall be a minimum floor area of 1,200 square feet.

(h) A lot in single ownership at the effective date of this Ordinance which contains less than the 80 percent of the Zone District width and area requirements and is not adjacent to lots owned by the same person, family, partnership or corporation may be sold and /or utilized for a single home.

(i) Front and rear yard requirements must be met, but in order to encourage maximum use of such land, the side yards may be reduced to 80 percent of the Zone District requirements.

(j) Where any of the existing side or rear yard setbacks for a residence to be demolished, including foundation, and replaced with a new residence that do not meet current requirements of section 4 above, the owner may request to build the new structure within the existing side and /or rear setbacks. Such setbacks must not cause a safety, drainage or encroachment problem in the opinion of the Zoning Administrator. Front yard setbacks must comply with current zoning regulations. The Zoning Administrator may issue a Zoning Compliance Permit granting the existing setbacks or may deny it and require the parcel owner to go before the Zoning Board of Appeals for a variance. (Amended 6-01-03)

PORTER TOWNSHIP
CASS COUNTY, MICHIGAN

**AMENDMENT TO THE ZONING ORDINANCE
OF *PORTER TOWNSHIP***

An Ordinance to amend Article 111.300, "General Provisions", of the *PORTER* Township Zoning Ordinance, by the addition of Section 111.315, and Article 111.300, Section 111.316 "Definitions" to include definitions involving medical marihuana; and to provide for an effective date of said Ordinance.

PART III

ARTICLE III

111.300 GENERAL PROVISIONS

111.315 MEDICAL MARIHUANA USE

Section 15: **Medical Marihuana Use.** Medical Marihuana use by a primary caregiver shall be permitted and considered as a permitted home occupation use only in the residential and agricultural districts A, R-1, LR, R-2 and MHP pursuant to compliance with the Administrative Rules of the Michigan Department of Community Health, the Michigan Medical Marihuana Act, PA 208, Initiated Law, MCL 333.26421, et. seq. and the requirements of this section. As a permitted home occupation, it is at all times, subordinate and incidental to the use of the dwelling as a residence. The requirements for a primary caregiver as a permitted home occupation shall be as follows:

- (a). The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act ("Act") and the Administrative Rules of the Michigan Department of Community Health, ("Administrative Rules") as they may be amended from time to time.
- (b). A primary caregiver must be located outside of a one-thousand (1,000) foot radius from any real property as follows: a daycare facility; a church, synagogue or other place of religious worship; a recreational park, public community center, private youth center, playground, public swimming pool, video arcade facility; a public or private preschool, elementary school, middle school, high school,

community college, vocational or secondary school; a public or private college, junior college, university; any and all other schools that have different name references but serve students of the same age. Measurements for purposes of this section shall be made from parcel/lot/site condominium unit boundary to parcel/lot/site condominium unit boundary.

- (c). Not more than one (1) primary caregiver within a single-family dwelling shall be permitted to service qualifying patients who do not reside with the primary caregiver. A primary caregiver shall not operate within an apartment building, multi-family residential building, cooperative building or similar housing, or commercial or multi-use building.
- (d). No signage is permitted regarding medical marihuana.
- (e). All medical marihuana shall be contained within the main residential structure in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the primary caregiver or qualifying patient. No part of an attached or detached accessory structure shall be utilized.
- (f). All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting, and/or watering devices are located, installed or modified that support the cultivation, growing or harvesting of marihuana.
- (g). If a room with windows is utilized as a marihuana growing location, any lighting methods that exceed usual residential use between the hours of 11 p.m. and 6 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent residential properties.
- (h). Nothing in this subsection or in any companion regulatory provision adopted in any other provision of this Ordinance is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that Act and the Administrative Rules and this subsection. To this end, the sale, distribution, cultivation, manufacture, possession, delivery or transfer of marihuana to treat or alleviate a qualifying patient shall only be conducted as a home occupation, and shall not be permitted in any other zoning classification of this Zoning Ordinance. Also, since federal law is not affected by that Act or the Administrative Rules, nothing in this section, or in any companion regulatory provision adopted in any other provision of this Ordinance, is intended to grant, nor shall they be construed as

granting, immunity from criminal prosecution under federal law. Neither this ordinance nor the Michigan Medical Marihuana Act protects users, caregivers or the owners of properties on which the medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act.

- (i). Delivery. The primary caregiver shall deliver medical marihuana to their patients. Patients shall not visit the caregiver's premises.
- (j). It shall be considered unlawful for any person or persons to establish or operate a profit or non-profit medical marihuana dispensary, collective or cooperative or smoke house in any zoning classification within the Township.

111.316 DEFINITIONS

Article XIX, 111.1900 "Definitions" shall be amended to include the following words and definitions, incorporated alphabetically and given section numbers. The existing section numbers will be renumbered accordingly.

Marihuana. This term shall have the meaning given to it in the Michigan Public Health Code, 1978 PA 368, MCL 333.7106, as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26423(d).

Marihuana Collective or Cooperative. Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed that is formed by a group or individuals in a group acting together as a collective enterprise or by an organization owned collectively by members who share in the benefits owned as a cooperative or in any way structured like a collective or a cooperative.

Marihuana Dispensary or Dispensary. Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary care giver, a registered qualifying patient, or a person with an identification card or in possession of an application for an identification card. The term "dispensary" shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five (5) or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008; and the Administrative Rules of the Michigan Department of Community Health.

Medical Use of Marihuana. The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of

marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26423(d).

Primary Caregiver. Primary caregiver or caregiver means a person as defined under MCL 333.7106(g) of the Act, and who has been issued and possesses a Registry Identification Card under the Act.

Qualifying Patient or Patient. Qualifying patient or patient means a person as defined under MCL333.7106(h) of the Act, and who has been issued and possesses a Registry Identification Card under the Act.

Smoke House. Smoke house means a facility that allows multiple qualifying patients to consume or ingest medical marihuana upon the premises. This term does not encompass: 1) a primary caregiver facility at which medical marihuana is consumed or ingested on the premises solely by the designated qualifying patient(s) of the primary caregiver(s); or, 2) the consumption or ingestion of medical marihuana by a qualifying patient at his/her residence or at a hospital or hospice at which the qualifying patient is received care.

111.317 REPEAL AND EFFECTIVE DATE

This ordinance shall take effect thirty (30) days following proper publication of notice of its adoption in accordance with and subject to Michigan Public Act 110 of 2006. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Adopted June 14, 2011
Published: July 6, 2011
Effective: August 5, 2011

Marty Russell
Porter Township Clerk

111.1000

MOBILE HOMES

111.1001 Permitted Uses.

- a) All mobile homes must be set on pillars installed directly under each main frame beam. The pillars shall be placed at the front edge of the mobile home and at 10 foot increments or less from that point toward the back for the entire length of the mobile home. Each pillar shall have a concrete footing 2 feet by 2 feet by 8 inches thick poured below the frost level. The remainder of the pillar shall consist of mortared 8 inch by 16 inch concrete blocks laid up to the main frame beam.
- b) All plumbing, heating and electric must conform to the Building Code as used in Porter Township.
- c) The mobile home must have two usable exits situated near opposite ends.
- d) Fuel storage tanks within the mobile home are prohibited.
- e) All mobile homes must be anchored with tie downs.
- f) Any building or addition which is attached to the mobile home must be set on pillars with concrete footings as described above in (a).
- g) All mobile homes must be skirted.

111.1100

MOBILE HOME PARKS AND SUBDIVISIONS

111.1101

Purpose. State licensed Mobile Home Parks may be established in this district. Areas within this district not used for Mobile Home Parks may have other usage and must conform to the requirements of the bordering district which has the greatest boundary line length.(Amended: No. 1, 11-8-83)

111.1102

Conditions. Mobile Home parks must comply with the provisions of Public Act 419. Prior to application for State Licensing, Planning Commission, and Township Board approval must be obtained. Every application for a permit shall be accompanied with a plan, indicating the location of roadways, mobile home sites, service facilities, adjacent structures, etc. This shall be in sufficient detail to allow the Planning Commission adequate information for determining compliance with all sections of Public Act 419 as amended and any other applicable ordinances. The Planning Commission will then make its recommendation to the Township Board for final action. (Amended: No. 1, 11-8-83)

111.400

NON-CONFORMING USES

111.401

Contiuance of non-conforming uses. The lawful use of any building or structure and of any land or premises existing prior to the effective date of this Ordinance may be continued or expanded for like use on the same lot, providing it does not adversely affect property values, constitute a public nuisance or endanger the public health, safety or welfare. A change in the ownership, tenancy or occupancy of a building or structure then being used for a non-conforming use shall not restrict the continuance of its non-conforming use. Building or uses non-conforming by reason of height, yard area or parking provisions may be extended, altered or modernized provided that no additional encroachment of the height or parking provisions are occasioned thereby, and as provided in Section 2.

111.402

Enlargements, moving, extensions. No non-conforming use of any land or structure shall be enlarged or extended, provided that the Zoning Administrator may permit a non-conforming building to be expanded by not more than 50 percent of its area at the time of the passage of this Ordinance; said expansion shall be subject to site plan review for landscaping, screening and traffic access. No non-conforming building or structure shall be moved in whole or in part to another location unless such structure or use conforms to all of the regulations of this Ordinance Buildings or uses non-conforming by reason of height, yard area or parking provisions may be extended, altered or modernized provided that no additional encroachment of the height, area or parking provisions are occasioned thereby. All agricultural land under Non-Conforming use shall have the right to be used for all farming purposes covered under ARTICLE VI. Such property shall be covered under this provision indefinitely, as long as five acre parcels are retained, and any land sold under five acres shall conform to the zoned district. (Amended: No. 5-A, 8-11-87 and 11-12-07)

111.403

Unlawful use not authorized. Nothing in this Ordinance shall be interpreted as authorization of, or approval of the continuance of the use of a structure or premises in violation of regulations in effect immediately prior to the date of this Ordinance.

111.404

Change of use. The use of a non-conforming building may be changed to another non-conforming use if the Zoning Administrator finds that such new use would markedly decrease the degree of non-conformance and would enhance the desirability of adjacent conforming uses. This shall not be construed to waive the other provisions of this Article.

111.405

Restoration and repairs. Such repairs and maintenance work as are required to keep a non-conforming building or structure in a sound condition may be made. A non-conforming building or structure damaged or destroyed by fire, flood, wind or other calamity may be restored to its size at the time prior to such damage and its use resumed. Any such building or structure not completely

restored shall be removed from the premises. Restoration or removal shall be started within 12 months and completed within 18 months of the time of such damage.(Amended: 7-12-94)

111.406 **Non-conforming due to reclassification.** The foregoing provisions of this Article shall also apply to buildings, land or uses which hereafter become non-conforming due to any reclassification of districts or any subsequent in the regulations of this Ordinance.(Amended 11-13-07)

111.407 **Non conforming use discontinued**

111.408 Whenever the non-conforming use of any building or structure, lot or parcel of land, has been changed to a conforming or more conforming use, the use shall not thereafter be reverted to any non-conforming use.

If the non-conforming use of any building, structure, land or premises or part thereof, is abandoned or discontinued for a continuous period of one (1) year, then any future use of said building, structure, land or premises shall conform in its entirety to the zoning regulations.

Any change of usage of a piece of improved property from the current “grandfathered” zoning for that parcel would be required to have the requested usage conform with the zoning shown in the Porter Township Master Plan. (Addition September 5, 2003)

111.409 **Existing junkyards.** Existing junkyards must meet the following requirements, the street frontage shall be enclosed by a solid opaque fence behind the road right-of-way, not less than six (6) feet high and junk kept behind the fence.

111.1400 **PARKS, CAMPGROUNDS AND RECREATIONAL AREAS**

111.1401 Purpose. In order to preserve, protect and enhance the parks and recreation areas of Porter Township for present and future residents or visitors to the Township, designated recreational zones are assigned to their respective areas on the Zoning Map. Recreational sites serve important functions in the preservation of unique natural areas, conservation of outstanding examples of flora, fauna, water resources, historic significance and exceptional topographic features. Within this district other uses exist such as single family residences and farms. It is intended that such uses continue, but shall not be further developed into commercial uses not in keeping with the PURPOSE of this District. (Amended: No. 3-E, 3-11-86)

111.1402 Permitted uses; campground requirements. The following uses are permitted:

- (a) County and State lake access sites.
- (b) County and State public parks.
- (c) Private Campgrounds (i.e. church, Camp Fire Girls, Boy Scout, etc.)
- (d) Commercial Campgrounds (i.e. Willow Shores, Shady Rest Trailer park, etc.)
- (e) Single family residences, accessory buildings, and farm buildings.

Requirements for campgrounds:

- (a) All Campgrounds must meet the requirements of P. A. 368 of 1978 and as amended through 1989, and be licensed by the State of Michigan.
- (b) All camping units must remain mobile when parked.
- (c) In Campgrounds, all campsites must be designated and the boundary lines clearly marked. A diagram, drawn to scale, of the entire Campground with all campsites, roads, and permanent buildings marked must be available to the Zoning Administrator.
- (d) A minimum of 20 feet must separate all camping units (including temporary porches, cabanas, etc.) from adjacent units or buildings.
- (e) Any camping unit remaining on a campsite for more than six (6) consecutive months will be considered a permanent structure and must meet all requirements for residential buildings in the bordering district. See 111.1403 (c).
- (f) Utility buildings essential to the Campground such as offices, washrooms, toilets, recreation halls, concession stands, etc. must meet the Porter Township Building Code.

(Amended: No. 3-E, 3-11-86; No. 6-D, 9-12-89)

111.1403 Application for zoning approval.

- (a) **New developments and Additions to Existing Developments.** Application for zoning approval shall be referred to the Planning Commission and must be accompanied by a Site Development Plan, Letter of Intent, and a Timetable of Development. Additional information may be requested if necessary in making a decision. The Planning Commission will approve or

disapprove and may set special requirements. Disapproval's maybe appealed to the Township Board. (Amended 02-08-2000, 11/06, 07/10/2007)

(b) **Additions to existing developments.** New or enlarged structures to existing developments require zoning compliance approval, and will be issued by the Zoning Administrator, unless he/she judges the structure involved will change the overall function and use of the development, in which case it shall be treated as in item (a).

(c) **Residential property.** Residential property and farm residences will be treated the same as those in the bordering district having the longest common border. Zoning Compliance Permits will be issued by the Zoning Administrator, unless he/she judges the structure is not in keeping with the PURPOSE of this district, in which case it shall be treated as in item (a).

(Amended: No. 3-E, 3-11-86; No. 6-D, 9-12-89, 02-08-2000)

111.1404 Prohibited uses.

The following is prohibited:

(a) Any use which constitutes a health or safety hazard to the public, its lakes, streams, environment, or well being.

(b) Marinas. (Amended: 02-08-2000)

111.2300

PLANNED UNIT DEVELOPMENT

111.2301

Description and purpose. The use, area, height, bulk and placement regulations of this Ordinance are primarily applicable to the usual situation of one principal building on a lot. In certain large developments, these requirements might result in situations less in the interest of public health, safety and welfare than if a controlled degree of flexibility were allowed. The Planned Unit Development is intended to permit and control the development of pre-planned areas for various compatible uses allowed by the Township Zoning Ordinance and for other exceptional uses not so provided.

It is intended that uses in a Planned Unit Development shall afford each type of land use reasonable protection from encroachment or interference by other incompatible land uses, and that reasonable protection be afforded to uses adjacent to a Planned Unit Development.

Under this Article, all proceedings shall be conducted with due consideration for maintenance of reasonable conditions regarding emission and transmission of injurious or obnoxious noise, fire or explosion hazard, liquid or solid waste disposal, vibration, gas fumes, smoke, dust, dirt, litter, odor, light, glare, traffic congestion, ingress or egress, ease of police and fire protection, drainage, lateral land support, blighting influence, effect on property values, light and air, overcrowding of persons, sanitation, general appearance of the area, surface and ground water quality, and other similar considerations having an effect on public health, safety and general welfare of the people of the surrounding area.

111.2302

Objectives. The following objectives shall be met by any application for any Planned Unit Development in order to realize the inherent advantages of coordinated, flexible, comprehensive, long-range, planning and development of such planned development.

- (a) To provide more desirable living, shopping and working environments by preserving as much of the natural character of the property as possible, including, but not limited to, open space, stands of trees, brooks, ponds, floodplains, hills and similar natural assets.
- (b) To encourage the provision of open space and the development of recreation and where included in the plan, other support facilities in a generally central location within reasonable distance of all living units.
- (c) To encourage developers to use a more creative and imaginative approach in the development of areas.
- (d) To encourage underground utilities which can be more efficiently designed when master planning a large area.
- (e) To allow phased construction with the knowledge that subsequent phases will be approved as originally planned and approved by the Township.
- (f) To promote flexibility in design and permit planned diversification in location of structures.
- (g) To promote the efficient use of land to facilitate a more economic arrangement of buildings, circulation system, land use and utilities.
- (h) To combine and coordinate architectural styles, building forms, and building relationships within the Planned Unit Development.

(i) To insure a quality of construction commensurate with other developments within the Township.

111.2303 Maximum density. Maximum densities are as follows:

<u>District</u>	<u>Dwellings per acre Per Acre</u>	<u>Required open space per Unit</u>
R-1, LR	3.0	1500 square feet
R-2, AG	2.0	1300 square feet

If the project is located in more than one zoning district, the density must be calculated separately for each zoning district. The required open space shall be dedicated to the public or set aside for common use of the owners and users within the Planned Unit Development so that there are assurances that the required open space shall remain open. That area used for public or private streets or drives, parking lots, necessary yards, and buildings or structures shall not be used to comprise the required open space. The open space shall be provided with ground cover suitable to control erosion and shall be maintained monthly. (Amended August 2008)

111.2304 Application procedures. An application for a Planned Unit Development shall be submitted and acted upon in accordance with the following procedures:

(a) Application. Applications for a Planned Unit Development shall be submitted through the Zoning Administrator who will review the application for completeness, then transmit to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the cost of processing the application.

(b) Required information. An application for Planned Unit Development shall be accompanied by the following documents and information:

(1) A Planned Unit Development application form supplied by the Zoning Administrator, which has been completed in full by the applicant.

(2) A site plan as specified in Article XXIV.

(3) A statement with regard to compliance with the criteria required for approval in Section 5{111.2305} and other criteria imposed by this Ordinance affecting the Planned Unit Development under consideration.

(c) Optional preliminary meeting. If it is considered appropriate by the Planning Commission, a meeting may be scheduled to review preliminary information for a Planned Unit Development. The purpose of such procedure is to allow discussion between the applicant and the Planning Commission to better inform the applicant of the acceptability of his proposed plans prior to incurring extensive engineering and other costs which might be necessary for final Planned Unit Development approval.

(d) Public hearing. Upon receipt of an application for a Planned Unit Development, the Planning Commission shall call a public hearing for the purpose of receiving comments relative to the Planned Unit Development application. A notice shall be published in a newspaper which circulates in the Township and sent by mail or personal delivery to all persons to whom real property is assessed within five hundred (500) feet of the boundary of the property in question and to the occupants of all structures within five hundred (500) feet. The notice shall be given

not less than five (5) or more than fifteen (15) days before the date the application will be considered. The notice shall:

- (1) Describe the nature of the Planned Unit Development application;
- (2) Indicate the property which is the subject of the Planned Unit Development application;
- (3) State when and where the Planned Unit Development application will be considered and
- (4) Indicate when and where written comments will be received concerning the application.

(e) Review and approval. Within thirty (30) days following the public hearing, the Planning Commission shall review the application for a Planned Unit Development, comments received at the public hearing, the site plan and other materials submitted in relation to the application, and deny, approve or approve with conditions the Planned Unit Development application in accordance with the purpose of this Article and the criteria for approval stated in Section 5{111.2305}, an such standards contained in this Ordinance which relate to the Planned Unit Development under consideration. The Planning Commission shall prepare a report stating its conclusions on the request for a Planned Unit Development, the basis for this decision, and any conditions relating to an affirmative decision. Upon the approval or approval with conditions by the Planning Commission, the applicant may apply for preliminary plat approval.

111.2305

Basis of determination. Prior to approval of a Planned Unit Development application, the Planning Commission shall insure that the standards specified in this section, as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion of the Planned Unit Development under consideration.

(a) General standards. The Planning Commission shall review the particular circumstances of the Planned Unit Development application under consideration in terms of the following standards and shall approve a Planned Unit Development only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:

- (1) The Planned Unit Development shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area and shall not change the essential character of the surrounding area.
- (2) The Planned Unit Development shall not be hazardous to adjacent property or involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes or glare.
- (3) The Planned Unit Development shall not place demands on public services and facilities in excess of current capacity. The applicant shall obtain a written statement to this effect from all affected utility companies.
- (4) The Planned Unit Development shall not directly or indirectly have a substantial adverse impact on the natural resources of the Township, including but not limited to, prime agricultural soils, water recharge areas, lakes, rivers, streams, major forests, wetlands, wildlife areas and major sand, gravel or mineral deposits.

(5) The Planned Unit Development shall not have substantial and permanent adverse effects on the market value of surrounding property.

(6) The Planned Unit Development shall be designed so that on site sanitation facilities for sewage disposal, potable water supply, storm water, and solid waste disposal are properly designed and capable of handling the long term needs of the proposed project.

