

PEAINE TOWNSHIP
CODIFIED ZONING
ORDINANCE

Adopted: November 8, 2017
Effective: November 20, 2017

The following Codified Ordinance constitutes a reformatting of the Zoning Ordinance of Peaine Township, Charlevoix County, Michigan adopted by the Township on April 14, 2004 as Ordinance No. 18 and such revisions to the Zoning Ordinance, Ordinance No. 18, subsequently enacted. This reformatting has been undertaken to achieve the following objectives:

1. Incorporate all changes made to Peaine Township Ordinance No. 18 since its original adoption in one location.
2. Allow for the continued incorporation of all changes that will be made to the Zoning Ordinance.
3. Update all statutory references to reflect the changes to Michigan statutes since 2004.
4. Establish a different numbering system within the Zoning Ordinance that provides for more effective electronic chronological listing of numbers when needed.

Ordinance No. 18 was enacted in conjunction with St. James Township's Zoning Ordinance, Ordinance No. 24. Following the enactment of Ordinance No. 18 and St. James Township's Ordinance No. 24, the Zoning Ordinances were codified as the Beaver Island Joint Townships Zoning Ordinance (the "Original Version").

This Codified Ordinance differs from the Original Version in that it has removed references to St. James Township from the preamble, Article I, and Article II. The removal of these references is necessary to accurately reflect that this Codified Ordinance and any subsequent amendments thereto are not necessarily incorporated in the Zoning Ordinance for St. James Township. Additionally, Peaine Township does not have authority to codify or set forth the Zoning Ordinance for St. James Township.

This Codified Zoning Ordinance, like all codified ordinances, is merely evidence of the Zoning Ordinance and amendments thereto adopted by Peaine Township. The reader is advised to review the records of the Township related to its Zoning Ordinance and amendments thereto to confirm their contents as enacted by the Township.

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PEAINE TOWNSHIP ZONING ORDINANCE

An Ordinance to provide for the establishment of zoning districts within the Township of Peaine within the proper use of land and the natural resources shall be encouraged and regulated and within which districts the location of, the size of, the uses that may be made of, the minimum open spaces, sanitary, safety, light and protective measures that shall be required for and the maximum number of families that may be housed in dwellings, buildings and structures that may hereafter be erected altered or moved; provide for a method of amending; to provide for the conflicts with other acts, ordinances or regulations; to provide for the conflicts of other acts, ordinances and regulations; to provide for the purpose of collection of fees for the furtherance of the purpose of this Ordinance; to provide for petition and public hearings; to provide for appeals and for the organization and procedures of the Board of Appeals; and to provide for penalties for the violation of said Ordinance:

BE IT ORDAINED by the Township Board of Peaine Township Charlevoix County, State of Michigan, as follows:

ARTICLE I PURPOSE AND AUTHORITY

SECTION 1.1 PURPOSE

It is the purpose of this Zoning Ordinance to promote the public safety health, convenience and general welfare; to encourage the use of lands and natural resources in the Township in accordance with their character, adaptability and suitability for particular purposes; to preserve the natural beauty, unique characteristics and desirable qualities of Beaver Island; to maintain social and economic stability, property values and the general character and trend of Township development; to prohibit the improper use of land; to avoid overcrowding; to provide adequate light and air; to lessen congestion on public streets and highways; to reduce the hazards to life and property; to provide safe access for fire protection; to facilitate adequate provision for a system of transportation, sewerage, drainage, safe and adequate water supply and distribution, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services to conform to with the most advantageous use of land, resources, and properties by establishing herein standards for Township development in accordance with these objectives and by providing for the enforcement of such standards.

It is the further purpose to adopt provisions for each designated zoning district within which, the sizes and the uses of buildings, land and minimum open spaces, sanitary measures required, and the number of families to be housed in certain areas in buildings erected or altered in the future, are specified.

PEAINE TOWNSHIP ZONING ORDINANCE

SECTION 1.2 AUTHORITY

This Ordinance is ordained and enacted into law pursuant to the provisions and in accordance with the State of Michigan Township Zoning Act, Act 184 of the Public Acts of 1943, as amended and the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, as amended.