(b) Conditions. The Planning Commission may impose conditions with the approval of a Planned Unit Development which are necessary to insure compliance with the standards for approval stated in this section and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the Planned Unit Development approval and shall be enforced by the Zoning Ordinance Enforcement Officer.

(c) Appeals. Decisions of the Planning Commission may be appealed to the Township Board. (Amended 11/06)

111.2306 Repeal. All Ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

111.2307 Effective date. This Ordinance shall be effective after legal publication and in accordance with the Act governing the same. (Adopted: Ord. No. 22, 3-9-93)

111.2600**PORTER SOUTH DEVELOPMENT PARK DISTRICT**

The following development standards and guidelines shall be used to establish a framework for ensuring that all development within the Porter South Development Park reflects high standards of quality and design. These standards and guidelines are intended to be used in conjunction with the Porter Township Zoning Ordinance, as well as any other applicable governmental ordinances. Many of the provisions of these Development Standards address matters of design and development quality not addressed by the Porter Township Zoning Ordinance. Where standards are common to both documents and the requirements of these Development Standards exceed those of the Porter Township Zoning Ordinance, the former shall apply. In those rare instances where the requirements of the Porter Township Zoning Ordinance exceed those of these Development Standards, the latter shall apply by virtue of relief through the Planned Development process.

111.2601**COMMERCIAL PARK DEVELOPMENT AREA**

The development standards and guidelines for the Commercial Park development area are intended to create a high quality campus-like setting for corporate headquarters, multi-tenant professional offices, multi-family dwellings, retail development and limited support services and facilities. Accordingly, the development standards and guidelines for the Commercial Park emphasize high-quality architecture, generous open spaces and attractive landscaping.

111.2602

Purpose. This District is intended for commercial establishments, but may also contain residences as apartments or condominiums, churches and schools. Planned future developments are located in this area that is considered ideal to concentrate development so as to maintain the rural character of the remainder of the township. The area is considered ideal for this purpose due to its proximity to main roads. This District differs from the Commercial "C" District due to its location and stricter standards for set backs, parking, signage, frontage roads, etc.

111.2603

LAND USE RESTRICTIONS The use of land and buildings permitted shall be those permitted in the Porter Township Zoning Ordinance.

111.2604

Permitted uses. The following uses are permitted in this District.

- (a) Residences as provided for in this district must be of condominium or multi family dwellings. Development criteria are as follows. Individual buildings must contain a minimum of eight (8) housing or rental units. Total complex must contain a minimum of forty (40) housing or rental units.
- (b) Banks.
- (c) Barber shops and beauty parlors.
- (d) Food catering services.
- (e) Automobile service stations, sales lots, show rooms, repair shops and car washes.
- (f) Business and professional offices (includes doctors, attorneys, realtors, etc.)
- (g) Building trades offices and show rooms.
- (h) Government offices and facilities (Federal, State, County and Township).

- (i) Public utility buildings and offices.
- (j) Restaurants, drive-ins, taverns and carry-out food establishments.
- (k) Private clubs and meeting rooms.
- (l) Food markets, pharmacies and liquor stores.
- (m) Mercantile establishments (includes furniture, appliance, hardware, dry goods, sport and bait stores).
- (n) Arts and crafts studios.
- (o) Veterinary offices and small animal clinics .
- (p) Produce markets, garden supply and horticultural establishments.
- (q) Laundry and dry cleaning establishments.
- (r) Building supply.
- (s) Farm supply.
- (t) Marinas.
- (u) Theatres.
- (v) Printing shops, graphic arts and photographic supply.
- (w) Churches and schools.

111.2605

Prohibited uses. Any use which will create detrimental noise, fumes, odors, traffic, constitute a general nuisance or endanger the public health or safety. The following uses are specifically prohibited:

- (a) Junk or salvage yards.
- (b) Keeping of livestock.
- (c) Commercial bulk storage of fuels and solvents.
- (d) Rendering and incineration plants.
- (e) Cartage or freight docks.
- (f) Waste storage or dumping.
- (g) Manufacturing.
- (h) Tattoo parlors.
- (i) Adult book stores, adult movie theaters, adult novelty shops and adult entertainment centers.
- (j) Single family dwellings.

111.2606 REQUIRED SETBACKS A minimum thirty-five (35) foot setback will be required. Said setback will be measured from the frontage road shoulder right of way. Building setbacks will be determined by size and location when the site plans are presented to the Porter Township Planning Commission.

A. Front/Corner Side Yard Building and Parking Setback An 80-foot front and corner side yard shall be maintained along interior streets within the Porter South Development Park development area. No buildings or parking shall be permitted within this yard area. Furthermore, parking is not permitted in front of the building line, even in cases where the building is setback further than the required 80 feet. However, driveways and incidental parking (not to exceed 10 spaces) associated with building entrance drop-off facilities are permitted.

B. Natural Area Buffer Zone All wetland areas subject to the authority of the U.S. Army Corps of Engineers shall be protected by a 100-foot buffer zone within which no buildings or hard surface paving shall be allowed.

111.2607 ARCHITECTURAL STANDARDS The following architectural standards are intended to promote architectural quality in design and construction. These standards are also intended to promote a degree of harmony through limitations on the types of building materials used.

A. Architectural Design Guidelines The architectural design of buildings shall observe the following guidelines to help promote design quality and harmony.

1. Main building entrances should be featured prominently through porticos, recessed entries, accent lighting or landscaping.
2. Buildings with sloping roofs should have overhangs proportional to the scale of the building.
3. Exterior materials should be consistent on all facades of the building.
4. The mixing of exterior building materials should relate to structural elements of the building.
5. The use of trim materials around windows and doors is strongly encouraged.
6. Colors used on building exteriors shall be complementary. Bright colors, where used, shall serve only as accents.
7. The shape and mass of the building's primary facades should incorporate two or more vertical planes.

B. Exterior Building Material Standards.

1. Appropriate Building Materials Include:
 - Finished concrete
 - Finished precast concrete/finished concrete masonry units
 - Stucco
 - Natural stone
 - Brick (clay)
 - Tile (ceramic/porcelain)
 - Glass (tinted or clear)
2. Restricted Building Materials:

- Wood
 - Plastics
3. Prohibited Building Materials
- Plywood/wood siding
 - Unfinished concrete/unfinished concrete masonry walls
4. Building Trim Materials

Greater flexibility is allowed in the use of trim materials for windows and doors, decorative columns, and other accents on the exterior of buildings. Permitted trim materials include:

- Wood
 - Stone
 - Brick (clay)
 - Tile (ceramic/porcelain)
 - Formed polymers (Fypon or equal)
 - Painted Aluminum
5. Prohibited Materials:
- Plastic
 - Unfinished concrete/unfinished concrete masonry units

C. Roofs and Rooftop Screening

Roof design and rooftop equipment shall be integrated into the overall design of the building and shall conform to the following:

1. No restrictions shall apply to the roof pitch, shape or materials used.
2. All rooftop equipment, except for vent hoods less than 1 foot high, shall be screened from view from ground level by parapet walls, architectural rooftop walls and recesses behind sloping roofs.
3. Exposed vent hoods shall be of the same color as the surrounding roof material.
4. Rooftop screens shall be of a color compatible with the predominant color of the roof.
5. The color(s) used on the roof shall be compatible with the overall color scheme of the building.

111.2608

LANDSCAPE STANDARDS The development concept for the Porter South Development Park is to create a unified, professional campus setting. A strong emphasis on landscape design is central to achieving this concept. The following standards reflect the priority of landscape design within the Porter South Development Park.

- A. Plant Material Requirements** Major emphasis in landscaping will be placed on a broad, well-developed landscape setting. To help accomplish this, the following plant materials shall be required.
- B.** A detailed architectural landscaping plan must be submitted.

- C. Plan must include the usage of trees, shrubs, and ground cover vegetation (annuals/perennials).
- D. Total tree population must contain; 50% deciduous shade trees (2-1/2" average caliper) 20% ornamental trees (6' average height), 20% evergreen trees (7' average height). Totalshrub population must contain 50% deciduous shrubs and 50% evergreen shrubs
- E. **Berms** The design of berms intended to screen parking areas shall maintain a maximum slope of 5:1.
- F. **Street Tree Planting** Trees shall be planted within the adjacent right-of-way at the rate of one tree per forty linear feet of right-of-way. Trees shall be grouped informally, and shall complement tree masses located within the front yard area.

111.2609 SIGN STANDARDS The following sign standards shall supplement the sign regulations of the Porter Township Zoning Ordinance.

- A. **Permitted Sign Types** Advertising and business/user identification signs shall be limited to monument signs and facade (wall) signs. Public safety signs, directional/traffic signs and other incidental signs are also permitted.
- B. **Maximum Sign Area**
 - a. Monument Signs: not to exceed one square foot of sign area per two linear feet of lot frontage. Total sign height not to exceed ten (10) feet.(Amended 09/11/07)
 - b. Facade Signs: not to exceed 5% of the applicable building facade, not to exceed 150 square feet.
- C. **Maximum Number of Signs Permitted**
 - a. Monument Signs: one sign per lot.
 - b. Facade Signs: one sign per side (facade) of the building.
- D. **Colors and Illumination**
 - a. Color Restrictions: a maximum of two colors, plus white or black, may be used on any sign. Colors shall be complementary. Garish color combinations are to be avoided.
 - b. Illumination: Signs may be externally or internally illuminated. External illumination shall not employ the use of "flood-light" type lighting.
- E. **Sign Landscaping** All monument signs shall be located within a landscape area of predominantly ornamental shrubs, perennials, groundcover or annuals. The size of the landscape area shall be three times the surface area of the sign.

111.2610 SITE DESIGN AMENITIES

- A. **Topography** Site grading should meet local storm water management standards while maintaining the character of the natural topography in southwest Michigan

- B. Retention Facilities and Water Features** In order to ensure that retention facilities and water features are designed in a naturalistic manner and are in harmony with the overall landscape, the following standards shall apply:
- a. All parking lot and roof run off shall be retained in on site dry wells.
 - b. The grading of wet retention facilities shall be naturalistic. Side slopes shall not exceed a maximum of 4:1. At the normal water line, side slopes shall not exceed 6:1 around 70% of the perimeter of the retention area.
 - c. Wetland/aquatic vegetation shall be planted around 70% of the perimeter of a wet retention area.
 - d. Dry retention areas shall maintain a maximum side slope of 4:1. Grading shall be designed to harmonize with the overall landscape design of the site.
 - e. The maximum "freeboard" of all retention areas shall not exceed 3 feet
- C. WALLS & FENCES:** To be submitted as part of site development plans.
- D. FOUNTAINS & SCULPTURE:** To be submitted as part of site development plans.

111.2611 PORTER SOUTH DEVELOPMENT PARK ZONING DISTRICT

The boundaries of this special zoning district are as follows.

The corridor extends along the east side of M-217 from the Michigan state line north to U S 12. The eastern boundary at the South end, from Wayne Street to State Line Road, is a line from the West side of the Spencer Subdivision south. From Wayne Street North, it goes west to Union Road, where Union Road jogs east; the corridor continues straight north to U S 12. The corridor will be zoned special commercial as The Porter South Development Park for which regulations were previously approved. The properties that comprise this zoning district are listed below.

- | | |
|---------------------|---------------------|
| 14-120-207-054-06 | 14-120-240-014-10 |
| 14-120-207-053-01 | 14-120-219-005-10 |
| 14-120-207-056-11 | 14-120-219-005-04 |
| 14-120-207-055-60 | 14-120-219-005-25 |
| 14-120-218-011-01 | 14-120-219-007-20 |
| 14-120-218-010-01 * | 14-120-219-007-25 |
| 14-120-218-012-01 | 14-120-219-007-30 |
| 14-120-218-014-02 | 14-120-219-007-51 * |

*(Denotes parcels that are only partially in the Porter South Development Zoning District)

111.2612 Effective Date. This zoning change shall be effective day of publication, 2003

Adopted: September 9, 2003

PRIVATE ROAD ORDINANCE

The Township of Porter ordains as follows: This Ordinance shall be known as the “Private Road” Ordinance.

111.3001 PURPOSE. The Township has hereby determined that as large tracts of land are divided, sold, transferred, and developed, private access roads are being created to provide access to the newly divided properties which are not subject to regulation under the Michigan Subdivision Control Act of 1967 and other State regulations. The Township determines it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, extension, relocation, and use of private roads to assure:

A. THAT; private roads are designed with width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other safety vehicles.

B. THAT; said roads are constructed of suitable materials to ensure minimal maintenance and safe passage.

C. THAT; private roads will be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the Township.

111.3002 DEFINITIONS. For purpose of this section, the following terms are defined as follows:

A. An “**existing private road**” is a private road or a private road system which is used to provide access to two or more existing lots, or dwelling units as of the effective date of this ordinance.

B. An “**existing lot**” is a lot which, as of the effective date of this ordinance, meets at least one of the following conditions.

(1). a lot consists of a parcel described by metes and bounds for which a deed has been recorded with the Cass County Register of Deeds, or of a parcel described by a land contract or memorandum of land contract which has been recorded with the Cass County Register of Deeds.

(2). a lot has been assigned its own permanent parcel number by the Cass County Property Description and Mapping Department and is individually assessed and taxed on that basis, or

(3). a lot consists of a “condominium unit” (i.e., a portion of a condominium project designed and intended for separate ownership and use as described in the condominium master deed) located within a “site condominium” development for which a condominium master deed has been recorded with the Cass County Register of Deeds in accordance with the requirements of the Michigan Condominium Act (PA 59 of 1978, as amended, MCLA 559.101 et seq.) and other applicable laws and ordinances.

C. An “**existing dwelling unit**” is a single family home for which a building permit has been issued by the Township as of the effective date of this Ordinance

111.3003 GENERAL REQUIREMENTS AND APPLICATION TO EXISTING PRIVATE ROADS.

- A. After the effective date of this Ordinance, a private road shall not be constructed, extended, or relocated, except in accordance with the minimum standards and requirements of this ordinance. If an additional lot is proposed to be platted and is to be served by an existing private road, the road shall meet the requirements of Section 1.04E and a private road permit must be obtained as per Section 1.06. If an existing private road is proposed to be extended, then the existing portion shall be improved to meet the standards of this ordinance. The new portion shall also comply with the standards of this ordinance.

(If meeting the current MDOT or Cass County Road Commission standards at the time of construction is impractical, the Zoning Board of Appeals could be asked to agree to an alternative some sort of “turn-around” constructed on a portion of the property to allow for Emergency vehicles use as a turnaround area when necessary. Dimensions to be determined by Fire/E.M.S.)

- B. Private roads are permitted in all zoning districts.
- C. The provisions of this ordinance shall not apply to access roads internal to any individual lot or parcel of land which has direct public street frontage access and is under the control of one person, firm, corporation, or association, provided that the access road does not provide access to any abutting lot or parcel of land.

Examples of access roads that may be exempted from the provisions of this Ordinance include those serving multi-family dwellings, nursing homes, hospitals, factories, schools, mobile home parks, and shopping centers, which are otherwise subject to site, plan review and approval under the provisions of the Porter Township Zoning Ordinance.

- D. The provisions of this Ordinance shall not apply to an existing private road which provides access solely to existing lots, or dwelling units except for private roads serving two or more lots, those requirements pertaining to names for private roads, house numbers and minimum lot frontage as contained herein shall apply.
- E. Private roads shall not interconnect with the public street network in a manner that will preclude the extension of public streets if necessary to further the logical, orderly, and efficient development of the overall public street network. In making such determination, the Township Board shall consider the circulation pattern and traffic volumes on nearby public streets, existing and proposed land use in the general area, the recommendations contained within the Porter Township Master Plan and Major Street Plan, if any, and if applicable, the Street and Highway Plans of the Cass County Road Commission, and Michigan Department of Transportation.
- F. Where private roads in existence prior to the effective date of this Ordinance are to be extended and serving five (5) or less lots, the existing road may be extended provided that the entire private road is improved to the construction specifications of Section 1.04 (E) of this ordinance except for paving
- G. Where private roads exist prior to the effective date of this Ordinance are to be extended and serving six (6) or more lots, the existing road may be extended provided that the entire private road is improved to the construction specifications of Section 1.04 (E) of this ordinance including paving.

- H. Where a private road serving five (5) lots or less has been approved and constructed under the terms of this Ordinance and is proposed to be extended to serve six (6) or more lots, the existing road may be extended provided that the entire private road is improved to the construction specifications of Section 1.04 (E) of this ordinance including paving.

111.3004

MINIMUM STANDARDS FOR NEW PRIVATE ROADS.

- A. A private road shall be located within a private road easement. Such easement shall not be less than sixty-six (66) feet in width. At any dead end of such easement, the easement shall widen such that there is a minimum radius of sixty (60) feet.
- B. A lot shall have frontage on the private road easement, which is at least equal to the minimum lot width required for the zoning district in which the lot is located. Lots fronting on a cul-de-sac may be reduced to forty (40) feet at the front lot line, as long as the lot meets the minimum width requirement at the minimum front yard setback line.
- C. A private road shall intersect and connect to a public road. The private road shall have a minimum of sixty six (66) feet of frontage at its access point to the public road. A private road shall not be approved which accesses a public street or road by another private road.
- D. A private road serving two (2) or more lots shall be given a street name that is not the same or similar to any other street named in the county. A street sign bearing the street name given the private road meeting Cass County Road Commission standards as to design, location, and maintenance shall be erected and maintained by the applicant where such private road intersects any public road. The provision shall also apply to existing private roads. A street sign shall be erected within one (1) year after the adoption of this ordinance.
- E. A new private road serving six (6) or more lots is required to be paved with a minimum of two (2) inches of asphalt or equivalent dustless surface. A new private road serving five (5) lots or less is not required to be paved but both must comply with the current MDOT or Cass County Road Commission standards at the time of construction.
- F. A private road shall not exceed a grade of eight (8) percent: provided that within thirty (30) feet of the intersection of a private road with any other private road or with any public right-of-way, a private road shall not exceed a grade of one and one-half (1.5) percent
- G. A private road shall be constructed in a manner to provide effective storm water drainage and to prevent run-off onto adjacent property. If a private road crosses a natural drainage course, stream or other natural body of water, the method of crossing (by bridge, culver or other structure) must be certified by a registered professional engineer so that it complies with applicable Cass County Drain commission and State of Michigan requirements.
- H. A dwelling unit which derives its primary access from a private road shall display a house number in a manner so that the number is at all times readily visible from the private road. The house numbers shall be a minimum of three (3) inches in height.
- I. In determining the location of a private road, consideration shall be given to safety of traffic entering and exiting the driveway in relationship with the public road.

ROAD MAINTENANCE, (NEW AND OR EXTENSIONS OF).**A. Road Maintenance Agreement.**

The applicant (s) and /or owners (s) of the proposed private road shall provide to the Township Clerk a recorded road maintenance agreement, access easement agreement, and deed restrictions in compliance with Section 1.06(B)(5) which shall provide for the perpetual (non-public) standard to serve the parties having an interest in the private road. These documents shall contain the following provision.

- (1) A method of initiating and financing of such road and/or easements in order to keep the road in a reasonably good and usable condition.
- (2) A workable method of apportioning the costs of maintenance and improvements, including the potential of future paving, if the road is extended to serve six (6) or more lots. For new private road applications and for applications for the extension of existing private roads submitted after April 3, 2005, the recorded road maintenance agreement and the method of apportioning the costs of maintenance and improvements shall provide that any future improvements required or desired shall be completed over the entire length of the private road and/or any extensions thereto.
- (3) A notice that if repairs and maintenance are not made, the Township Board may bring the road up to the design standards specified in Section 1.04 and assess owners of parcels on the private road for the improvements, plus an administrative fee in the amount of 5% of the total cost of the improvements.
- (4) A notice that no public funds of the Township of Porter are to be used to build, repair, or maintain the private road.
- (5) Easement to the public for purposes of utilities, emergency and other public vehicles for whatever public services are necessary.
- (6) A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, tradesmen, and others bound to or returning from any of the properties having a right to use the road.

B. Road Maintenance and Improvement Standards.

- (1) Improvements to and maintenance of private roads shall be accomplished so as to provide for a consistent surface maintained to meet the requirements of the Ordinance throughout the entire length of the private road.
- (2) The road maintenance agreements for all existing private roads and private roads approved by the Township prior to April 3, 2005 shall provide that any future improvements required or desired shall be completed over the entire length of the private road and /or any extensions thereto. The Township Zoning Administrator shall review the road maintenance agreements for all existing private roads and private roads approved by the Township prior to April 3, 2005 and determine whether such agreements provide that any future improvements required or desired shall be completed over the entire length of the private road and/or any

extensions thereto. All property owners abutting private roads covered by road maintenance agreements that do not include such a provision shall be notified in writing by the Township Zoning Administrator of the requirements of this section. Said property owners shall be given a reasonable period of time to amend their road maintenance agreements and to record such amendment with the Cass County Register of Deeds.

(3) All private roads existing prior to April 3, 2005 not having a current Road Maintenance Agreement shall provide an acceptable alternative Agreement to the Township by April 3, 2005 specifically showing that accessibility is provided for emergency vehicles at all times. If an acceptable alternative agreement, insuring that the Private Road will continue to be maintained to the necessary specifications to accommodate all Fire/E.M.S. equipment sufficiently, is not received within two years of a specific notice to the road "owners" the Township can no longer accept any liability if the Fire/E.M.S. is unable, or unwilling, to negotiate that specific road because of possible harm to personnel or equipment by using said road.

111.3006 PROCEDURE FOR REVIEW OF PRIVATE ROADS.

A. Permit Application and Fee An application to establish, extend, or relocate a private road shall be filed with the Township Zoning Administrator along with a fee as set by the Township Board. The application shall contain or be accompanied by the following information.

- (1) The name(s) of the owners and any other parties having any legal interest in the private road and the property across which it is to be constructed.
- (2) Permanent parcel number or legal description of the property over which the private road is to be constructed.
- (3) A site location map not to scale which shows the location of the parcel containing the road to surrounding properties and roadways within one-half mile of the site.
- (4) A scaled drawing showing the location, route, dimensions, specifications and design of the private road and any proposed extensions of the road, existing or proposed curb cuts and the location and distance to any public street which the private road is to intersect, in compliance with this Ordinance.
- (5) A scaled drawing illustrating the proposed lot divisions.
- (6) A road maintenance agreement, access easement agreement and deed restrictions as described in Section 1.05 herein, shall also accompany the application.
- (7) An Approved driveway permit from the Cass County Road Commission, or the MDOT
- (8) A letter from the Cass County Road Commission indicating. There is no known duplication of the proposed private road name.

B. Review of Permit Application.

- (1) The permit application, drawings and other required information shall be forwarded to the Planning Commission upon review by the Zoning Administrator to determine compliance with the standards for private roads. Not less than five (5) and no more than fifteen (15) days

prior to the meeting, the Township Clerk shall send a notice to all property owners within five hundred (500) feet of the subject property. Such notice shall describe the approximate location of the proposed new private road or the extension or relocation of an existing private road and the date, time and place of the Planning Commission meeting at which the application will be considered. Such notice shall also invite all interested residents of the Township to attend said meeting for the purpose of commenting on the application.

(2) The Planning Commission shall review this information and may consult with the Township Fire Chief, Attorney, Engineer or Planner as deemed necessary. A quorum of the Zoning / Planning Commission shall be present to review and decide upon the permit application.

(3) If the Planning Commission finds that the application meets the requirements of the Ordinance, and complies with section 1.06A 7 it shall then be approved by a majority of the membership present and direct the Zoning Administrator to issue a permit for the construction of the private road. This permit shall consist of a stamp noting approval and containing the signature of the Zoning Administrator and the date of approval. Two copies of the private road plans shall be stamped for approval, one copy shall be kept by the applicant, and one by the Township. This construction permit is a Private Road Permit and does not authorize the construction of any dwelling units on the private road. The construction permit is valid for a period of one (1) year from the date of approval. If construction of the private road has not been completed before this date, the permit shall expire. A new permit shall be required before construction can begin

(4) If the Planning Commission denies the application, the Planning Commission meeting minutes shall be provided to the Applicant within fourteen (14) working days of the date of the Planning Commission meeting.

(5) Final Compliance Requirements, upon completion of Construction of the private road, the applicant shall provide to the Zoning Administrator: (a) a letter from the Cass County Road Commission that the road has been inspected and constructed in compliance with the approved private road plans and MDOT or Cass County Road Commission standards, and (b) documentation that the road maintenance agreement, access easement and deed restrictions have been recorded with the Cass County Register of Deeds office, and (c) a driveway permit for the private road from Cass County Road Commission or the MDOT.

(6) Private Road Permit Issuance-Upon approval of all items required for final compliance, the Zoning Administrator shall issue a Private Road Permit.

(7) Permits for Dwelling on Private Roads – A building permit shall not be issued for any principal dwelling which derives its primary access from a private road unless a Private Road Permit has been issued by the Township and the road has been completed in accordance with the approved permit.

(8) Permits for dwelling on Existing Private Roads and Existing Lots – A Private Road Permit shall not be required for the issuance of a building permit for a principal dwelling on an existing lot, which derives its primary access from an existing private road as defined herein except as provided in Section 1.03 herein.

111.3007 TOWNSHIP LIABILITY. The owner(s) of the private road agree by applying for and securing a permit to construct the private road that they shall indemnify and save and hold the Township harmless from all claims for personal injury and/or property damage arising out of the failure to

property construct, maintain, repair and replace the private road. Such wording shall appear on the application for the permit and be signed by the applicant.

111.3008 VARIANCES. Any person affected by a decision regarding this Ordinance shall have the right to appeal the decision to the Township Zoning Board of Appeals within twenty one (21) days. Such appeal shall be filed with the Township Clerk in writing and shall state the reason for appeal and any documents in support thereof. The Township Zoning Board of Appeals shall establish a time for hearing the appeal, which shall be no later than thirty (30) days after filing. Written notice of such hearing by first class mail shall be provided to all adjacent properties which depend or may depend in the future on the private road for access and all properties with five hundred (500) feet of such private road and to all Planning Commission members. Such notice shall be given not less than seventy-two hours prior to such hearing. The decision of the Township Board of Appeals shall be in writing and be delivered to the applicant within ten (10) calendar days following the hearing. The decision of the Township Zoning Board of Appeals shall be final. An appeal may be taken to the Circuit court. The Township Zoning Board of Appeals shall grant variances only upon a finding, from reasonable evidence that the following facts and conditions exist:

A. THAT; the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purposes of this ordinance or the public interest. The possibility of increased financial return shall not of itself be deemed sufficient to a variance.

B. THAT; the condition or situation of the specific piece of property, for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formation of a general regulation for such conditions or situation.

C. THAT; by reason of exceptional narrowness in width, breadth, length, or shape of specific piece of property on the effective date of the ordinance, or by reason of unusual topographic conditions, or other extraordinary situation or condition of the land, building, or structure or of the use of property immediately adjoining the property in question, the literal enforcement of the requirements of the Ordinance would involve practical difficulties or would cause undue hardship.

D. WHERE; there are observed practical difficulties or unnecessary hardships in carrying out the strict letter of this Ordinance yet public safety secured, and substantial justice done.

111.3009 PENALTIES. Any person who violates a provision of this ordinance shall be responsible for a municipal civil infraction, and upon an admission or determination of responsibility thereof shall be subject to a fine. All fines and enforcement procedures required by this ordinance shall be subject to the procedures outlined in the Township Decriminalization Ordinance, Ordinance number 27 as was adopted June 9, 1998 and amended May 11, 1999

111.3010 SEVERABILITY If any provision of this Ordinance or the application thereof to any person or circumstance shall be found to be invalid by any court, such invalidity shall not affect the remaining provisions of the ordinance, which shall be given effect.

111.3011 EFFECTIVE DATE This Ordinance shall take effect and be in force from and after thirty (30) days after publication.

111.3012 PUBLICATION This Ordinance is ordered to be given publication in the manner prescribed by law.

111.3013 REPEAL CLAUSE All ordinances inconsistent with the provisions of this ordinance are hereby repealed.

EFFECTIVE April 3, 2005

PORTER TOWNSHIP
CASS COUNTY, MICHIGAN
AMENDMENT TO THE PORTER TOWNSHIP
ZONING ORDINANCE

Adopted: February 13, 2018

Effective: February 23, 2018

An Ordinance to amend the Porter Township Zoning Ordinance (Part 111 of the compiled ordinances of Porter Township, as amended) to provide a table for accessory buildings based on size of the parcel in all residential zoning districts; to make references within each residential district for the same; to provide for an effective date; and to repeal any parts of the Zoning Ordinance in conflict herewith.

THE TOWNSHIP OF PORTER
CASS COUNTY, MICHIGAN

ORDAINS:

SECTION 1

**AMENDMENT TO PART 111.500 “GENERAL PROVISIONS FOR
RESIDENTIAL DISTRICTS” OF THE PORTER TOWNSHIP
ZONING ORDINANCE**

A. A new subsection entitled designated 111.501(f) is hereby added to the compiled ordinances of Porter Township, Cass County Michigan to read as follows:

“111.501(f) **Accessory building height and sizes.** Accessory building height and sizes in all residential zoning districts are dependent upon the size of the parcel on which it is constructed. See Section 111.508(c) and table therein.”

B. Subsection (c) of Section 111.508 “**Accessory Building**” is hereby amended to read:

“**Accessory Building Size and Height Limitations in all Residential Zoning Districts.** The height and size of accessory buildings in all Residential Zoning Districts shall be dependent upon the size of the parcel on which the accessory building is constructed as established on the following table. In the “R-1”, “R-2” and “LR” zoning districts, all accessory buildings in residential zoning districts shall

adhere to the following table:

Parcel Size And Zoning District	Maximum Size of Footprint(s) Of Total Accessory Buildings on Parcel	Maximum Height Of Accessory Buildings
½ acre or less All Residential Districts	1,200 square feet	21'
½ acre to 1 acre in size in "LR" Lake Residential District only	1,800 square feet	21'
Greater than one acre in size In "LR" Lake Residential District Only	2,100 square feet	21'
1/2 acre to 1 acre in size in "R-1" and "R-2" Districts	2,100 square feet	28'
1 acre to 5 acres in size in "R-1" and "R-2" Districts	2,700 square feet	28'
Greater than 5 acres in "R-1" and "R-2" Districts	6,300 square feet	28'

- C. The wording behind Subsection (d) of Section 111.508 "Accessory Building" is hereby eliminated and replaced with the phrase "reserved for future use."

SECTION 2

AMENDMENT TO PART 111.703 "RESIDENTIAL DISTRICT 'R-1'" OF THE PORTER TOWNSHIP CODE OF ORDINANCES

A new subsection designated "(h)" is hereby added to Part 111.703 of the compiled ordinances of Porter Township, Cass County, Michigan to read as follows:

"(h). Accessory Buildings in this Zoning District are subject to the provisions of 111.508 and the table contained in Section 111.508(c) of this ordinance".

SECTION 3

AMENDMENT TO PART 111.801 "LAKE RESIDENTIAL DISTRICT 'LR'" OF THE PORTER TOWNSHIP CODE OF ORDINANCES

A new subsection designated "(f)" is hereby added to Part 111.801 of the compiled ordinances of Porter Township, Cass County, Michigan to read as follows:

“(f). Accessory Buildings in this Zoning District are subject to the provisions of 111.508 and the table contained in Section 111.508(c) of this ordinance”.

SECTION 4

AMENDMENT TO PART 111.903 “RESIDENTIAL DISTRICT ‘R-2’” OF THE PORTER TOWNSHIP CODE OF ORDINANCES

A new subsection designated “(g)” is hereby added to Part 111.703 of the compiled ordinances of Porter Township, Cass County, Michigan to read as follows:

“(h). Accessory Buildings in this Zoning District are subject to the provisions of 111.508 and the table contained in Section 111.508(c) of this ordinance”.

SECTION 5

SEVERABILITY CLAUSE

Should any provision or part of the within ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the enforceability of the balance of this Ordinance which shall remain in full force and effect.

SECTION 6

SAVINGS CLAUSE

Legal proceedings presently pending on an Ordinance provision which is hereby repealed may proceed to judgment or decision and shall not be affected by this Ordinance.

SECTION 7

REPEAL OF CONFLICTING ORDINANCE PROVISIONS

All Ordinance provisions in conflict herewith are hereby repealed.

SECTION 8

EFFECTIVE DATE

The effective date of this amendatory ordinance shall be 8 days following a publication of a summary thereof after adoption by the Porter Township Board.

PORTER TOWNSHIP

Marty Russell, Clerk
PO Box 517
Union MI 49130-0517
(269) 641-2375

Township Hall Address:
69373 Baldwin Prairie Road
Union MI 49130

111.700

RESIDENTIAL DISTRICT “R-1”

111.701

Permitted uses This district is intended primarily for single family residential use. The following uses only are permitted:

- (a) One residence on each lot as a detached single family dwelling.
- (b) Customary gardening.
- (c) Accessory uses that are customarily incidental to any permitted principal use.
- (d) Transitional uses, Home occupations and private swimming pools as regulated and permitted in Article V.
- (e) Temporary uses as permitted and regulated in Article III, Sec. 8.

111.702

Prohibited uses. The keeping or raising or riding horses, farm animals or poultry is prohibited.

111.703

Height and area. The following height and area regulations shall apply.

- (a) **Height:** No building shall exceed a maximum of two and one-half stories or 35 feet in height, whichever is the lesser.
- (b) **Front yard:** There shall be a front yard of not less than 35 feet.
- (c) **Side yard:** There shall be at least two side yards totaling at least 25 feet and no side yard shall be less than 10 feet provided, however, that when a side lot adjoins a street, a minimum yard of 20 feet is required.
- (d) **Rear yard:** There shall be a rear yard of at least 30 feet.
- (e) **Minimum lot size** shall be twenty four thousand square feet (24,000 sq ft) unless said lot (s) are located within a municipal sanitary sewer district. Lot (s) located within such a district shall be a minimum of twenty thousand square feet (20,000 sq ft). (Amended 11/08/2005)
- (f) **Lot width:** The minimum lot width at the setback line shall be 100 feet.
- (g) **Floor area:** There shall be a minimum floor area of 1,200 square feet. (Amended: 5-14-96)

111.900 RESIDENTIAL DISTRICT “R-2” ZONING (Ord. Of 11/23/82)

111.901 Permitted uses. Uses as permitted in any Residential Zone “R-1”. Two family dwellings and multiple dwelling units are also permitted in this District.

111.902 Prohibited uses. All uses prohibited in the Residential “R-1” District, except multiple dwelling units are prohibited in the Residential “R-2” District.

111.903 Height and area. The following Height and Area regulations shall apply:

- (a) **Front yard:** There shall be a front yard of not less than 30 feet.
- (b) **Side yard:** There shall be two side yards totaling at least 20 feet at the setback line and no side yard shall be less than six feet, provided that where a side lot line adjoins a side street, a minimum side yard of 15 feet is required, and or all types of principal buildings, minimum side yards of 20 feet on each side are required.
- (c) **Rear yard:** There shall be a rear yard of at least 30 feet.
- (d) **Residence lot area.** Minimum lot size shall be twenty four thousand square feet (24,000 sq ft) unless said lot (s) are located within a municipal sanitary sewer system district. Lot (s) located within such a district shall be a minimum of twenty thousand square feet (20,000 sq ft). Amended 11/08/2005
- (e) **Lot width:** The minimum lot width at the setback line shall be 80 feet.
- (f) **Floor area:** There shall be a minimum floor area of 800 square feet. Each unit if a two family dwelling shall provide such minimum floor area.(Amended 05/14/96)

111.2700 SCENIC PRESERVATION DISTRICT ZONING (Ord. Of 08/09/2006)

111.2701 Permitted uses. Uses as permitted in any Residential Zone “R-1” and “R2”.

111. 2702 Prohibited uses. All uses prohibited in the Residential “R-1” and “R2” District, are prohibited in the Scenic Preservation District. A 300ft depth is in effect on both sides of the road in this district.

111.2703 Height and area. The following Height and Area regulations shall apply:

(a) **Front yard:** There shall be a front yard set back of not less than 100 feet. Ingress to the dwelling shall be accomplished via an angled drive. A 70 foot green belt setback is in effect restricting the removal of trees to only dead trees and those needed to provide egress to the dwelling. All utilities to the dwelling shall be underground.

(b) **Side yard:** There shall be two side yards totaling at least 25 feet at the setback line and no side yard shall be less than 10 feet, provided that where a side lot line adjoins a side street, a minimum side yard of 30 feet is required, and or all types of principal buildings, minimum side yards of 20 feet on each side are required.

(c) **Rear yard:** There shall be a rear yard of at least 30 feet.

(d) **Lot area:** There shall be a lot area at least 24,000 square feet.

(e) **Lot width:** The minimum lot width at the setback line shall be 100 feet.

(Amended 11-13-07)

**CONDOMINIUM BYLAWS
SHADY POINT CAMPGROUND CONDOMINIUM RESORT**

TABLE OF CONTENTS

Section 1. ASSOCIATION OF OWNERS

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CONDOMINIUM BYLAWS

Section 1. ASSOCIATION OF OWNERS

1.1 Organization. Shady Point Campground Condominium Resort is a recreational site condominium project located in Newberg and Porter Townships, Cass County, Michigan, being developed by conversion of an existing campground to comprise a maximum of 81 Units, almost all of which are recreational vehicle sites. On the recording of the Master Deed, the management, maintenance, operation, and administration of the Project shall be vested in an Association of Owners organized as a nonprofit corporation under the laws of the state of Michigan. The Association will keep current copies of the Master Deed, all amendments to the Master Deed, and other Condominium Documents for the Project available at reasonable hours for inspection by Owners, prospective buyers, mortgagees, and prospective mortgagees of Units in the Project.

1.2 Compliance. All present and future Owners, mortgagees, lessees, or other persons who may use the facilities of the Condominium in any manner shall be subject to and comply with the provisions of the Act, the Master Deed and any amendments, the Condominium Bylaws, the Association's Articles of Incorporation, the Association Bylaws, and other Condominium Documents that pertain to the use and operation of the Project. The acceptance of a deed of conveyance, the entering into of a lease, or the act of occupying a Condominium Unit in the Project shall constitute an acceptance of the terms of the Condominium Documents and an agreement to comply with their provisions.

Section 2. MEMBERSHIP AND VOTING

2.1 Membership. Each Owner of a Unit in the Project shall be a member of the Association during the period of ownership, and no other person or entity will be entitled to membership. The share of a member in the funds and assets of the Association may be assigned, pledged, or transferred only as an appurtenance to a Unit.

2.2 Voting Rights. Each Owner will be entitled to one vote for each Unit owned when voting by number and one vote, the value of which shall equal the total of the percentages assigned to the Unit or Units owned, when voting by value. Voting shall be by number except when the Master Deed or Bylaws specifically require voting to be by number and value, and no cumulation of votes shall be permitted.

2.3 Eligibility to Vote. No Owner other than Developer will be entitled to vote at any meeting of the Association until the Owner has presented written evidence of ownership of a Unit in the Project, nor shall the Owner be entitled to vote (except for elections pursuant to section 3.4) before the Initial Meeting of Members. An Owner shall be permitted to vote only if the Owner is not in default in payment of assessments levied against the Owner's unit. Developer shall be entitled to vote only those Units to which Developer still holds title.

2.4 Designation of Voting Representative. The person entitled to cast the vote for each Unit and to receive all notices and other communications from the Association shall be designated by a certificate signed by all the record owners of a Unit and filed with the secretary of the

Association. The certificate shall state the name and address of the individual representative designated; the number of the Unit owned; and the name and address of the person or persons, firm, corporation, partnership, association, trust, or other legal entity who is the Unit Owner. All certificates shall be valid until revoked, until superseded by a subsequent certificate, or until a change has occurred in the ownership of the Unit.

2.5 Proxies. Votes may be cast in person or by proxy. Proxies may be made by any designated voting representative who is unable to attend the meeting in person. Proxies will be valid only for the particular meeting designated and any adjournment and must be filed with the Association before the appointed time of the meeting.

2.6 Majority. At any meeting of members at which a quorum is present, 51 percent of the Owners entitled to vote and present in person or by proxy (or written vote, if applicable) shall constitute a majority for the approval of the matters presented to the meeting, except when these Bylaws, the Master Deed, or law required a majority exceeding a simple majority.

Section 3. MEETINGS AND QUORUM

3.1 Initial Meeting of Members. The initial meeting of the members of the Association may be convened only by Developer and may be called at any time after two or more of the Units in the Project have been sold and the buyers qualified as members of the Association. In no event, however, shall the initial meeting be called later than (a) 120 days after the conveyance of legal or equitable title to nondeveloper Owners of 75 percent of the total number of Units that may be created in the Project or (b) 54 months after the first conveyance of legal or equitable title to a nondeveloper Owner of a Unit, whichever first occurs, at which meeting the eligible Owners may vote for the election of directors of the Association. The maximum number of Units that may be added to the Project under section 6 of the Master Deed shall be included in the calculation of the number of Units that may be created. Developer may call meetings of members of the Association for informational or other appropriate purposes before the initial meeting, but no such informational meeting shall be construed as the initial meeting of members.

3.2 Annual Meeting of Members. After the initial meeting has occurred, annual meetings of the members shall be held each year on a date and at a time and place selected by the Board of Directors. At least 20 days before the date of an annual meeting, written notice of the date, time, place, and purpose of the meeting shall be mailed or delivered to each member entitled to vote at the meeting; but no less than 30 days written notice shall be provided to each member of any proposed amendment to these Bylaws or to other recorded Condominium Documents.

3.3 Advisory Committee. Within one year after the initial conveyance by Developer of legal or equitable title to an Owner of a Unit in the Project or within 120 days after conveyance of one-third of the total number of Units that may be created in the Project, whichever first occurs, Developer shall select two or more persons from the nondeveloper Owners to serve as an advisory committee to the Board of Directors (the Advisory Committee). The purpose of the Advisory Committee is to facilitate communication between Developer-appointed Board of Directors and the nondeveloper Owners and to aid in the ultimate transition of control to the Owners. The members of the Advisory Committee shall serve for one year or until their

successors are selected, and the Committee shall automatically cease to exist at the Transitional Control Date. The Board of Directors and the Advisory Committee shall meet with each other at the request of the Advisory Committee, but there shall be not more than two such meetings each year unless both parties agree.