PEAINE TOWNSHIP ZONING ORDINANCE

ARTICLE II SHORT TITLE

SECTION 2.1 SHORT TITLE

This Ordinance shall be known and may be cited as the “Peaine Township Zoning Ordinance” and will be referred to herein as “this Ordinance”.

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ARTICLE III RULES APPLYING TO TEXT AND DEFINITIONS

SECTION 3.1 RULES APPLYING TO TEXT

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

- (a) The particular shall control the general.
- (b) In case of any difference of meaning or implication between the text of this Ordinance and any caption, the text shall control.
- (c) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (d) Words used in the present tense shall include the future, and words used in singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.
- (e) The word "building" includes the word "structure".
- (f) A "building" or "structure" includes any part thereof.
- (g) The word "person" includes an individual, firm, corporation, association, partnership, limited liability company, or other legal entity.
- (h) The words "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".
- (i) Any word or term not defined herein shall be used with a meaning of common or standard utilization.
- (j) The term "adjoining lots and parcels" is intended to include lots and parcels separated by highways, roads, streets or rivers.

SECTION 3.2 DEFINITIONS

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

Accessory Building or Structure - A subordinate structure devoted to an accessory use and located on the same premises as a principal structure. A garage that is attached to the principal structure is part of the principal structure and shall not be counted as an accessory building or structure.

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Accessory Use - A use subordinate to the principal use on a lot and used for purposes customarily incidental to those of the principal use.

Adult Arcade - Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.

Adult Bookstore or Adult Video Store – A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- a) books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations or media which depict or describe Specified Sexual Activities or Anatomical Areas; or
- b) instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises 35% or more of sales volume or occupies 35% or more of the floor area or visible inventory within the establishment.

Adult Foster Care – A state licensed residential facility as defined by MCL 125.3102(t) that is used for the care and supervision of 6 or fewer persons under 24 hour supervision but excluding persons released from or assigned to adult correctional institutions.

Adult Cabaret - A nightclub, bar restaurant, or similar commercial establishment that regularly features:

- a) persons who appear in a state of nudity;
- b) live performances that are characterized by the exposure of Specified Sexual Activities or by Specified Anatomical Areas;
- c) films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or by Specified Anatomical Areas; or
- d) persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interest or titillation of an audience or customers.

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Adult Motel – A hotel, motel or similar commercial establishment that:

- a) offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or by Specified Anatomical Areas and has a sign visible from the public right-of-way that advertises the availability of any of the above;
- b) offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
- c) allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

Adult Motion Picture Theater – A commercial establishment which for any form of consideration, regularly and primarily show films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by depiction or description of Specified Sexual Activities or by Specified Anatomical Areas.

Adult Theater – A theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of Specified Anatomical Areas or by Specified Sexual Activities.

Agriculture - See "Farm".

Alley - Any dedicated public way, other than a street, providing a secondary means of access to a property and not intended for general traffic.

Attic – An unoccupied story or room directly below the roof of a building.

Apartment - A room or suite of rooms, including bath and culinary accommodations, in a multiple dwelling, intended or designed for use as a residence by a single family.

Basement - That portion of the building which is partly underground and which has most of its floor-to-ceiling height below ground level.

Bed & Breakfast – Bed and Breakfast establishment is any place of lodging providing rooms for rent to transient guests, is the owners primary residence, is occupied by the owner at the time of rental and the only meal served to guests is breakfast.

Board - Whenever the word "Board" is used, it refers to the Zoning Board of Appeals.

Boarding House-Rooming House - A building other than a hotel where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for three (3) persons or more.

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Boathouse – A building or shed, usually built over the water, for sheltering a boat or boats, but which excludes any residential use.

Bordering Lands - All lands adjacent to a parcel of land, including, but not limited to, those lands separated from the parcel by a road right-of-way, easements or public utility rights-of-way.

Building - A structure either temporary or permanent, having a roof supported by columns or walls.

Building, Height of - The elevation measured from the average finished lot grade at the front of the building to the highest point of the roof.

Building Inspector - The administrator of the building, housing, plumbing, electrical or other codes that have been adopted or may be adopted in the future by the County.

Building Line - The minimum required building setback line.

Cabin - A detached building which is used for seasonal occupancy, but not including motels or hotels, as a dwelling or sleeping quarters but which does not meet the floor area requirements of a single family dwelling.