3.4 Board Composition. Not later than 120 days after conveyance of legal or equitable title to nondeveloper Owners of 25 percent of the Units that may be created in the Project, at least one director and not less than one-fourth of the Board of Directors of the Association shall be elected by nondeveloper Owners. Not later than 120 days after conveyance of legal or equitable title to nondeveloper Owners of 50 percent of the Units that may be created in the Project, not less than one-third of the Board of Directors shall be elected by nondeveloper Owners. Not later than 120 days after conveyance of legal or equitable title to nondeveloper Owners of 75 percent of the Units that may be created in the Project and before conveyance of 90 percent of those Units, the nondeveloper Owners shall elect all directors on the board except that Developer shall have the right to designate at least one director as long as Developer owns and offers for sale at least 10 percent of the Units in the Project or as long as 10 percent of the Units remain that may be created.

3.5 Owner Control. If 75 percent of the Units that may be created in the Project have not been conveyed within 54 months after the first conveyance of legal or equitable title to a nondeveloper Owner, the nondeveloper Owners shall have the right to elect the percentage of members of the Board of Directors of the Association equal to the percentage of Units they hold, and Developer will have the right to elect the percentage of members of the board equal to the percentage of Units that are owned by Developer and for which all assessments are payable by Developer. This election may increase, but shall not reduce, the minimum election and designation rights of directors otherwise established in section 3.4. Application of this provision does not require a change in the size of the board as designated in the Association bylaws.

3.6 Mathematical Calculations. If the calculation of the percentage of members of the board that the nondeveloper Owners have a right to elect or the product of the number of members of the board multiplied by the percentage of Units held by the nondeveloper Owners results in a right of nondeveloper Owners to elect a fractional number of members of the board, a fractional election right of 0.5 or greater shall be rounded up to the nearest whole number. After application of this formula, Developer shall have the right to elect the remaining members of the board. Application of this provision shall not eliminate the right of Developer to designate at least one member as provided in section 3.4.

3.7 Quorum of Members. The presence in person or by proxy of 35 percent of the Owners entitled to vote shall constitute a quorum of members. The written vote of an Owner properly furnished at or before a meeting at which the Owner is not present in person or by proxy shall be counted in determining the presence of a quorum regarding the question on which the vote is cast.

Section 4. ADMINISTRATION

4.1 Board of Directors. The business, property, and affairs of the Association shall be managed by a board of directors (the Board of Directors) to be elected in the manner described in these Bylaws. The directors designated in the Articles of Incorporation shall serve until their successors have been duly elected and qualified at the initial meeting of members. All actions of the first Board of Directors designated in the Articles of Incorporation or any successors to the directors selected by Developer before the initial meeting of members shall be binding on the Association as though the actions had been authorized by a Board of Directors elected by the members of the Association as long as the actions are within the scope of the powers and duties that a Board of Directors may exercise under the Condominium Documents. A service contract or management agreement entered into between the Association and Developer or affiliates of Developer shall be voidable without cause by the Board of Directors on the Transitional Control Date or within 90 days after the initial meeting has been held and on 30 days' notice at any time for cause.

4.2 Powers and Duties. The Board shall have all powers and duties necessary to administer the affairs of the Association and may take all actions in support of the administration that are not prohibited by the Condominium Documents or specifically reserved to the members, including the following:

- a. care, upkeep, and maintenance of the Common Elements
- b. development of an annual budget and the determination, levy, and collection of assessments required for the operation and affairs of the Condominium
- c. employment and dismissal of contractors and personnel as necessary for the efficient management and operation of the Condominium Property
- d. adoption and amendment of rules and regulations governing the use of the Condominium Property not inconsistent with these Bylaws
- e. opening bank accounts, borrowing money, and issuing evidences of indebtedness in furtherance of the purposes of the Association and designating signatories required for those purposes
- f. obtaining insurance for the Common Elements, the premiums of which shall be an expense of administration
- g. granting licenses for the use of the Common Elements for purposes not inconsistent with the provisions of the Act or of the Condominium Documents
- h. authorizing the execution of contracts, deeds of conveyance, easements, and rights-of-way affecting any real or personal property of the Condominium on behalf of the Owners
- i. making repairs, additions, and improvements to or alterations of the Common Elements and repairs to and restoration of the Common Elements after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings
- j. asserting, defending, or settling claims on behalf of all Owners in connection with the Common Elements of the Project and, on written notice to all Owners, instituting actions on behalf of and against the Owners in the name of the Association
- k. further duties as may be imposed by resolution of the members of the Association or that may be required by the Condominium Documents or the Act

4.3 Books of Account. The Association shall keep books and records containing a detailed account of the expenditures and receipts of administration, which will specify the maintenance and repair expenses of the Common Elements and any other expenses incurred by or on behalf of the Association and its members. The accounts shall be open for inspection by the Owners and their mortgagees during reasonable hours. The Association shall also prepare and distribute a financial statement to each Owner at least once a year, the contents of which will be defined by the Association. The books and records shall be reviewed annually and audited at times required by the Board of Directors by qualified independent accountants (who need not be certified public accountants), and the cost of the review or audit shall be an expense of administration.

4.4 Maintenance, Repair, and Replacement. The responsibility for maintenance, repair, and replacement of Units and Common Elements (other than following casualty damage, which is described in section 6.3 of the Bylaws) is as follows:

- a. All maintenance, repair, and replacement of the structures and other improvements located within a Unit or Limited Common Elements that are the responsibility of the Owner of a Unit as set forth in the Master Deed shall be made by the Owner of the Unit. Each Owner shall be responsible for all damages to the Common Elements resulting from the repairs or from any failure of the Owner to perform maintenance and repairs to a Unit.
- b. All maintenance, repair, and replacement of the General Common Elements, whether located inside or outside the Units, and of Limited Common Elements to the extent required by the Master Deed shall be made by the Association and shall be charged to all the Owners as a common expense unless necessitated by the negligence, misuse, or neglect of a particular Owner, in which case the expense shall be charged to the responsible Owner. The Association or its agent shall have access to each Unit (but not to the interior of any residence or garage within a Unit) from time to time during reasonable hours, on notice to the occupant, to maintain, repair, or replace any of the Common Elements located within or accessible only from a Unit that are the responsibility of the Association. The Association or its agents shall also have access to each Unit at all times without notice for making emergency repairs necessary to prevent damage to other Units or the Common Elements.

4.5 Reserve Fund. The Association shall maintain a reserve fund to be used for major repairs and replacement of the Common Elements, as provided by MCL 559.205. The fund shall be established in the minimum amount required on or before the Transitional Control Date and shall, to the extent possible, be maintained at a level that is equal to or greater than 10 percent of the then current annual budget of the Association on a noncumulative basis. The minimum reserve standard required by this section may prove to be inadequate, and the Board should carefully analyze the Project from time to time to determine if a greater amount should be set aside or if additional reserve funds should be established for other purposes.

4.6 Construction Liens. A construction lien arising as a result of work performed on a Unit or on an appurtenant Limited Common Element shall attach only to the Unit on which the work was performed, and a lien for work authorized by Developer or the principal contractor shall attach only to Condominium Units owned by Developer at the time of recording the lien. A

construction lien for work authorized by the Association shall attach to each Unit only to the proportionate extent that the Owner of the Unit is required to contribute to the expenses of administration. No construction lien shall arise or attach to a Condominium Unit for work performed on the General Common Elements not contracted for by the Association or Developer.

4.7 Managing Agent. The Board may employ a management company or managing agent at a compensation established by the Board to perform the duties and services as the Board shall authorize, including, but not limited to, the powers and duties described in section 4.2. Developer or any person or entity related to Developer may serve as managing agent, but any compensation paid to Developer shall be at competitive rates.

4.8 Officers. The Association Bylaws shall provide for the designation, number, terms of office, qualifications, manner of election, duties, removal, and replacement of officers of the Association and may contain any other provisions pertinent to officers of the Association not inconsistent with these Bylaws. Officers may be compensated, but only on the affirmative vote of 67 percent or more of all Owners.

4.9 Indemnification. All directors and officers of the Association shall be entitled to indemnification against costs and expenses incurred as a result of actions (other than willful or wanton misconduct or gross negligence) taken or failed to be taken on behalf of the Association on 10 days notice to all Owners in the manner and to the extent provided by the Association Bylaws. If no judicial determination on indemnification has been made, an opinion of independent counsel on the propriety of indemnification shall be obtained if a majority of Owners vote to procure such an opinion.

Section 5. ASSESSMENTS

5.1 Administrative Expenses. The Association shall be assessed as the entity in possession of any tangible personal property of the Condominium owned or possessed in common, and personal property taxes levied on such property shall be treated as expenses of administration. All costs incurred by the Association in satisfaction of any liability arising within, caused by, or connected with the Common Elements or the administration of the Project shall be expenses of administration, and all sums received as proceeds of or pursuant to any policy of insurance covering the interests of the Owners against liabilities or losses arising within, caused by, or connected with the Common Elements or the administration of the Common Elements shall be receipts of administration.

5.2 Determination of Assessments. Assessments will be determined in accordance with the following provisions:

- a. **Initial Budget.** The Board of Directors of the Association shall establish an initial budget in advance for each fiscal year that will project all expenses for the coming year that may be required for the proper operation, management, and maintenance of the Condominium Project, including a reasonable allowance for contingencies and reserves. The annual assessment to be levied against each Unit in the Project shall then be determined on the

basis of the budget. Copies of the budget shall be delivered to each Owner, although the failure to deliver a copy to each Owner will not affect or in any way diminish the liability of an Owner for any existing or future assessment.

- b. **Budget Adjustments.** If the Board of Directors determines at any time, in its sole discretion, that the initial assessments levied are insufficient (i) to pay the costs of operation and maintenance of the Common Elements, (ii) to provide for the replacement of existing Common Elements, (iii) to provide for additions to the Common Elements not exceeding \$5,000 annually, or (iv) to respond to an emergency or unforeseen development, the Board is authorized to increase the initial assessment or to levy any additional assessments it deems necessary for such purposes. The discretionary authority of the Board of Directors to levy additional assessments will rest solely with the Board of Directors for the benefit of the Association and its members and may not be attached by or subject to specific performance by any creditors of the Association.
- c. **Special Assessments.** The Board of Directors may make special assessments in excess of those permitted by subsections (a) and (b) from time to time following the approval of the Owners as provided in this subsection to meet other needs or requirements of the Association, including but not limited to (i) assessments for additions to the Common Elements costing more than \$5,000 in any year, (ii) assessments to purchase a Unit on foreclosure of the lien described in section 5.5, or (iii) assessments for any other appropriate purpose not specifically described. Special assessments referred to in this subsection (but not those assessments referred to in subsections (a) and (b), which will be levied in the sole discretion of the Board of Directors) will not be levied without the prior approval of 67 percent or more (in number and in value) of all Owners. The authority to levy assessments pursuant to this subsection is solely for the benefit of the Association and its members and may not be attached by or subject to specific performance by any creditors of the Association.

5.3 Apportionment of Assessments. All assessments levied against the Unit Owners to cover expenses of administration shall be apportioned among and paid by the Owners in accordance with the Percentage of Value allocated to each Unit in the Master Deed and any other assessment provisions in the Master Deed, without increase or decrease for the existence of any rights to the use of Limited Common Elements appurtenant to a Unit. Unless the Board elects some other periodic payment schedule, annual assessments will be payable by Owners in 1 lump sum or 12 equal monthly installments, commencing with the acceptance of a deed to or a land contract vendee's interest in a Unit or with the acquisition of title to a Unit by any other means. The payment of an assessment will be in default if the assessment, or any part, is not received by the Association in full on or before the due date for the payment established by rule or regulation of the Association.

5.4 Expenses of Administration. The expenses of administration shall consist, among other things, of the amounts the Board deems proper to operate and maintain the Condominium property under the powers and duties delegated to it and may include, without limitation, amounts to be set aside for working capital of the Condominium, for a general operating reserve, for a reserve for replacement, and for meeting any deficit in the common expense for any prior year. Any reserves established by the Board before the initial meeting of members shall be subject to approval by the members at the initial meeting. The Board shall advise each Owner in

writing of the amount of common charges payable by the Owner and shall furnish copies of each budget containing common charges to all Owners.

5.5 Collection of Assessments. Each Owner shall be obligated for the payment of all assessments levied on the Owner's Unit while that person is the Owner of the Unit, and no Owner may become exempt from liability for the Owner's contribution toward the expenses of administration by waiver of the use or enjoyment of any of the Common Elements or by the abandonment of a Unit.

- a. **Legal Remedies.** In the event of default by any Owner in paying the assessed common charges, the Board may declare all unpaid installments of the annual assessment for the pertinent fiscal year to be immediately due and payable. In addition, the Board may impose reasonable fines or charge interest at the legal rate on assessments from and after the due date. Unpaid assessments, together with interest on the unpaid assessments, collection and late charges, advances made by the Association for taxes or other liens to protect its lien, attorney fees, and fines in accordance with the Condominium Documents, shall constitute a lien on the Unit prior to all other liens except tax liens in favor of any state or federal taxing authority and sums unpaid on a mortgage of record recorded before the recording of any notice of lien by the Association. The Association may enforce the collection of all sums due by suit at law for a money judgment or by foreclosure of the liens securing payment as provided by MCL 559.208. In a foreclosure proceeding, whether by advertisement or by judicial action, the Owner or anyone claiming under the Owner shall be liable for assessments charged against the Unit that become due before the redemption period expires, together with interest, advances made by the Association for taxes or other liens to protect its lien, costs, and reasonable attorney fees incurred in their collection.
- b. **Sale of Unit.** On the sale or conveyance of a Unit, all unpaid assessments against the Unit shall be paid out of the sale price by the buyer in preference over any other assessment or charge except as otherwise provided by the Condominium Documents or by the Act. A buyer or grantee may request a written statement from the Association for the amount of unpaid assessments levied against the Unit being sold or conveyed, and the buyer or grantee shall not be liable for, nor shall the Unit sold or conveyed be subject to, a lien for any unpaid assessments in excess of the amount stated in a written response from the Association. However, unless the buyer or grantee requests a written statement from the Association at least five days before the sale as provided in the Act, the buyer or grantee shall be liable for any unpaid assessments against the Unit together with interest, late charges, fines, costs, and attorney fees.
- c. **Self-Help.** The Association may enter the Common Elements, Limited or General, to remove and abate any condition constituting a violation or may discontinue the furnishing of services to an Owner in default under any of the provisions of the Condominium Documents on seven days' written notice to the Owner of the Association's intent to do so. An Owner in default shall not be entitled to use any of the General Common Elements of the Project and shall not be entitled to vote at any meeting of the Association as long as the default continues, but this provision shall not operate to deprive any Owner of ingress and egress to and from the Owner's Unit.

- d. **Application of Payments.** Money received by the Association in payment of assessments in default shall be applied as follows: first, to costs of collection and enforcement of payment, including reasonable attorney fees; second, to any interest charges and fines for late payment on the assessments; and third, to installments of assessments in default in order of their due dates.

5.6 Financial Responsibility of Developer. The responsibility of Developer for assessments is as follows:

- a. **Pretturnover Expenses.** Before the Transitional Control Date, it will be Developer's responsibility to keep the books balanced and to avoid any continuing deficit in operating expenses, but Developer shall not be responsible for the payment of general or special assessments. At the time of the initial meeting, Developer will be liable for the funding of any continuing deficit of the Association that was incurred before the Transitional Control Date.
- b. **Postturnover Expenses.** After the Transitional Control Date and continuing for any remaining Development and Sales Period, Developer shall be responsible for the payment of either general or special assessments levied by the Association on Units owned by Developer.
- c. **Exempted Transactions.** Under no circumstances will Developer be responsible for the payment of any portion of any assessment that is levied for deferred maintenance, reserves for replacement, capital improvements, or additions, or to finance litigation or other claims against Developer.

Section 6. TAXES, INSURANCE, AND REPAIR

6.1 Real Property Taxes. Real property taxes and assessments shall be levied against the individual Units and not against the Property of the Project or any phase of the Project, except for the calendar year in which the Project or phase is established. Taxes and assessments that become a lien against the Property in the year in which the Project was established shall be expenses of administration and shall be assessed against the Units located on the land with respect to which the tax or assessment was levied in proportion to the Percentage of Value assigned to each Unit. Real property taxes and assessments levied in any year in which a vacation of the Project occurs shall be assessed only against the individual Units. For tax and special assessment purposes, no Unit shall be combined with any other Unit or Units, and no assessment of any fraction of a Unit or combination of any Unit with other whole or partial Units shall be made, nor shall any division or split of the assessment or taxes of a single Unit be made, whether the Unit is owned by an individual or multiple Owners. Taxes for real property improvements made to or within a specific Unit shall be assessed against that Unit only, and each Unit shall be treated as a separate, single parcel of real property for purposes of property taxes and special assessments.

6.2 Insurance Coverage. The Association shall be appointed as attorney-in-fact for each Owner to act on insurance matters and shall be required to obtain and maintain, to the extent applicable, casualty insurance with extended coverage, vandalism, and malicious mischief endorsements; liability insurance (including director's and officer's liability coverage if deemed advisable); and

worker's compensation insurance pertinent to the ownership, use, and maintenance of the Common Elements of the Project. All insurance shall be purchased by the Board of Directors for the benefit of the Association, the Owners, the mortgagees, and Developer as their interests may appear. The insurance, other than title insurance, shall be carried and administered according to the following provisions:

- a. **Owner Responsibilities.** Each Owner will be responsible for obtaining casualty insurance coverage at the Owner's expense regarding the Owner's Unit and all other improvements located within the perimeters of the Owner's Unit and for the Limited Common Elements appurtenant to the Owner's Unit. It shall also be each Owner's responsibility to obtain insurance coverage for the Owner's personal property within the Owner's Unit or elsewhere on the Condominium, for personal liability for occurrences within the Owner's Unit or on the Limited Common Elements appurtenant to the Owner's Unit, and for alternative living expenses in the event of fire or other casualty causing temporary loss of the Owner's recreational vehicle. All insurance carried by the Association or any Owner shall contain provisions permitting the waiver of the right of subrogation for any claims against any Owner or the Association for insured losses.
- b. **Common Element Insurance.** The General Common Elements of the Project shall be insured by the Association against casualties covered by a standard extended coverage endorsement, to the extent deemed applicable and appropriate, in an amount to be determined annually by the Board of Directors. The Association shall not be responsible for maintaining insurance regarding the Limited Common Elements, the Units themselves, or any improvements or personal property located within the Units.
- c. **Fidelity Insurance.** The Association may obtain, if desired, fidelity coverage to protect against dishonest acts by its officers, directors, employees, and all others who are responsible for handling funds of the Association.
- d. **Power of Attorney.** The Board of Directors is irrevocably appointed as the agent for each Owner, each mortgagee, other named insureds and their beneficiaries, and any other holder of a lien or another interest in the Condominium or the Property to adjust and settle all claims arising under insurance policies purchased by the Board and to execute and deliver releases on the payment of claims.
- e. **Indemnification.** Each individual Owner shall indemnify and hold harmless every other Owner, Developer, and the Association for all damages, costs, and judgments, including actual attorney fees, that any indemnified party may suffer as a result of defending claims arising out of an occurrence on or within an individual Owner's Unit or appurtenant Limited Common Elements. This provision shall not be construed to give an insurer any subrogation right or other right or claim against an individual Owner, Developer, or the Association, which rights are waived.
- f. **Premium Expenses.** Unless otherwise provided, all premiums for insurance purchased by the Association pursuant to these Bylaws shall be expenses of administration of the Association.

6.3 Reconstruction and Repair. If any part of the Condominium Property is damaged or destroyed by fire or other casualty, the decision whether or not it will be reconstructed or repaired will be made in the following manner:

- a. **General Common Elements.** If the damaged property is a General Common Element, the damaged property shall be repaired or rebuilt unless 80 percent or more of the Owners and the institutional holders of mortgages on any Unit in the Project agree to the contrary. However, if the damaged property is common roadway and is the sole means of ingress and egress to one or more Units in the Project, it will be repaired or rebuilt unless the 80 percent or more of the Owners agreeing not to repair or rebuild includes the Owners of all such Units.
- b. **Limited Common Elements and Improvements.** If the damaged property is a Limited Common Element or an improvement located within the boundaries of a Unit, the Owner of the affected Unit alone shall determine whether to rebuild or repair the damaged property, subject to the rights of any mortgagee or other person having an interest in the property, and the Owner shall be responsible for the cost of any reconstruction or repair that the Owner elects to make. The Owner shall in any event remove all debris and restore the Unit and its improvements to a clean and sightly condition satisfactory to the Association within a reasonable period of time following the occurrence of the damage.
- c. **Reconstruction Standards.** Any reconstruction or repair shall be substantially in accordance with the Master Deed and the original plans and specifications for the improvements located within the Unit.
- d. **Procedure and Timing.** Immediately after the occurrence of a casualty causing damage that is to be reconstructed or repaired by the Association, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in a condition as good as that existing before the damage. If the proceeds of insurance are not sufficient to cover the estimated cost of reconstruction or repair required to be performed by the Association or if at any time during the reconstruction or repair the funds for the payment of the costs by the Association are insufficient, assessment shall be levied against all Owners in sufficient amounts to provide funds to pay the estimated or actual costs of reconstruction or repair. This provision shall not be construed to require the replacement of mature trees and vegetation with equivalent trees or vegetation.

6.4 Eminent Domain. The following provisions will control on any taking by eminent domain:

- a. **Condominium Units.** In the event of the taking of all or any portion of a Condominium Unit or any improvements located within the perimeters of a Unit, the award for the taking shall be paid to the Owner of the Unit and any mortgagee, according to their interests. If an Owner's entire Unit is taken by eminent domain, the Owner and any mortgagee shall, after acceptance of the condemnation award, be divested of all interest in the Project.
- b. **Common Elements.** In the event of the taking of all or any portion of the General Common Elements, the condemnation proceeds relative to the taking shall be paid to the Association for use by or distribution to its members. The affirmative vote of 80 percent or more of the Owners in number and in value shall determine whether to rebuild, repair, or replace the portion taken or to take another action.
- c. **Amendment to the Master Deed.** If the Project continues after the taking by eminent domain, the remaining portion of the Project shall be resurveyed and the Master Deed amended accordingly; and if any Unit has been taken, section 5 of the Master Deed shall also be amended to reflect the taking and to proportionately readjust the Percentages of

Value of the remaining Owners based on the continuing total value of the Condominium of 100 percent. The amendment may be completed by an officer of the Association duly authorized by the Board of Directors without the necessity of execution or specific approval by any Owner.

- d. **Notice to Mortgagees.** If any Unit in the Condominium, the Common Elements, or any portion of them is made the subject matter of an eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the Association shall promptly notify each holder of a publicly recorded mortgage lien on any of the Units in the Condominium.
- e. **Inconsistent Provisions.** To the extent not inconsistent with the provisions of this section, MCL 559.233 shall control on any taking by eminent domain.

Section 7. CONSTRUCTION RESTRICTIONS

7.1 Permanent Buildings. Permanent buildings are prohibited on individual Units, except for those already in existence at the time of the recording of the Master Deed.

7.2 Codes and Ordinances. In addition to the construction requirements in this section, all buildings and other structures must comply with applicable building, mechanical, electrical, and plumbing codes of the applicable jurisdictions in effect when the building or structure is erected.

7.3 Reserved Developer Rights. The purpose of section 7 is to ensure the continued maintenance of the Condominium as an attractive and harmonious recreational development, and its provisions shall be binding on both the Association and all Owners in the Project. Developer (or any residential builder to whom Developer has assigned such rights) shall have the right to maintain a model unit, sales office, advertising display signs, storage areas, and reasonable parking incident to its sales efforts and to access to, from, and over the Property as may be reasonable to enable development and sale of the entire Project.

7.4 Permitted Variance. The Review Committee may, on a showing of practical difficulty or other good cause, grant variances from the requirements of this section, but only to an extent and in a manner that does not violate the spirit and intent of the requirements.

Section 8. USE AND OCCUPANCY RESTRICTIONS

8.1 Recreational Use. Condominium Units shall be used exclusively for parking and storage of recreational vehicles (RVs) for the purpose of recreational occupancy, and no Unit or appurtenant Common Element shall be used for any purpose other than that recreation and purposes incidental to recreational use. No permanent building of any kind shall be erected, placed, or permitted on any Unit (except those that existed at the time of filing the Master Deed).

8.2 Common Areas. The Common Elements shall be used only by the Owners of Units in the Condominium and their agents, tenants, family members, invitees, and licensees for access, ingress to, and egress from the respective Units and for other purposes incidental to use of the Units. Any parking areas or other Common Elements designed for a specific purpose shall be used only for those purposes or other uses approved by the Board. The use, maintenance, and operation of the Common Elements shall not be obstructed, damaged, or unreasonably interfered with by any Owner and shall be subject to any lease or easement presently in existence or entered into by the Board at some future date that affects all or any part of the Common Elements.

8.3 Use and Occupancy Restrictions. In addition to the general requirements of sections 8.1–8.2, the use of the Project and its Common Elements by any Owner shall be subject to the following specific restrictions:

- a. **Season.** The season begins May 1 and ends October 1 of each year. Owners are permitted to occupy their recreational vehicles and the Association will provide services under these Bylaws only during the season.

- b. **Quiet Hours.** Quiet hours are from 11 pm to 8 am each day.
- c. **Swimming.** Swimming is at the individual's own risk. No lifeguards are provided. Parents are responsible for their own children. Fishing, boating, and dogs are prohibited in swimming areas.
- d. **Fishing.** Fishing is permitted only in designated areas. No fishing in swimming areas. All fish cleaning must be done in the fish cleaning house.
- e. **Campfires.** Campfires are permitted, but must be contained and supervised. Fires must not extend more than 2 feet above their container. Burning of trash is not permitted.
- f. **Exterior Changes.** No Owner shall make any additions, alterations, or modifications to any of the Common Elements without prior approval of Association.
- g. **Unit Rental.** No portion of a Unit may be rented and no non-recreational tenants be accommodated in any building or Unit, but this restriction shall not prevent the rental or sublease of an entire Unit together with its appurtenant Limited Common Elements for recreational purposes in the manner permitted by these Bylaws.
- h. **Nuisances.** No nuisances shall be permitted on the Property, nor shall any use or practice be permitted that is a source of annoyance to or that unreasonably interferes with the peaceful possession or proper use of the Project by its residents. No Unit shall be used in whole or in part for the storage of rubbish or trash or for the storage of any property or thing that may cause the Unit to appear in an unclean or untidy condition. No substance or material shall be kept on a Unit that will emit foul or obnoxious odors or that will cause excessive noise that will or might disturb the peace, quiet, comfort, or serenity of the occupants of surrounding Units.
- i. **Prohibited Uses.** Nothing shall be done or kept in any Unit or on the Common Elements that will increase the rate of insurance for the Project without the prior written consent of the Association. No Owner shall permit anything to be done or kept in the Owner's Unit or elsewhere on the Common Elements that will result in the cancellation of insurance on any Unit or any part of the Common Elements or that will violate any law.
- j. **Signs.** No signs or other advertising devices (other than one professionally made unlit sign or a sign of substantially the same quality and appearance advertising a unit for sale that is not larger than four square feet in size) shall be displayed from or on any Unit that are visible from the exterior of the Unit or from the Common Elements without written permission from the Association or its managing agent.
- k. **Personal Property.** No Owner shall display, hang, or store any clothing, sheets, blankets, laundry, or other items of personal property outside within view of other Units. This restriction shall not be construed to prohibit an Owner from placing and maintaining outdoor furniture and accoutrements and decorative foliage of a customary nature and appearance within the confines of the Owner's Unit, though such furniture or other personal property shall be in good repair and appearance.
- l. **Firearms and Weapons.** No Owner shall use or permit the use by any occupant, agent, tenant, invitee, guest, or member of the Owner's family of any firearms; air rifles; pellet guns; BB guns; bows and arrows; fireworks; or other dangerous weapons, projectiles, or devices anywhere on or about the Property.
- m. **Drugs.** Illegal drugs are prohibited. Use of legal drugs shall be confined to the Owner's Unit.
- n. **Pets and Animals.** Domestic pets are permitted. No exotic, savage, or dangerous animal shall be kept on the Property, and no animal may be kept or bred for commercial

purposes. Common household pets permitted under the provisions of this subsection shall be kept only in compliance with the rules and regulations promulgated by the Board of Directors from time to time and must at all times be kept under care and restraint so they are not obnoxious on account of noise, odor, or unsanitary conditions. Animals permitted outdoors must not be permitted to run free off the Owner's Unit, and the owner of each pet shall be responsible for cleaning up after it. Kennels or similar structures are not permitted. The Association may, without liability to the owner of the pet, remove or cause to be removed from the Condominium any animal that it determines is in violation of the restrictions imposed by this section. Any person who causes or permits any animal to be brought to or kept on the Condominium Property shall indemnify and hold the Association harmless from any loss, damage, or liability that the Association sustains as a result of the presence of the animal on the Condominium Property.

- o. **Cars.** One car may be parked per Unit. Additional cars may be parked in other areas designated by the Association for that purpose.
- p. **Other Recreational Vehicles (other than RVs).**
 - a. **Boats and Boat Trailers** can be parked in posted areas on a temporary basis. Boats and boat trailers cannot be stored on Units.
 - b. **Golf Carts** are allowed, but must be stored on the owner's Unit. Golf carts shall only be driven by licensed drivers. Proof of insurance for golf carts is required.
 - c. **Other Recreational Vehicles** such as ATVs, snowmobiles, jet skis, or other motorized vehicles are not permitted.
- q. **Lawn Care and Landscaping.** Unit owners will be responsible for maintaining their own Unit. Shrubs and other permanent landscaping may be installed, but must be kept confined to the owner's Unit and maintained in a tidy, attractive, and healthy state.
- r. **Trash Containers and Pick Up.** All trash shall be placed in containers approved for that purpose by the Association.
- s. **Occupancy Limitations.** No persons shall permanently occupy or reside in any recreational vehicle within a Unit without the express prior written approval of the Association.
- t. **Exterior Lighting.** Vapor lights, dusk-to-dawn lights, or other lights that are regularly left on during the night may be installed or maintained on a Unit only so long as they do not impact other Unit owners.
- u. **Solar Panels and Satellite Dishes.** No solar panel, except those permanently affixed to an Owner's recreational vehicle, may be installed on any Unit until the type, design, and location of the solar panel has been approved in writing by the Review Committee. An Owner may install a satellite dish on the Owner's Unit, subject to reasonable prior approval by the Review Committee for size, location, color, and screening. To the extent required by applicable federal law, the Review Committee's regulations shall not unreasonably impair an Owner's installation, maintenance, or use of a satellite dish.
- v. **Hazardous Materials.** As used in these Bylaws, the term *Hazardous Materials* means any hazardous or toxic substance, material, or waste that is or becomes regulated by any local government authority, any agency of the state of Michigan, or any agency of the U.S. government. The term *Hazardous Materials* includes, without limitation, any material or substance that is (i) described as a "hazardous substance" pursuant to section 311 of the Federal Water Pollution Control Act, 33 USC 1317; (ii) defined as "hazardous waste" pursuant to section 1004 of the Federal Resource Conservation and Recovery Act,

42 USC 6901 et seq., 42 USC 6903; (iii) defined as a “hazardous substance” pursuant to section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 USC 9601 et seq., 42 USC 9601; (iv) petroleum and any petroleum byproducts; and (v) asbestos. Owners shall not, nor shall they permit their agents, invitees, contractors, or subcontractors (collectively, Owners’ Agents), to bring on, keep, store, use, or dispose of any Hazardous Materials on, in, under, or about the Project except ordinary cleaning chemicals and solutions, suitably packaged goods offered for sale at retail, and office supplies used for their intended purpose, none of which may pose any significant threat of contamination of the Project. Each Owner shall cause the presence, use, storage, or disposal of any Hazardous Materials on, in, under, or about the Project by the Owner or the Owner’s Agents to be in compliance with all applicable laws, rules, regulations, and orders. Each Owner shall defend, indemnify, protect, and hold harmless the Association from and against all claims, costs, fines, judgments, and liabilities, including attorney fees and costs, arising out of or in connection with the presence, storage, use, or disposal of Hazardous Material in, on, under, or about the Project caused by the acts, omissions, or negligence of the Owner or the Owner’s Agents.

- w. **Use of Common Elements.** The General Common Elements shall not be used for the storage of supplies or personal property (except for the short periods of time that are reasonably necessary to permit the placement of trash for collection the next day). Parking shall be in designated areas. No Owner shall in any way restrict access to any utility line or other area that must be accessible to service the Common Elements or that affects an Association responsibility in any way. In general, no activity shall be carried on or condition maintained by any Owner either in the Owner’s Unit or on the Common Elements that despoils the appearance of the Condominium.
- x. **Additional Use and Occupancy Restrictions.** Owners agree to abide by any additional use and occupancy restrictions adopted by the Association.
- y. **Application of Restrictions.** Unless arbitration is elected pursuant to these Bylaws, a dispute or question whether a violation of any specific regulation or restriction in this section has occurred shall be submitted to the Board of Directors of the Association, which shall conduct a hearing and render a decision in writing, which shall be binding on all owners and other parties with an interest in the Project.

8.4 Zoning Compliance. In addition to the restrictions in section 8, the use of any Unit or structure on the Property must satisfy the requirements of the zoning ordinances of the municipality where the Unit is located in effect at the time of the contemplated use unless a variance for the use is obtained from a unit of government with jurisdiction over the use of the Unit and Property.

8.5 Rules of Conduct. Additional rules and regulations consistent with the Act, the Master Deed, and these Bylaws concerning the use of Units and Common Elements may be promulgated and amended by the Board. Copies of the rules and regulations must be furnished by the Board to each Owner at least 10 days before their effective date and may be revoked at any time by the affirmative vote of the Board or 60 percent or more of all Owners.

8.6 Enforcement by Developer. The Project shall at all times be maintained in a manner consistent with the highest standards of a private recreational community used and occupied for

the benefit of the Owners and all other persons interested in the Condominium. If at any time the Association fails or refuses to carry out its obligations to maintain, repair, replace, and landscape in a manner consistent with the maintenance of such standards, Developer, or any person to whom it assigns this right, may, at its option, elect to maintain, repair, or replace any Common Elements or to do any landscaping required by these Bylaws and to charge the cost to the Association as an expense of administration. Developer shall have the right to enforce these Bylaws throughout the Development and Sales Period, and this right of enforcement shall include (without limitation) an action to restrain the Association or any Owner from any prohibited activity.

8.7 Owner Enforcement. An aggrieved Owner will also be entitled to compel enforcement of the Condominium Documents by an action for injunctive relief or damages against the Association, its officers, or another Owner in the Project.

8.8 Remedies on Breach. In addition to the remedies granted by section 5.5 for the collection of assessments, the Association shall have the right, in the event of a violation of the restrictions on use and occupancy imposed by this section 8, to enter the Unit and to remove or correct the cause of the violation. The entry will not constitute a trespass, and the Owner of the Unit will reimburse the Association for all costs of the removal or correction. Failure to enforce any of the restrictions in this section will not constitute a waiver of the right of the Association to enforce restrictions in the future.

8.9 Reserved Rights of Developer. The restrictions in this section shall not apply to the commercial activities of Developer during the Development and Sale Period. Developer shall also have the right to maintain a sales office, advertising display sign, storage areas, and reasonable parking incident to its sales efforts and to reasonable access to, from, and over the Property to enable development and sale of the entire Project.

8.10 Assignment and Succession. Developer may assign any of the rights granted to or reserved by it in the Condominium Documents or by law to any other entity or to the Association. Any assignment or transfer shall be made by an appropriate document in writing, signed by Developer and recorded in the register of deeds office for the county where the Project is located. On qualification, the assignee will have the same rights and powers as those granted to or reserved by Developer in the Condominium Documents.

Section 9. MORTGAGES

9.1 Notice to the Association. Any Owner who mortgages a Unit shall notify the Association of the name and address of the mortgagee (in this section, the Mortgagee), and the Association will maintain this information. The information relating to Mortgagees will be made available to Developer or its successors as needed to obtain consent from or give notice to Mortgagees concerning actions requiring consent from or notice to Mortgagees under the Condominium Documents or the Act.

9.2 Insurance. The Association shall notify each of the Mortgagees of the name of each company insuring the Condominium against fire, perils covered by extended coverage, and vandalism and malicious mischief, with the amounts of the coverage.

9.3 Rights of Mortgagees. Except as otherwise required by applicable law or regulations, a Mortgagee of a Unit will be granted the following rights:

- a. **Inspection and Notice.** On written request to the Association, a Mortgagee will be entitled (i) to inspect the books and records relating to the Project on reasonable notice; (ii) to receive a copy of the annual financial statement that is distributed to Owners; (iii) to notice of any default under the Condominium Documents by its mortgagor in the performance of the mortgagor's obligations that is not cured within 30 days; and (iv) to notice of all meetings of the Association and its right to designate a representative to attend the meetings.
- b. **Exemption from Restrictions.** A Mortgagee that comes into possession of a Unit pursuant to the remedies provided in the mortgage or by deed (or assignment) in lieu of foreclosure shall be exempt from any option or right of first refusal on the sale or rental of the mortgaged Unit in the Condominium Documents.

9.4 Additional Notification. When notice is to be given to a Mortgagee, the Board of Directors shall also give such notice to the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Veterans Administration, the Federal Housing Administration, the Farmer's Home Administration, the Government National Mortgage Association, and any other public or private secondary mortgage market entity participating in purchasing or guarantying mortgages of Units in the Condominium if the Board of Directors has notice of their participation.

Section 10. LEASES

10.1 Notice of Lease. An Owner who intends to lease a Unit shall disclose that fact in writing to the Association at least 10 days before presenting a lease form to the prospective tenant and, at the same time, shall supply the Association with a copy of the lease form. No Unit shall be leased without the prior written consent of the Association. These provisions do not apply to Developer.

10.2 Terms of Lease. All leases must be for the entire season (May 1 to October 1). All occupants of a Unit shall comply with all the conditions of the Condominium Documents of the Project, and all lease and rental agreements must require compliance.

10.3 Remedies of the Association. If the Association determines that any non-Owner occupant has failed to comply with any conditions of the Condominium Documents, the Association may take the following action:

- a. **Notice.** The Association shall notify the Owner by certified mail advising of the alleged violation by the non-Owner occupant.

- b. **Investigation.** The Owner will have 15 days after receipt of the notice to investigate and correct the alleged breach by the non-Owner occupant or to advise the Association that a violation has not occurred.
- c. **Legal Action.** If after 15 days the Association believes that the alleged breach has not been cured or may be repeated, it may institute an action for eviction against the non-Owner occupant and a simultaneous action for money damages (in the same or in a separate action) against the Owner and the non-Owner occupant for breach of the conditions of the Condominium Documents. The relief provided for in this section may be by summary proceeding. The Association may hold both the non-Owner occupant and the Owner liable for any damages to the Common Elements caused by the Owner or the non-Owner occupant in connection with the Unit or the Project.

10.4 Liability for Assessments. If an Owner is in arrears to the Association for assessments, the Association may give written notice of the arrearage to a non-Owner occupant occupying the Owner's Unit under a lease or rental agreement and the non-Owner occupant, after receiving such notice, shall deduct from rental payments due the Owner the full arrearage and future assessments as they fall due and pay them to the Association. Such deductions shall not be a breach of the lease agreement by the non-Owner occupant.

Section 11. TRANSFER OF UNITS

11.1 Unrestricted Transfers. An individual Owner may, without restriction under this section, sell, lease, give, devise, or otherwise transfer the Owner's Unit or any interest in the Unit to a spouse; to the Owner's child, parent, brother, sister, grandchild, or any one or more of them; or to any trustee of a trust for which the sole beneficiary is the Owner or a spouse, child, parent, brother, sister, grandchild, or any one or more of them. A partnership or corporation that owns a Unit may also transfer or convey the Unit or any interest in it to an individual partner or shareholder or to another entity owned and controlled by the transferor without restriction. Notice of any unrestricted transfer shall be given to the Association within five days following consummation of the transfer.

11.2 Notice to the Association. Whenever an Owner proposes to sell, give, devise, or otherwise transfer the Owner's Unit or any interest in the Unit to any person or entity other than a person or an entity described in section 11.1, the Owner shall give the Association not less than 30 days' prior written notice of the proposed transfer, which shall briefly describe the type of transfer proposed by the Owner and state the name and address of the proposed transferee. The notice shall also include a copy of the proposed terms of sale or other documents, if any, effecting the transfer.

11.3 Approval of Transfers by the Association. If an Owner proposes to sell or make a gift of a Unit or any interest in a Unit to a person or an entity other than a person or entity described in section 11.1, for a period of 30 days following the date that notice of the proposed transfer is given to the Association, the Association shall have the right, at its option, to either approve or object to the sale or gift of the Unit or interest to the proposed Transferee. If the Association fails to communicate its objection, in writing, within 30 days, the transfer shall be deemed approved. These terms also apply to transfers brought about by the death of an Owner, when the personal

representative of the deceased Owner proposes to transfer the Unit to a person or entity other than those described in section 11.1.

11.4 Purchase at Judicial Sale. The Board shall have the power and authority to bid and purchase, for and on behalf of the Association, any Unit at a sale pursuant to a mortgage foreclosure, a foreclosure of the lien for common expenses under the Act, or an order or a direction of a court or at any other involuntary sale on the consent or approval of the Owners owning not less than 60 percent in number and in value. The consent shall include a maximum price that the Board or its duly authorized agent may bid and pay for the Unit.

11.5 Financing of Purchase. The Board shall have authority to make mortgage arrangements and financing arrangements as authorized by the vote of the Owners to close and consummate the purchase of a Unit by the Association. No such financing arrangement may be secured by an encumbrance on any interest in the Project other than the Unit to be purchased and the limited common elements appurtenant to the Unit.

11.6 Miscellaneous.

- a. A transfer of a Unit to the Association or the holder of any mortgage on a Unit that comes into possession of the mortgaged Unit in the manner provided by section 5 or 9 shall not be subject to the provisions of this section.
- b. The Association shall hold title to any Unit acquired pursuant to this section in the name of the Association or a nominee delegated by the Board for the sole benefit of all Owners. The Board shall have the authority at any time to sell, lease, or sublease the Unit on behalf of the Association on whatever terms the Board deems desirable, but in no event shall a Unit be sold for less than the amount paid by the Association to purchase the Unit unless Owners owning not less than 60 percent in number and in value first authorize the sale for a lesser amount.
- c. The provisions of this section regarding the Association's option rights shall be and remain in full force and effect until the Project as a whole is sold unless the provisions of this section are sooner rescinded or amended by the Owners.
- d. If any transfer of a Unit is made or attempted without complying with the provisions of this section, the grantee's interest in the Unit shall remain subject to the exercise by the Association of an option to purchase after the transfer, and the transfer shall be further subject to each and all of the rights and options of and remedies and actions available to the Association.
- e. Except as otherwise provided in the Master Deed or in these Bylaws, in the event of any transfer of a Unit or any interest in the Unit, the transferee shall be jointly and severally liable with the transferor for all unpaid assessments of the transferor accrued and payable before the date of transfer.

Section 12. DISPUTE RESOLUTION

12.1 Submission to Facilitative Mediation. Any dispute, claim, or grievance arising out of or relating to the interpretation or application of the Master Deed, Bylaws, or other Condominium Documents and any disputes, claims, or grievances arising among or between Owners or

between Owners and the Association may, on the election and written consent of the parties to the dispute, claim, or grievance and written notice to the Association, be submitted to facilitative mediation. The aggrieved party must make known their grievance and request for mediation. The responding party will have 30 (thirty) days to negotiate a resolution prior to the decision to mediate. If a resolution was not reached after 30 (thirty) days, the parties may choose to participate in facilitative mediation. If any party or parties rejects the request to mediate, the claim, dispute, or grievance shall be heard in a court of law.

12.2 Disputes Involving Developer. A contract to settle by facilitative mediation may also be executed by Developer and any claimant for any claim against Developer that might be the subject of a civil action, provided as follows:

- a. **Buyer's Option.** At the exclusive option of a Buyer or an Owner in the Project, Developer shall execute a contract to settle by facilitative mediation any claim that might be the subject of a civil action against Developer that involves an amount less than \$2,500 and arises out of or relates to a purchase agreement, a Unit, or the Project.
- b. **The Association's Option.** At the exclusive option of the Association of Owners, Developer shall execute a contract to settle by facilitative mediation any claim that might be the subject of a civil action against Developer that arises out of or relates to the Common Elements of the Project if the amount of the claim is \$10,000 or less.

12.3 Preservation of Rights. Election by any Owner or by the Association to submit any dispute, claim, or grievance to facilitative mediation shall not preclude that party from litigating the dispute, claim, or grievance in the courts.

Section 13. OTHER PROVISIONS

13.1 Definitions. All terms used in these Bylaws will have the same meaning assigned by the Master Deed to which the Bylaws are attached or as defined in the Act.

13.2 Severability. If any of the terms, provisions, or covenants of these Bylaws or of any Condominium Document are held to be partially or wholly invalid or unenforceable for any reason, that holding shall not affect, alter, modify, or impair any of the other terms, provisions, or covenants of the documents or the remaining portions of any terms, provisions, or covenants held to be partially invalid or unenforceable.

13.3 Notices. Notices provided for in the Act, Master Deed, or Bylaws shall be in writing and shall be addressed to the Association at its registered office in the state of Michigan and to any Owner at the address in the deed of conveyance or at another address subsequently provided. The Association may designate a different address for notices to it by giving written notice of the change of address to all Owners. Any Owner may designate a different address for notices by giving written notice to the Association. Notices addressed as above shall be deemed delivered when mailed by U.S. mail with postage prepaid or when delivered in person.

13.4 Amendment. These Bylaws may be amended, altered, changed, added to, or repealed only in the manner prescribed by section 10 of the Master Deed.

13.5 Conflicting Provisions. In the event of a conflict between the Act (or other laws of the state of Michigan) and any Condominium Document, the Act (or other laws of the state of Michigan) shall govern. In the event of a conflict between the provisions of any one or more of the Condominium Documents themselves, the following order of priority shall be applied, and the provisions of the document having the highest priority shall govern:

1. the Master Deed, including the Condominium Subdivision Plan but excluding these Bylaws
2. these Condominium Bylaws
3. the Articles of Incorporation of the Association
4. the Association Bylaws
5. the Rules and Regulations of the Association
6. the Disclosure Statement.

111.2400

SITE PLAN REVIEW

111.2401

Purpose. The intent of this Article is to provide for consultation and cooperation between the applicant and the Township Planning Commission in order that the applicant may accomplish his/her objectives in the utilization of his/her land within the regulations of this Zoning Ordinance and with minimum adverse effect on the use of adjacent streets and highways and on existing and future uses in the immediate area and vicinity.

111.2402

Scope. The Building Inspector shall not issue a building permit for any principal use requiring four or more parking spaces or as required in this Ordinance until a site plan has been reviewed and approved by the Planning Commission.

111.2403

Application procedures. An application for site plan review, plus either a preliminary or final site plan, shall be submitted through the Zoning Administrator who will review the application and plans for completeness, then transmit to the Planning Commission.

111.2404

Preliminary plan review. Preliminary sketches 10 (ten copies) of the proposed site and development plans may be submitted for review to the Planning Commission prior to final site plan submittal. The purpose of such procedure is to allow discussion between the applicant and the Planning Commission to better inform the applicant of the acceptability of his proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval. Such plans shall include the following, as deemed necessary by the Building Inspector:

- (a) Legal description of the property.
- (b) Small scale sketch of properties, streets and use of land with one-half (1/2) mile of the area.
- (c) A generalized map showing any existing or proposed arrangement of:
 - (1) Streets; (2) Lot; (3) Access points;
 - (4) Other transportation arrangements;
 - (5) Buffer strip screenings;
 - (6) Natural characteristics, including, but not limited to, open space, stands of trees, brooks, ponds, floodplains, hills and similar assets;
 - (7) Signs-Location and lighting; (8) Buildings; and (9) Parking areas.
- (d) A narrative describing:
 - (1) The overall objectives of the proposed development;
 - (2) Number of acres or square feet allocated to each proposed use and gross area in building, structure, parking, public and/or private streets and drives, and open spaces;
 - (3) Dwelling unit densities by type;

(4) Proposed method of providing sewer and water service, as well as other public and private utilities; and

(5) Proposed method of providing storm drainage.

In addition to the above, said applicant shall submit a fee in accordance with the fee schedule established by the Township Board to cover the normal and specially incurred expenses of the Planning Commission. One-half (1/2) of said fee shall be paid upon submission of the preliminary site plan and the balance upon submission of the final site plan.

111.2405 Planning Commission review of preliminary site plan. The Planning Commission shall review the preliminary site plan and make recommendations to the applicant at a Planning Commission meeting based on the purposes, objectives and requirements of this Ordinance and specifically, the following considerations when applicable:

(a) Ingress and egress to property and proposed structures thereon, with particular reference to motor vehicles and pedestrian safety and convenience, traffic flow, and control and access in case of fire, catastrophe or emergency.

(b) Off-street parking and loading areas where required, with particular attention to noise, glare and odor effect of each use in the plan on adjoining properties and properties in the proposed development.

(c) Sewer, water and storm drainage, with reference to location, availability and compatibility.

(d) Screening and buffering, with reference to type, dimensions and character.

(e) Signs, if any, and their proposed lighting, relative to glare, traffic safety, economic effect, and compatibility and harmony with adjoining properties.

(f) Required yards.

(g) General compatibility with adjacent properties.

(h) The general purposes and spirit of this Ordinance.

111.2406 Final site review. The final site plan shall include the following information and such items as may be required by the Planning Commission from its review of the optional preliminary site plan. Ten (10) copies shall be submitted.

(a) Legal description of the property.

(b) Small scale sketch of properties, streets and use of land within one-half (1/2) mile of the area.

(c) A map at a scale not to exceed one inch equals two hundred feet (1 inch = 200 feet). The following items shall be shown on the map:

(1) Date site plan was prepared;

(2) Name and address of the preparer;

(3) The topography of the site and its relationship to adjoining land;

- (4) Existing man-made features
- (5) Dimensions of setbacks, locations, heights and size of buildings and structures;
- (6) Street right-of-way, indicating proposed access routes, internal circulation, and relationship to existing rights-of-way;
- (7) Proposed grading;
- (8) Location and type of drainage, sanitary sewers, storm sewers, and other utilities;
- (9) Location and type of fences, landscaping, buffer strips, and screening;
- (10) Location and type of signs and on-site lighting;
- (11) Proposed parking areas and drives. Parking area shall be designated by lines showing individual spaces and shall conform with the provisions of this Ordinance;
- (12) Easements, if any; and
- (13) Dimensions and number of proposed lots.

(d) A narrative describing the items indicated in Section 4(d) 111.2404)

111.2407

Planning Commission review of final site plan. The Planning Commission shall review the final site plan and either approve, deny or approve with conditions the final site plan based on the purposes, objectives and requirements of this Ordinance and, specifically, the considerations listed in Section 5(111.2405).

(a) Further, the Planning Commission is empowered to require a performance bond or certified check in an amount equal to the estimated cost of improvements associated with the project. Such performance guarantee shall be deposited with the Clerk of the Township at the time of the issuance of the permit authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site plan; if not, said performance bond shall be forfeited. The Township shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Building Inspector. In cases where the provisions of Section 7(111.2407) have not been met, the amount of the aforementioned performance guarantee shall be used by the Township to return the property to a safe and health condition; and the balance, if any, shall be returned to the applicant.

(b) Each development shall be under construction within one (1) year after the date of final approval by the Planning Commission. If said applicant does not fulfill this provision, the Commission may grant a sixty (60) day extension, provided the applicant presents reasonable evidence to the effect that said development has encountered unforeseen difficulties but is then ready to proceed. Should neither of the aforementioned provisions be fulfilled or a sixty (60) (day) extension has expired without construction underway, the site development plan shall be null and void.

(c) The Planning Commission shall undertake and complete final site plan reviews within sixty (60) days of submission of all required information by the applicant. Upon approval of said plan,

the Chairman of the Planning Commission shall sign three (3) copies thereof. One (1) signed copy shall be made a part of the Commission's files and one (1) shall be forwarded to the Building Inspector for issuance of a building permit. The third copy shall be returned to the applicant.

(d) Decisions of the Planning Commission may be appealed to the Township Board. (Amended 11/06)

111.2408 **Repeal.** all Ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

111.2409 **Effective date.** This Ordinance shall be effective after legal publication and in accordance with the Act governing the same. (Adopted: Ord. No. 23, 3-9-93)

111.2200

SPECIAL LAND USES

111.2201

Purpose Special land uses are uses of land which are not essentially incompatible with the uses permitted in a zoning district but possess characteristics or location qualities which require individual review and possible restriction in order to avoid incompatibility with the natural environment of the site, the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this Article is to establish equitable procedures and criteria which shall be applied in the determination of requests to establish special uses. The Criteria for decisions and requirements provided for under the provisions of the Article shall be in addition to those required elsewhere in this Ordinance which are applicable to the special use under consideration.

111.2202

Application Procedures. An application for permission to establish a special use shall be submitted and acted upon in accordance with the following procedures:

(a) **Application.** Applications for a special use shall be submitted through the Zoning Administrator who will review the application for completeness, then transmit to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs for processing the application.

(b) **Required information.** An application for a special use shall be accompanied by the following documents and information:

1. A special use application form supplied by the Zoning Administrator which has been completed in full by the applicant.
2. A site plan, as required in Article XXIV.
3. A statement with regard to compliance with the criteria required for approval in Section 3 (111.2203), and other criteria imposed by this Ordinance affecting the special use under consideration.

(c) **Optional preliminary meeting.** If it is considered appropriate by the Planning Commission, a meeting may be scheduled to review preliminary information for a special land use. The purpose of such procedure is to allow discussion between the applicant and the Planning Commission to better inform the applicant of the acceptability of the proposed plans prior to incurring extensive engineering and other costs which might be necessary for final special land use approval.

(d) **Public hearing.** Upon receipt of an application for a special use, the Planning Commission shall call a public hearing for the purpose of receiving comments relative to the special use application. A notice shall be published in a newspaper which circulates in the Township and sent by mail or personal delivery to all persons to whom real property is assessed within hundred (500) feet of the boundary of the property in question and to the occupants of all structures within five hundred (500) feet. The notice shall be given not less than five (5) or more than fifteen (15) days before the date the application will be considered. The notice shall:

- (1) Describe the nature of the special use application;
- (2) Indicate the property which is the subject of the special use application;

- (3) State when and where the special use application will be considered; and
- (4) Indicate when and where written comments will be received concerning the application.

(e) **Review and approval.** Within thirty (30) days following the public hearing, the Planning Commission shall review the application for a special use, comments received at the public hearing the site plan, and other materials submitted in relation to the application in accordance with the criteria for approval stated in Section 3 (111.2203), and such standards contained in this Ordinance which relate to the special use consideration. Upon the approval or approval with conditions by the Planning Commission, the applicant may apply for a building permit.

111.2203

Basis of determination Prior to approval of a special use application, the Planning Commission shall insure that the standards specified in this section, as well as applicable standards established elsewhere in this Ordinance shall be satisfied by the completion and operation of the special use under consideration.

(a) General standards. The Planning Commission shall review the particular circumstances of the special use application under consideration in terms of the following standards and shall approve a special use only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance.

(1) The special use shall be designed, constructed, operated and maintained in a manner harmonious and appropriate in appearance with the existing or intended character of adjacent property and the surrounding area and will not change the essential character of the area.

(2) The special use shall not be hazardous to adjacent property or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, odors or glare.

(3) The special use shall not place demands on public services and facilities in excess of current capacity.

(4) The special use shall not directly or indirectly have a substantial adverse impact on the natural resources of the Township, including but not limited to, prime agricultural spoils, water recharge areas, lakes, rivers, streams, major forests, wetlands, wildlife areas and major sand, gravel or mineral deposits.

(5) The special use shall not have substantial and permanent adverse effects on the market value of surrounding property.

(6) The special use shall be designed so that on site sanitation facilities for sewage disposal, potable water supply, storm water, and solid waste disposal are properly designed and capable of handling the long term needs of the proposed project.

(b) Conditions. The Planning Commission may impose conditions with the approval of a special use which are necessary to insure compliance with the standards for approval stated in this section and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the special use application and shall be enforced by the Zoning Ordinance Enforcement Officer.

(c) {Appeals} Decisions of the Planning Commission may be appealed to the Township Board.
(Amended 11/06)

111.2204 **Repeal.** All Ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

111.2205 **Effective date.** This Ordinance shall be effective after legal publication and in accordance with the Act governing the same. (Adopted: Ord. No. 21, 3-9-93)

**111.3100 PORTER TOWNSHIP SUBDIVISION CONTROL AND SITE
CONDOMINIUM ORDINANCE**

An Ordinance to regulate the subdivision of land in the Township of Porter, Cass County Michigan, by supplementing the provisions of the Subdivision Control Act of 1967 as amended, and the Condominium Act of 1978 for local use in order to prescribe procedures, standards, and rules for the preparation and filing of preliminary and final plats, and to prescribe penalties for the violation of the provisions of this ordinance.

THE TOWNSHIP OF PORTER, CASS COUNTY, MICHIGAN ORDAINS:

111.3101 Short Title: This ordinance shall be known and may be cited as the Porter Township Subdivision Control and Site Condominium Ordinance.

111.3102 Purpose. The purpose of this ordinance is:

- a. To regulate and control the subdivision of land within the Township into plats pursuant to 1967 Public Act 288; as amended, to regulate preliminary and final plats and prescribe the minimum standards to be met by the sub divider; and,
- b. To regulate the development of land within the Township under the provisions of the Condominium Act, PA. 59 of 1978, as amended, and set the minimum standards to be met by the developer to achieve the same land use results as if the development and improvements were being proposed in accordance with general subdivision statutes, to include all requirements of the Township Zoning Ordinance.
- c. This ordinance provides supplementary local procedures, standards and rules for the preparation and filing of preliminary and final plats and site condominiums with the Township in order to promote the public safety, health, and general welfare.

111.3103 Authority. This ordinance is enacted pursuant to the authority granted by the Subdivision Control Act of 1967, Act 288 of the Public Acts of 1967, as amended; the Condominium Act of 1978, Act 59 of the Public Acts of 1978 as amended, and Act 246, Public Acts of 1945, as amended, which authorizes Township Boards to adopt ordinances, to secure the public health, safety, and general welfare.

111.3104 Definitions.

- a. The definitions contained in Section 102 and following of the Subdivision Control Act apply to this ordinance and terms used are consistent with such definitions.
- b. The definitions used in Sections 103 through 110 of the Condominium Act apply to this ordinance and terms used are consistent with such definitions. The following key definitions are reiterated here for clarity:

(1) Building Site. Within a condominium development, that portion of a lot or parcel which is a two dimensional condominium unit of land (i.e. envelope, footprint), along with any and all limited or general common elements designed for the construction of a principal condominium building in addition to accessory condominium buildings. All building sites shall have access to a public or private street or road.

(2) Common Elements. The portions of a condominium project other than the condominium units.

(3) Condominium Project. A development project consisting of not less than two condominium units established in conformance with, and pursuant to, the Condominium Act, Act No. 59 of the Public Acts of 1978, as amended.

(4) Condominium Plan. The plan as required in this Ordinance, including but not limited to, the survey and utility plans, building site, the existing and proposed structures and improvements including their location on the land.

(5) Condominium Unit. That portion of a condominium project designed and intended for separate ownership and use, as described in the master deed of the project, regardless of whether it is intended for residential, office, industrial, business, recreational or any other type of use approved by the Michigan Department of Commerce for such projects.

(6) Consolidating Master Deed. The final amended master deed for a contractible condominium project, and expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed.

(7) Contractible Condominium. A condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to the expressed provision in the condominium documents and in accordance with this Ordinance and the Condominium Act.

(8) Limited Common Elements. The portion(s) of the common elements reserved in the master deed of a condominium project for the exclusive use of less than all the owners of condominium units in the project.

(9) Lot. A single unit or division of land contained in a platted subdivision, whether it be numbered, lettered, or otherwise designated, which has frontage on a public or private street or road.

(10) Master Deed. The legal document prepared and recorded pursuant to Act 59 of the Public Acts of 1978, as amended, within which are, or to which are attached as exhibits and incorporated by reference, the approved by-laws for the project and the approved condominium subdivision plan for the project.

(11) Parcel. A continuous area, tract, or acreages of land which has not been divided or subdivided (i.e. platted) pursuant to, and/ or in accordance with the Land Division Act, 1967 P.A. 288, as amended.

(12) Plat. A map or chart of a subdivision of land.

(13) Setback. The minimum horizontal distance a building or structure, or any portion thereof, is required to be located from the property lines of the lot, parcel or building site upon which the same is situated from adjacent buildings or structures or from public or private rights of way.

111.3105 SUBDIVISIONS -PROCESSING PROCEDURES.

111.3106 Flow Chart. The procedures for submitting subdivision preliminary and final plats for approval to various township, county, and state authorities are contained in the applicable statutes and this ordinance. As a guide, a flow chart depicting these procedures is available from the Zoning Administrator.

111.3107 Subdivision Preliminary Plats, Tentative Approval, Applications and Processing.

1. A proprietor shall submit 14 copies of the preliminary plat prepared in accordance with Section 111 of the Subdivision Control Act and the provisions of Section 203 of this Ordinance to the Township Clerk, who shall record the date of filing.
2. The Township Clerk shall immediately refer 1 copy of the preliminary plat to the Township Zoning Administrator, and seven copies to the Chairman of the Planning Commission and one copy to the chairman of the Sewer Board.
3. The Planning Commission and Zoning Administrator shall jointly review the preliminary plat and provide advice to the Township Board within 90 days of filing, recommending whether the preliminary plat should be approved or rejected, in the latter case setting forth in writing the reasons for recommending rejection and requirements for tentative approval. The Zoning Board Chairman shall also be informed of the recommendations for possible zoning change consideration.
4. The Township Board shall act upon the Planning Commission's recommendation within 90 days from filing, in accordance with Section 112 of the Subdivision Control Act.

111.3108 Subdivision Preliminary Plats, Conditions for Tentative Approval.

1. Privately held reserve strips controlling access to streets shall be prohibited.
2. Existing natural features which add value to residential development, that enhance the attractiveness of the community, (such as streams, water courses, wetlands, wooded areas, historic spots, and similar irreplaceable assets) should be preserved insofar as possible in the design of the subdivision.
3. Wetlands, lands subject to flooding, or otherwise determined by the Township Board to be uninhabitable shall not be platted for residential, commercial, or industrial purposes.
4. Open space shall be required as part of the total sub-division area and shall comprise ten (10) percent of the total parcel. Area's outlined in section 203.3 above shall not be included in the open space area unless approved by the Planning Commission and Township Board.

111.3109 Subdivision Preliminary Plats, Granting Tentative Approval. If the Township Board determines, based on recommendations of a Township Engineer, or Planning Commission, that the proposed preliminary plat complies with all applicable ordinances and statutes and the provisions set forth above, it shall grant tentative approval of the preliminary plat. Zoning changes to bring the plat in compliances shall be undertaken at this time. This tentative approval shall confer upon the proprietor for a period of one year from date of approval, lot size, lot orientation, and street layout. Such tentative approval may be extended at the discretion of the Township Board upon application of the proprietor.

111.3110 Subdivision Preliminary Plats, Procedures for Final Approval.

1. After approvals of all authorities as outlined in Sections 113 through 118 of the Subdivision Control Act have been obtained, the approved copies shall be submitted to the Township Clerk.
2. Upon receipt, the Clerk shall immediately notify the Zoning Administrator and Chairman of the Planning Commission for further review or recommendations and compliance with the conditions of Section 206 below.
3. The Township Board shall review the preliminary plat at its next meeting, or within 60 days from the date of submission.

111.3111 Subdivision Preliminary Plats, Conditions for Final Approval

1. **Lot Depth to Width Ratio.** Lots proposed for a subdivision shall not exceed a depth to width ratio of 4:1, exclusive of access roads, easements or non-development sites. The depth of a lot shall be the average of the two lot sidelines.
2. **Roads.** All roads shall comply with existing Porter Township Private Road ordinance No 12-04 Effective 4/3/05.
3. **Drainage.** Proper drainage shall be provided within the road right-of-way.
 - a. Grading and clearing of the right-of-way will be the minimum required to provide adequate drainage and safety. All surface waters shall be adequately drained within a plat by a separate system of drainage structures, or through the connections of such separate system to an adequate adjoining system.
 - b. Storm water disposal methods proposed for the subdivision must be adequate to insure each building site and roadway will not be flooded and that all necessary easements for storm sewers or open drains can feasibly be dedicated to the public for such purposes.
 - c. Where storm sewers are used, inlet basins must not be spaced further apart than 300 feet, except as approved by the Township Board upon recommendation of a Township Engineer, or Planning Commission.
 - d. The determination of proper and adequate drainage shall be left to the Township Board, upon recommendation of a Township Engineer, or Planning Commission, or, when the Planning Commission deems it advisable, by a consulting engineer hired by the Township to make such determination at the expense of the proprietor
4. **Sewers and Water Supply.** Connection to sanitary sewer and/ or water supply mains may be required by the Township Board, or if mandated by state statute, if it determines that said sewer and/ or water mains are reasonably available to the proposed subdivision.
5. **Underground Utilities.** Unless exceptions have been granted by the Township Board, upon recommendation of the Township Engineer, or Planning Commission, the proprietor shall arrange for all distribution lines for electricity, telephone, television, or similar services distributed by wire or cable to be placed entirely underground throughout the residential subdivision area. Electrical distribution lines shall be defined in accordance with the rules and regulations of the Michigan Public Service Commission. Such conduits or cables shall be placed

within private easements provided to such service companies by the proprietor, or within dedicated public ways. All such facilities placed in public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards approved by the Michigan Public Service Commission. Private easements for underground utilities shall be shown on the preliminary plat.

6. Street Lighting. Street lighting may be required by the Township Board when recommended by a Township Engineer, Planning Commission for reasons of public health, safety, and welfare.

7. Pedestrian Paths. Pedestrian paths or sidewalks may be required by the Township Board when recommended by a Township Engineer, Planning Commission for reasons of public health, safety, or welfare.

8. Street Frontage. All lots intended for residential use within a subdivision must be provided the minimum street frontage required by the zoning district in which the plat is situated. Land designated, as open space, parks, or conservation areas need not have street frontage.

111.3112 Subdivision Plats, Notice of Final Approval.

If the Township Board determines, based upon recommendations of a Township Engineer, or Planning Commission, that the preliminary plat has received the required statutory approval of other governmental agencies and complies with the requirements of Section 206 above and the applicable portions of the Subdivision Control Act, the Township Board shall grant final approval of the preliminary plat. The Township Clerk shall notify the proprietor of approval or rejection according to the requirements of Section 120 of the Subdivision Control Act. Final approval shall confer upon the proprietor for a period of two years from date of approval the conditional right that the general terms and conditions under which the approval was granted will not be changed. This two-year period may be extended at the discretion of the Township Board upon application of the proprietor.

111.3113 Submission of Final Subdivision Plat for Final Approval

1. Proposed final plats submitted for final approval by the Township Board shall be submitted to the Township Clerk, who shall immediately notify the Township Engineer, if appointed, Zoning Administrator and chairman of the Planning Commission.

2. Final Plats submitted for Final Approval must be accompanied by:

a. An abstract of title or title insurance policy showing merchantable title in the proprietor of the subdivision as required by Section 245 of the Subdivision Control Act.

b. A filing and recording fee as prescribed by Section 241 of the Subdivision Control Act, and any other fees that the Township Board may prescribe in its schedule of fees.

111.3114 Subdivision Final Plat, Final Approval, Review by the Township Board

1. The Township Board shall have the proposed final plat reviewed by the Township Engineer or Planning Commission in order to confirm its conformance with the requirements of the Subdivision Control Act and applicable Township Ordinances. This will include recorded restriction of floodplains, if any, as provided by the Subdivision Control Act.

2. The Zoning Administrator will have the property inspected to determine the status of completion or installation of all required roads, streets, bridges, waterways, utilities, public improvements etc. Work that is found to be incomplete shall be completed by the proprietor. Building or occupancy permits shall not be issued until all work is completed.

111.3115 SITE CONDOMINIUMS PROCESSING PROCEDURES

111.3116 Preliminary Condominium Plan Tentative Approval

1. Plan Requirements. Every person, firm or corporation who shall hereafter submit a proposed preliminary condominium plan to the Porter Township Board for tentative approval shall submit 14 copies of the proposed plan to the Township Clerk. Condominium plans should be drawn by a Registered Professional Civil Engineer. Plans must contain as a minimum, the following information and fees:

- a. Proposed name of the project.
- b. Full legal description to adequately describe the building sites comprising the project.
- c. Names and addresses of the applicant, owners, and professionals who designed the project.
- d. The names and addresses of the proprietors and the ownership interest in each in the land included in the preliminary plan, including a legal opinion showing the legal and equitable owners of the land to be developed, plus all grants, reservations, deed restrictions and easements of record which condition the use of the property.
- e. Scale of the plan, which shall not be smaller than 1 inch equals 100 feet.
- f. Property lines of adjacent tracts of subdivided and unsubdivided land shown in relation to the tract being proposed for site condominium development, including those areas across abutting roads.
- g. Topography of the area proposed to be developed with contour intervals of not more than four feet in elevation.
- h. Road layout and the type of street construction and drainage structures/facilities planned.
- i. Lot layout, showing size and shape of proposed building sites.
- j. Indication of whether proposed site condominium will be served by sanitary sewer and/or public water supply.
- k. Location of any existing sewers, water mains, storm drains, and other underground utilities with or adjacent to the tract being proposed for development.
- l. Location of significant natural features, such as water courses, bodies of water, wetlands, stands of trees, and individual trees within the project area having a caliper of 12 inches or greater at a height of 2 feet above existing grade.
- m. Location of any flood plain located within the area to be developed.

- n. Indication of general methods of storm water disposal.
- o. If the proprietor owns and anticipates developing adjoining land, he or she shall submit a tentative plan showing the feasibility of developing adjoining land along with the preliminary plan for tentative approval.
- p. Letters from the Cass County Road Commission and the State Highway Department, where applicable, containing their recommendations to the township as to the suitability of the proposed street layout and conforming to the location, alignment, and construction requirements of the county or state.
- q. Location and type of proposed streetlights, if planned, conforming with the exterior lighting requirements of the Township Zoning Ordinance.

2. Conditions for Tentative Approval. The conditions for tentative approval of a subdivision preliminary plat, as outlined in Section 203 of this Ordinance, also apply to preliminary site condominium plans.

3. Processing Procedures for Tentative Approval. The procedures for processing a preliminary plan for tentative approval are as outlined in Sections 201 and 204 of this Ordinance.

4. Processing Procedures for Final Approval. The procedures for granting final approval of a preliminary site condominium plan are the same as outlined in Sections 205 and 207 of this Ordinance.

5. Conditions for Final Approval. The conditions for obtaining final approval of preliminary site condominium plan are the same as outlined in Section 206 of this Ordinance.

111.3117 Final Plans for Final Approval.

1. Information to Accompany Final Plans. Proposed final plans for a site condominium development being submitted to the Township Board for final approval shall be accompanied by the following information and fees:

- a. An abstract of title, or title insurance policy showing merchantable title in the proprietor of the development.
- b. Evidence that all requirements imposed by the Township Board at the time of preliminary approval have been incorporated into the proposed final plan.
- c. Letter from the District Board of Health confirming that the installation of septic disposal fields, if no sewer is available, is generally feasible and practicable on the site of the proposed development.

111.3118 REVIEW AND FINAL APPROVAL BY TOWNSHIP BOARD, SUBDIVISIONS OR CONDOMINIUMS

111.3119 Review Assistance. In reviewing a proposed final subdivision plat or site condominium project for final approval the Township Board shall seek the advice and assistance of the Zoning Administrator, the Planning Commission, the Township Attorney, and/ or a registered civil engineer or other professionals or inspectors as it deems appropriate.

111.3120 Items to be Determined. In reviewing a proposed final plat or condominium development plan, the Township Board shall determine:

1. Monuments. All monuments required to be placed in the plat or condominium project have been placed, if not, final approval shall be withheld.

2. Roads, Bridges, Culverts. All roads, streets, bridges and culverts have been completed and installed, if not, final approval shall be withheld.

3. Waterways, Lagoons. If the plat or condominium project has any waterways or lagoons, or similar features, that all such waterways etc shall be completed or installed, if not, final approval shall be withheld.

4. Flood Plains. If any flood plains are involved in the proposed plat or condominium project, then such flood plain shall be restricted as provided by this ordinance and the Condominium Act, and such restrictions shall be submitted to the Township Board for review and approval prior to recording, and thereafter shall be recorded with the Cass County Register of Deeds as part of the Plat or Master Deed or contemporaneously with the recording of the Master Deed.

5. Utilities. All utilities servicing the plat or project have been installed and water and sanitary sewer mains, if applicable, have been stubbed to the lot line or building site line, if not, final approval shall be withheld.

6. Utility Easements. All underground utility installations, including lines for street lighting systems if used, which traverse privately owned property, shall be protected by easements granted by the proprietor and approved by the public utility. These easements shall be recorded as part of the Plat or Master Deed as private easements for public utilities or easements proved by separate instrument. Easements provided for utilities, either across lots or centered on rear or side lot lines shall be at least 12 feet wide, usually having 6 feet dedicated from each adjoining lot or parcel except that side lot easements 3 feet wide may be granted for street lighting dropouts. These easements shall be direct and continuous from block to block or neighborhood, where applicable.

7. Public Improvements. All public improvements, such a fire hydrants, sidewalks, street lights, parks, which may have been required by the Township Board, have been completed and installed and reviewed and approved by the Zoning Administrator or a designated engineer, if not, final approval shall be withheld.

8. Open Space. All open space requirements outlined in section 203.3 above as approved by the Planning Commission, or designated engineer shall be in place and complete, if not, final approval shall be withheld.

9. Statutory Compliance. The proposed final plat or condominium project complies with all applicable state statutes and Township Ordinances and has received the required statutory approval of all other governmental agencies.

10. Execution and Recording of Plat or Deed. That the Plat or Master Deed is executed by all required owners and recorded with the Cass County Register of Deeds and filed with the Township Clerk before issuance of any building permits.

- 111.3121** **AMENDMENTS TO PLANS.** Any and all proposed amendments to a plat or condominium project shall be submitted for review and approval as were the initial plans as outlined in Articles II and III of this ordinance.
- 111.3122** **VARIANCE PROCEDURE** Where there are practical difficulties or undue hardships in carrying out the strict letter of this Ordinance, the Township Board, after review and recommendations by the Planning commission, in passing upon any proposed plat or condominium project, shall have the power to modify any of the terms and provisions of this Ordinance so that the spirit of the Ordinance shall be observed and public health, safety, and welfare secured.
- 111.3123** **ENFORCEMENT; VIOLATIONS AND PENALTIES** **Infractions and Fines.** Any person, firm, or corporation or other entity, who, violates, disobeys, omits, neglects, or refuses to comply within a reasonable length of time, any of the provisions of this Ordinance shall be responsible for a municipal civil infraction and shall pay a fine in accordance with the schedule of fees adopted by the Porter Township Board. Amended 08/09/2006.
- If a determination of responsibility is made by the Court, the Court may impose costs as provided for by law in addition to the fines called for above. The foregoing penalties shall not prohibit the Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.
- 111.3124** **AMENDMENT PROCEDURES.** The Township Board may from time to time, upon recommendation of the Planning Commission, Zoning Administrator, other official, or on its own initiative, amend, supplement or repeal the regulations and provisions of this Ordinance in the manner prescribed by law for the amendment of Ordinances.
- 111.3125** **SEVERANCE AND VALIDITY.** Sections of this Ordinance shall be deemed to be severable and should any article, section, paragraph or provisions hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.
- 111.3126** **EFFECTIVE DATE.** This Ordinance shall take effect 30 days after publication. All Ordinances or parts of Ordinances in conflict herewith are hereby rescinded.

This ordinance shall be effective July 3, 2006

**WIND GENERATED POWER ORDINANCE
PORTER TOWNSHIP CASS COUNTY MICHIGAN**

Ordinance # 3300

August 12, 2008

111.3301 PURPOSE This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of Porter Township by regulating the use of wind generated power stations

111.3202 SEVERABILITY Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

111.3203 DEFINITION

1 Ambient: Ambient is defined as the sound pressure level exceeded 90% of the time or L90.

2. ANSI: American National Standards Institute.

3. dB(A): The sound pressure level in decibels. Refers to the “a” weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.

4. Decibel: The unit of measure used to express the magnitude of sound pressure and sound intensity.

5. IEC: International Electrotechnical Commission. The IEC is the leading global organization

that prepares and publishes international standards for all electrical, electronic and related technologies.

6. ISO: International Organization for Standardization. ISO is a network of the national standards institutes of 156 countries.

7. On Site Use Wind Energy Systems: An On Site Use wind energy system is intended to primarily serve the needs of the consumer.

8. Rotor: An element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.

9. SCADA Tower: A freestanding tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system.

10. Shadow Flicker: Alternating changes in light intensity caused by the moving blade of a wind energy system casting shadows on the ground and stationary objects, such as a window at a dwelling.

11. Sound Pressure: 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.

12. Sound Pressure Level: The sound pressure mapped to a logarithmic scale and reported in decibels (dB).

13. Utility Grid Wind Energy Systems: A Utility Grid wind energy system is designed and built to provide electricity to the electric utility grid.

14. Wind Energy System: A wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid.

15. Wind Site Assessment: An assessment to determine the wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.

111.3204 On Site Use Wind Energy Systems: An On Site Use wind energy system is intended to primarily serve the needs of the consumer. An On Site Use wind energy system with a tower higher than 20 meters shall be considered a Special Land Use. On Site Use wind energy systems with no towers or towers 20 meters or less shall be a Permitted Use in all zoning classifications where structures of any sort are allowed subject to the following requirements.

1 Anemometer towers more than 20 meters in height used to conduct a wind site assessment for possible installation of an On Site Use wind energy system shall also be a Special Land Use.

2 Prior to the installation of an On Site Use wind energy system with a tower higher than 20 meters, an application for a Special Land Use permit shall be filed with Porter Township that will include 1) applicant identification, 2) a site plan, 3) documentation that sound pressure level, construction code, tower, interconnection (if applicable), and safety requirements have been met, and 4) proof of the applicant's public liability insurance.

3 Prior to the installation of an anemometer tower more than 20 meters in height, an application for a Special Land Use permit shall be filed with the local government that will include 1) applicant identification, 2) a site plan, 3) a copy of that portion of the applicant's lease with the land owner granting authority to install the Met tower and requiring the applicant to remove all equipment and restore the site after completion of the wind site assessment and 4) proof of the applicant's public liability insurance.

4. Property Set-back:

The distance between an On Site Use wind energy system and the owner's property lines shall be at least 1 ½ times the height of the wind energy system 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 at least 1 ½ times the height of the tower. No part of the wind energy system structure, including guy wire anchors, may extend closer than ten feet to the owner's property lines.

5. Sound Pressure Level:

On Site Use wind energy systems shall not exceed 55 dB(A) at the property line closest to the wind energy system. This sound pressure level may be exceeded during short-term events such as utility outages and/or severe wind storms. If the

ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A).

6. Construction Codes, Towers, & Interconnection Standards:

On Site Use wind energy systems including towers shall comply with all applicable state construction and electrical codes and local building permit requirements. On Site Use wind energy systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), and local jurisdiction airport overlay zone regulations. An interconnected On Site Use wind energy system shall comply with Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.

7. Safety:

An On Site Use wind energy system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have lightning protection. If a tower is supported by guy wires, the wires shall be clearly visible to a height of at least six feet above the guy wire anchors. The minimum vertical blade tip clearance from grade shall be 20 feet for a wind energy system employing a horizontal axis rotor.

8. Wind Site Assessment for Utility Grid Wind Energy Systems:

Prior to construction of a Utility Grid wind energy system, a wind site assessment is conducted to determine the wind speeds and the feasibility of using the site. Installation of anemometer towers also known as meteorological or “Met” towers shall be considered a Special Land Use. Prior to the installation of the tower, an application for a Special Land Use permit shall be filed with Porter Township that will include 1) applicant identification, 2) a site plan, 3) a copy of that portion of the applicant’s lease with the land owner granting authority to install the Met tower and requiring the applicant to remove all equipment and restore the site after completion of the wind site assessment, and 4) proof of the applicant’s public liability insurance. The distance from the center of a Met tower and the property lines between the leased property and the non-leased property shall be at least the height of the Met tower. Leased property can include more than one piece of property and the requirement shall apply to the combined properties.

9. Utility Grid Wind Energy Systems: A Utility Grid wind energy system is designed and built to provide electricity to the electric utility grid. Utility Grid wind energy systems shall be considered a Special Land Use. Prior to the installation of a Utility Grid wind energy system, an application for a Special Land Use permit shall be filed with the local government and shall include the following:

a. Applicant Identification: Applicant name, address, and contact information.

b. Project Description: A general description of the proposed project including a legal description of the property or properties on which the project would be located and an anticipated construction schedule.

- c. Site Plan:** The site plan shall include maps showing the physical features and land uses of the project area, both before and after construction of the proposed project. The site plan shall include 1) the project area boundaries, 2) the location, height, and dimensions of all existing and proposed structures and fencing, 3) the location, grades, and dimensions of all temporary and permanent on-site and access roads from the nearest county or state maintained road, 4) existing topography, 5) water bodies, waterways, wetlands, and drainage channels, and 6) all new infrastructure above ground related to the project.
- d. Insurance: Proof of the applicant's public liability insurance.**
- e. Consent Documents:** Copies of any written waivers from neighboring property owners.
- f. Sound Pressure Level:** Copy of the modeling and analysis report.
- g. Certifications:** Certification that applicant has complied or will comply with all applicable state and federal laws and regulations. Copies of all such permits and approvals that have been obtained or applied for at time of the application.
- h. Visual Impact:** Visual simulations of how the completed project will look from four viewable angles.
- i. Environmental Impact:** Copy of the Environmental Impact analysis.
- j. Avian and Wildlife Impact:** Copy of the Avian and Wildlife Impact analysis.
- k. Shadow Flicker:** Copy of the Shadow Flicker analysis.
- l. Manufacturers' Material Safety Data Sheet(s):** Documentation 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.
- m. Decommissioning:** Copy of the decommissioning plan.
- n. Complaint Resolution:** Description of the complaint resolution process.

111.3205 APPLICATION An applicant shall remit an application fee in the amount specified in the fee schedule adopted by Porter Township. This schedule shall be based on the cost of the application review and may be adjusted from time to time.

111.3206 REQUIREMENTS The Utility Grid wind energy system project shall meet the following standards and requirements:

- 1. Property Set-Back:** The distance between a Utility Grid wind energy system and the property lines of adjacent non-leased properties including public rights of way shall be at least the height of the wind energy system tower including the top of the blade in its vertical position. Where property is leased on both sides of a public right of way, a wind energy system may be placed no closer than one rotor radius from the closest edge of the right of way. Leased property can include more than one piece of property and the requirement shall apply to the combined properties. SCADA (supervisory control and data acquisition) or meteorological (Met) towers shall also comply with the property set-back requirement. The set-back shall be at least the height of the SCADA or Met tower. An Operations and Maintenance Office building, a sub-station, or ancillary equipment shall comply with any property set-back requirement that may be applicable to that type of

building or equipment. Overhead transmission lines and power poles shall comply with the set-back requirements applicable to public utilities.

2. Sound Pressure Level: The sound pressure level generated by a Utility Grid wind energy system shall not exceed 55 dB(A) measured at the property lines between leased and non-leased property. This sound pressure level shall not be exceeded for more than 3 minutes in any hour of the day. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus 5 dB(A). As part of the application and prior to installation, the applicant shall provide modeling and analysis that will confirm that the Utility Grid wind energy system will not exceed the maximum permitted sound pressure levels. Modeling and analysis shall conform to IEC 61400 and ISO 9613. After installation of the Utility Grid wind energy system, sound pressure level measurements shall be done by a third party, qualified professional according to the procedures in the most current version of ANSI S12.18. 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 sound pressure level measurements shall be provided to the local government within 60 days of the commercial operation of the project.

3 Construction Codes, Towers, and Interconnection Standards:

Utility Grid wind energy systems including towers shall comply with all applicable state construction and electrical codes and local building permit requirements. Utility Grid wind energy systems including towers shall comply with Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), and local jurisdiction airport overlay zone regulations. The minimum FAA lighting standards shall not be exceeded. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA. Utility Grid wind energy systems shall comply with applicable utility, Michigan Public Service Commission, and Federal Energy Regulatory Commission interconnection standards.

4 Safety:

All Utility Grid wind energy systems 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. All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the site of the wind energy system. A sign shall be posted near the tower or Operations and Maintenance Office building that will contain emergency contact information. Signage placed at the road access shall be used to warn visitors about the potential danger of falling ice. The minimum vertical blade tip clearance from grade shall be 20 feet for a wind energy system employing a horizontal axis rotor.

5. Visual Impact:

Utility Grid wind energy system projects shall use tubular towers and all Utility Grid wind energy systems in a project shall be finished in a single, non-reflective matte finished color. A project shall be constructed using wind energy systems of similar design, size, operation, and appearance throughout the project. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades. Nacelles may have lettering that exhibits the manufacturer's and/or owner's identification. The applicant shall avoid state or federal scenic areas and significant visual resources listed in the local unit of government's comprehensive plan.

6. Environmental Impact:

The applicant shall have a third party, qualified professional conduct an analysis 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. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts. The applicant shall comply with applicable parts of the Michigan Natural Resources and Environmental Protection Act (Act 451 of 1994, MCL 324.101 et seq.) including but not limited to Part 31 Water Resources Protection (MCL 324.3101 et seq.), Part 91 Soil Erosion and Sedimentation Control (MCL 324.9101 et seq.), Part 301 Inland Lakes and Streams (MCL 324.30101 et seq.), Part 303 Wetlands (MCL 324.30301 et seq.), Part 323 Shoreland Protection and Management (MCL 324.32301 et seq.), Part 325 Great Lakes Submerged Lands (MCL 324.32501 et seq.), and Part 353 Sand Dunes Protection and Management (MCL 324.35301 et seq.). The applicant shall be responsible for making repairs to any public roads damaged by the construction of the Utility Grid wind energy system.

7. Avian and Wildlife Impact:

The applicant shall have a third party, qualified professional conduct an analysis to identify and assess any potential impacts on wildlife and endangered species. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts. Sites requiring special scrutiny include wildlife refuges, other areas where birds are highly concentrated, bat hibernacula, wooded ridge tops that attract wildlife, sites that are frequented by federally and/or state listed endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptors. At a minimum, the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area. Where appropriate, surveys for bats, raptors, and general avian use should be conducted. The analysis shall include the potential effects on species listed under the federal Endangered Species Act, and Michigan's Endangered Species Protection Law. The analysis shall

indicate whether a post construction wildlife mortality study will be conducted and, if not, the reasons why such a study does not need to be conducted. Power lines should be placed underground, when feasible, to prevent avian collisions and electrocutions. All above-ground lines, transformers, or conductors should comply with the Avian Power Line Interaction Committee (APLIC, <http://www.aplic.org/>) published standards to prevent avian mortality. Applicants must comply with applicable sections of the federal Endangered Species Act and Michigan's Endangered Species Protection Law. The applicant should be aware that taking of these species is prohibited by State and/or Federal law unless the proper permits or exemptions are acquired. Early coordination with state and federal agencies is recommended. The applicant or the applicant's impact analyst should contact the U.S. Fish and Wildlife Service's East Lansing Field Office regarding federally-listed species and the Michigan Dept. of Natural Resources for state-listed species.

8. Electromagnetic Interference:

No Utility Grid wind energy system 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 electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the wind energy system. No Utility Grid wind energy system shall be installed in any location within the line of sight of an existing microwave communications link where operation of the wind energy system is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant.

9. Shadow Flicker:

The applicant shall conduct an analysis on potential shadow flicker at occupied structures. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sun-rise to sun-set over the course of a year. The analysis shall identify problem areas where shadow flicker may affect the occupants of the structures and describe measures that shall be taken to eliminate or mitigate the problems.

10. Decommissioning:

The applicant shall submit a decommissioning plan. The plan shall include: 1) the anticipated life of the project, 2) the estimated decommissioning costs net of salvage value in current dollars, 3) the method of ensuring that funds will be available for decommissioning and restoration, and 4) the anticipated manner in which the project will be decommissioned and the site restored.

11. Complaint Resolution:

The applicant shall develop a process to resolve complaints from nearby residents concerning the construction or operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude the local government from acting on a

complaint. During construction the applicant shall maintain and make available to nearby residents a telephone number where a project representative can be reached during normal business hours.

111.3207 REPEAL

1. All Ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

111.3208 EFFECTIVE DATE

The Ordinance shall be effective 30 days after legal publication and in accordance with the act governing the same.

Adopted: August 12, 2008

Published: September 4, 2008

Effective: October 4, 2008

OUTDOOR WOOD-FIRED BOILER ORDINANCE
Porter Township, Cass County Michigan

Ordinance No; 3200

111.3201 PURPOSE This ordinance is intended to promote the public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the Porter Township by regulating the air pollution and fire hazards of outdoor burning.

111.3202 SEVERABILITY Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

111.3203 DEFINITIONS

1. "Clean wood" means natural wood which has not been painted, varnished or coated with a similar material; has not been pressure treated with preservatives; and does not contain resins or glues as in plywood or other composite wood products.
2. "Construction and demolition waste" means building waste materials, including but not limited to waste shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging, and rubble that results from construction, remodeling, repair, and demolition operations on a house, commercial or industrial building, or other structure.
3. "Fire Chief" means the Chief of the South East Public Safety Authority
4. "Municipality" means a county, township, city, or village.
5. "Outdoor burning" means burning in an outdoor wood-fired boiler.
6. "Outdoor wood-fired boiler" means a wood-fired boiler, stove or furnace that is not located within a building intended for habitation by humans or domestic animals.
7. "Refuse" means any waste material except trees, logs, brush, stumps, leaves, grass clippings, and other vegetative matter.

111.3204 USAGE An outdoor wood-fired boiler may be installed and used in Porter Township only in accordance with all of the following provisions:

1. Proper mechanical permits must be in effect before proceeding with any installation of a wood fired boiler.
2. The outdoor wood-fired boiler shall not be used to burn refuse.
3. The outdoor wood-fired boiler shall be located at least two hundred feet (200) from the nearest building which is not on the same property as the outdoor wood-fired boiler.
4. The outdoor wood-fired boiler shall have a chimney that extends at least fifteen feet (15) above the ground surface. If there are any residences within three hundred feet (300), the chimney shall also extend at least as high above the ground surface as the height of the roofs of all such residences. The Fire Chief may grant a lesser height on a case-by-case basis if necessary to comply with manufacturer's recommendations and if the smoke from the lower chimney height does not

create a nuisance for neighbors. This process must be processed through the Zoning Board of Appeals, (ZBA).

5. The outdoor wood-fired boiler must be a “Listed and Labeled Appliance.”

111.3205 LIABILITY A person utilizing or maintaining an outdoor wood fired boiler shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the wood burning unit

111.3206 RIGHT OF ENTRY AND INSPECTION The Fire Chief or any authorized officer, agent, employee or representative of Porter Township who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance.

111.3207 ENFORCEMENT AND PENALTIES

1. The Fire Chief and Porter Township Zoning Enforcement Officer are authorized to enforce the provisions of this ordinance.
2. Any person, firm, association, partnership, corporation, or governmental entity who violates any of the provisions of this ordinance or fails to comply with a duly authorized Order issued pursuant to this ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by civil fine determined in accordance with the fee schedule of Porter Township:
3. The violator shall pay costs which may include all expenses, direct and indirect, which Porter Township has incurred in connection with the municipal infraction and shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation of this Ordinance exists shall constitute a separate violation of this Ordinance.

111.1501 ZONING ADMINISTRATION.

The duty of administering the provisions of this Ordinance shall, unless otherwise provided for, be vested in the Porter Township Zoning Administrator, who shall be appointed by the Township Board of Porter Township for such term and subject to such condition and at such rate of compensation as the Township Board shall determine; and the duty of enforcing the provisions of this Ordinance shall rest with such administrative official. The major responsibility of the Zoning Administrator is to administer the Ordinance precisely as it is written. There is no authority to deviate from the Ordinance, or to modify the requirements.

111.1502 Zoning Board of Appeals approval. When the terms of this Ordinance shall require the approval of the Planning Commission, all copies of the application shall be marked approved by said Planning Commission in addition to being marked by the Zoning Administrator as provided above.

111.1503 Issuance of a Zoning Compliance permit. Within ten days after receipt of any application or within ten days after approval of any application by the Planning Commission where the same is required under this Ordinance, the Zoning Administrator shall issue a Zoning compliance permit to the owner or his agent, provided the building or structure or the proposed erection or alteration, or the use of the land, as set forth in the application are in conformity with the provisions of this Ordinance, and when such permit is refused, the reason for such refusal must be shown on the application. A building Permit cannot be issued until a Zoning Compliance Permit is obtained except as follows: If the proposed alteration does not materially change the height or foundation of an existing structure, type of usage, and violate any requirements of the District. (Amended: No. 1, 11-8-83)

111.200

ZONING AND MAP

111.201

Districts and map. All areas of Porter Township, County of Cass, State of Michigan are hereby divided into the following districts:

AGRICULTURAL “A”
RESIDENTIAL “R-1”
LAKE RESIDENTIAL “LR”
RESIDENTIAL “R-2”
MOBILE HOME PARK “MHP”
COMMERCIAL “C”
SPECIAL COMMERCIAL “SC”
INDUSTRIAL “I”
PARKS, CAMPGROUNDS & RECREATIONAL AREAS “P”; “CG”;
“RA”
SCENIC PRESERVATION DISTRICT “SPD”

All of which are assigned to their respective districts, as shown on the attached map which is hereby made a part of this Ordinance.

111.202

District Boundaries. The district boundary lines as shown on the Zoning Map are considered to follow the nearest lot lines, section lines, fractional section lines or the center line of roads, streets or alleys as they existed at the time of adoption of this Ordinance, if they are within 50 feet. Otherwise; such district boundary lines will be as shown on the Zoning Map. An exception to the above will be that where such district boundary line is (a) distance (of) more than 50 feet from an existing rear lot line, the district boundary line shall be 165 feet from the front street right-of-way line, unless otherwise designated on the Zoning Map.(Adopted: 3-9-93)

111.1600

ZONING BOARD OF APPEALS

111.1601

Creation. There is hereby created a Zoning Board of Appeals, which shall perform its duties and exercise its powers and jurisdiction as provided by Act. No. 184 of the Public Acts of 1943, together with any amendments thereto, and by certain provisions of this Ordinance to the end that the objectives of this Ordinance are observed, public safety, morals and general welfare secured and substantial justice done. The membership of the Board shall be provided as by said Act.

111.1602

Variations. Subject to the provisions of Article XVI, Section 3 of this Ordinance, the Board, after public hearing, shall have the power to decide application for variations:

(a) Where it is alleged that there is error or misrepresentation in any order, requirement, decision or refusal made by the Zoning Administrator or other administrative agency of the Township in the carrying out of the provisions of this Ordinance; or

(b) Where it is alleged that by reason of the exceptional narrowness, shallowness, or shape of a specific piece of property or by reason of exceptional topographic conditions or other extraordinary situation of the land or building or of the use of property immediately adjoining the property in question, the literal enforcement of this Ordinance would involve practical difficulties or would cause undue hardship; provided that the Board shall not grant a variance on a lot if the owner or members of his family own or owned adjacent land which could, without undue hardship, be included as part of the lot; or

(c) Where it is alleged that there is practical difficulty or unnecessary hardship in carrying out the strict letter of this Ordinance and a request is made to vary such regulations; provided that the spirit of this Ordinance shall be observed, public safety secured and substantial justice done.

111.1603

Variations prohibited. No variance in the provision or requirements of this Ordinance shall be authorized by the Board unless the Board finds from reasonable evidence that such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purposes of this Ordinance or of the public health safety and welfare, and further, that two of the following facts and conditions exist:

(a) That there are exceptional or extraordinary circumstances or conditions applying to the specific property that do not apply generally to other properties in the same zone.

(b) That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the zone, provided that increased financial return shall not be deemed sufficient to warrant a variance.

(c) That the condition or situation of the specific property or the intended use is not of so general or recurrent a nature as to make reasonably practical a general regulation as part of this Zoning Ordinance.

111.1604

Reserved.

111.1605

Additional jurisdiction. In addition to the duties and powers prescribed in the previous sections of this Ordinance, the Zoning Board of Appeals shall hear and decide all matters relating to the following:

(a) The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by any Administrative official charged with the enforcement of any provisions of this Ordinance.

(b) The Zoning Board of Appeals shall not act upon all questions as they may arise in the administration of this Ordinance, including the interpretation of the Zoning Map and may fix rules and regulations to govern its procedure as such Zoning Board of Appeals, subject to the requirements herein.

(c) The Zoning Board of Appeals shall have the power to hear and decide applications for special exceptions, conditional uses, temporary uses, interpretations and other special questions on temporary uses, on which the Board is herein authorized to pass. In considering such applications the Board shall review the case within the intent of the Ordinance. Before authorizing a use, the board shall determine whether the proposal would be hazardous, harmful or a nuisance to the surrounding neighborhood by reason of noise, atmospheric pollution, vibration, glare, fire potential, parking, traffic, aesthetic effect, devaluation of property values or psychological effects. For such purpose the Board may enlist experts, technicians and consultants. The Board may impose such additional requirements and conditions necessary to preserve the intent of this Ordinance.

- 111.1606 Procedure.** Whenever this approval of the Zoning Board of Appeals is required under the provisions of this Ordinance, the Board shall fix a reasonable time for a hearing and give due notice thereof to the parties involved and such other notice as may be deemed proper under the circumstances, provided that all property owners within 500 feet are notified of the time and place of such hearing. Any person who is interested in such application or the determination thereof may and shall be permitted to state the reasons for approval or disapproval of such application. Whenever the Board, or the applicant or person appealing to the Board shall so request in writing, the Township Planning Commission shall participate in an advisory capacity. A majority of the Planning Commission shall constitute the minimum number who shall be present at such a hearing.
- 111.1607 Decisions.** The Board shall render its decision upon all application within 60 days after the required hearing thereon and notify the applicant of its decision. The Board reserves the right to extend any such decision beyond the 60 day period.
- 111.1608 Fees.** The applicant shall pay to the Township clerk, a fee in accordance with the schedule of fees adopted by the Porter Township Board. (Amended: No. 6-E, 9-12-89,)
- 111.1609 Time limit.** If the variance is granted or other action by the applicant is authorized, the necessary permit shall be secured and the authorized action begun within three months after the date the variance is granted, and the structure or alteration shall be completed within 12 months of the date the variance is granted. The Board may, upon application stating the reasons thereof, extend either the 3 or 12 months periods, but if the Board finds no good cause for the failure to act or complete within such periods and in the interval since the action was granted, the Board shall revoke or rescind its approval. Should the applicant fail to obtain the necessary permit in three months, the granted variance shall be rescinded.

111.1610 AMENDMENT TO ZONING BOARD OF APPEALS

111.1611 Purpose. The purpose of the Zoning Board of Appeals shall be: to hear and decide questions that arise in the administration of the zoning ordinance, including the interpretation of the zoning maps, the Porter Township Zoning Board of Appeals may adopt rules to govern its procedures sitting as a Zoning Board of Appeals. It shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official or body charged with enforcement of an ordinance adopted pursuant to this zoning ordinance. It shall hear and decide matters referred to it or upon which it is required to pass under any ordinance adopted pursuant to the Zoning Ordinance. For special land use and planned unit development decisions, an appeal may be taken to the Zoning Board of Appeals only if provided for in the zoning ordinance. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse an order, requirement, decision, or determination of the administrative official or body, or to decide in favor of the applicant any matter upon which the board is required to pass under ordinance, or to grant a variance to an ordinance. An appeal may be taken by a person aggrieved or by an office, department, or bureau of the township, county or state. In addition, a variance in an ordinance may be applied for and granted pursuant to section 4 of the uniform condemnation procedures act, 1980 PA 87, M.C.L.A. 213.54, and this ordinance. The Zoning Board of Appeals shall state the grounds for its decision on each determination.

111.1612 Powers and Duties The powers and duties of the Zoning Board of Appeals shall be as provided in M.C.L.A. 125.271 *et seq.*; more specifically M.C.L.A. 125.288 through 125.293a.

111.1613 Members

- (A) Pursuant to M.C.L.A. 125.288 Section 18, the Porter Township Zoning Board of Appeals shall be composed of five (5) regular members.
- (B) The first regular member of the Zoning Board of Appeals shall be a member of the Planning Commission. The remaining regular members and any alternative members of the Zoning Board of Appeals shall be selected from the electors of the township residing outside of incorporated cities and villages. Each member shall be appointed by the Township Board.
- (C) The members selected shall be representative of the population distribution and of the various interests present in the township. One regular member may be a member of the Township Board. An employee of contractor of the Township Board may not serve as a member of the Zoning Board of Appeals.
- (D) The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called as specified in the zoning ordinance to serve as a regular member of the Zoning Board of Appeals in the absence of a regular member if the regular member is absent from or will be unable to attend 2 or more consecutive meetings of the Zoning Board of Appeals or is absent from or will be unable to attend meetings for a period of more than 30 consecutive days. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals.
- (E) A member of the Zoning Board of Appeals may be removed by the township board for nonperformance of duty or misconduct in office upon written charges and after public hearing.

(F) A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes misconduct in office.

111.1614 Term of Members The term of the members of the Zoning Board of Appeals shall be three (3) years, except for members serving because of their membership on the Planning Commission, or Township Board, whose terms shall be limited to the time they are stated in the resolution appointing them. When members are first appointed, the appointments may be for less than 3 years to provide for staggered terms. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.

111.1615 Compensation The total amount annually allowed the Zoning Board of Appeals as per diem of as expenses actually incurred in the discharge of duties shall not exceed a reasonable sum, which shall be appropriated annually in advance by the Township Board.

111.1616 Officers of the Zoning Board of Appeals The members of the Zoning Board of Appeals shall elect from its members a chairman and secretary and fill other offices of committees as they deem necessary. An elected officer of the Township shall not serve as chairperson of the Zoning Board of Appeals. The elections of officers shall be held not less than once a year.

111.1617 Meetings The Zoning Board of Appeals shall not conduct business unless a majority of the members of the board is present. Meetings of the board shall be held as the call of the chairman and at such other times as the board in its rules of procedure may specify. The chairman, or in his absence the acting 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.

111.1618 Appeals

(A) **Time for Appeal: Procedure** Appeals shall be taken within such time as shall be prescribed by the Zoning Board of Appeals by general rule; by the filing with the officer from whom the appeal is taken and with the Zoning 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 documents constituting the record upon which the action appealed from was taken.

(B) **Stay of Proceedings: Restraining Order** An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Zoning Board of Appeals after the notice of appeal shall have been filed that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by the circuit court, on application, on notice to the officer from whom the appeal is taken and upon due cause shown.

(C) **Hearing** The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal, give due notice thereof to the parties, and decide the appeal within a reasonable time. At the hearing, a party may appear in person or by agent or by attorney. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made, and to that end shall have all the powers of the officer or body from whom the appeal was taken and may issue or direct the issuance of a permit or other approval. Where there are practical difficulties or unnecessary hardship in the

way of carrying out the strict letter of the zoning ordinance, the Zoning Board of Appeals in passing upon appeals may vary or modify any of its rules or provisions so that the spirit of the ordinance is observed, public safety secured, and substantial justice done. The Zoning Board of Appeals may impose conditions with an affirmative decision pursuant to M.C.L.A. section 125.286d (2).

- 111.1619** **Finality of Decision: Judicial Review** The decision of the Zoning Board of Appeals rendered pursuant to this ordinance shall be final. However, a person or entity having an interest affected by the zoning ordinance may appeal to the circuit court. Upon appeal the circuit court shall review the record and decision of the Zoning Board of Appeals as set forth in M.C.L.A. 125.293a.
- 111.1620** **Definitions** The definitions contained in M.C.L.A. 1948 Section 125.310 are hereby adopted by reference.
- 111.1621** This resolution shall take effect 60 days following publication of the same in a newspaper having general circulation in the Township, unless a legal referendum petition is filed in connection therewith, and then at such time as the same has been approved by a majority of the electors voting thereon, at a subsequent regular or special election, the Township Board reserves the right to amend or repeal this resolution at any time hereafter by a majority vote of the membership on the Township Board.
- 111.1622** **Inconsistent Acts** Insofar as the provisions of this ordinance are inconsistent with the provisions of any other law of ordinance, the provisions of this ordinance shall be controlling except that this ordinance shall not supersede those acts and laws enumerated in Michigan Compiled Laws Annotated, Section 125.333., and et seq.