Cabin Court - One (1) or more cabins used for seasonal occupancy as a dwelling or sleeping quarters for transients or tourists for a fee.

Development Plan - A scale drawing which shows the location and dimensions of improvements upon a parcel of land, including but not limited to location and size of the buildings, parking area, landscaping, signs, water supply, sewage systems, drainage facilities and important topographical features.

Districts – A portion or portions of the Townships for which the zoning regulations governing the use of buildings and land, the size of yards, and the intensity of use are uniform.

Dog Kennel - Any place where three (3) or more dogs are kept for commercial purposes.

Dwelling - Any building, or portion thereof, which is designed or used exclusively for residential purposes containing one or more dwelling units.

Dwelling, Accessory - A dwelling that is incidental and subordinate to, is located on the same lot as the principal dwelling, is owned by the owner of the lot and principal dwelling, and is occupied exclusively by non-paying guests, security personnel, caretakers, groundskeepers, or other domestic employees. Such dwellings shall include detached accessory dwellings and apartments within garages.

Dwelling, Multiple - A dwelling or group of dwellings on one plot and in one or more structures, containing two or more separate dwelling units but not including automobile courts, motels or hotels.

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Dwelling, Single or One-Family - A detached building designed for or occupied exclusively by one (1) family only.

Dwelling Unit - One (1) or more rooms, including complete kitchen and bathroom facilities, designed as a unit for residence by only one (1) family, constituting a separate independent housekeeping establishment or physically separated from any other rooms or dwelling units in the same structure.

Escort – A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency – A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Essential Services by Public and Other Agencies – This shall include the erection, construction, alteration or maintenance by public utilities, municipal departments or other governmental agencies of underground or overhead gas, electrical communication, steam or water transmission or distribution systems, or collection, supply or disposal systems; including poles, wires, mains, drains, sewers, pipes, cables, towers, fire alarm boxes, police or other call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith reasonable necessary for furnishing adequate service by such utilities or agencies, or for the public health or safety or general welfare. Essential Services do not include offices and building or yards used for bulk storage, fabrication or manufacturing or materials used by such utilities or municipal departments or other governmental agencies, or telecommunication towers, antennas, or wind powered generation units.

Family – An individual, or collective number of individuals related by blood, marriage, adoption, or legally established relationships such as guardianship or foster care, or collective number of unrelated individuals whose relationship is of a permanent and distinct domestic character who occupy a single dwelling and live as a single nonprofit housekeeping unit with single culinary facilities. The usual domestic servants residing in the premises shall be considered a part of the family. A family, however, shall not include any society, club, fraternity, sorority, association, lodge, or group of individuals, whether related or not, whose association or living arrangement is temporary or resort-seasonal in character or nature.

Farm - All the contiguous neighboring or associated unplatted land of ten (10) acres or more operated as a single unit on which bona fide farming is carried on directly by the owner or by his agent or by a tenant farmer, provided that the area thereof is sufficient to constitute actual farming; and for the purpose of this Ordinance, farms may be considered as including establishments operated as bona fide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms, dairy farms and apiaries and other similar activities. The words "agriculture" and "farming" shall be considered synonymous.

Fence – An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

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Flashing Sign - Any sign having a conspicuous and intermittent variation in the illumination of the sign.

Floor Area - The area of all floors computed by measuring the dimensions of the outside walls of a building. Porches, patios, terraces, decks, breezeways, carports, verandahs, garages, unfinished attics, attic floor areas with less than five (5) vertical feet from floor to finished ceiling, and all unfinished basements are excluded.

Garage-Private - A detached accessory building or portion of the main building for the parking or temporary storage of automobiles, boats, house trailers and similar vehicles owned and used by the occupants of the building to which it is accessory.

Garage-Public - A building, other than a private garage, used for the care, repair or equipment of automobiles, motorcycles, snowmobiles, boats and other similar vehicles or where such vehicles are parked or stored for remuneration, hire or sale.

Gasoline Service Station - A structure or structures and space combined, used solely for servicing motor vehicles with the usual operating commodities such as gasoline, fuel oil, grease, water, batteries, tires and other minor accessories, or services such as washing, waxing and lubricating and in connection with which there is no repair or refinishing of motor vehicles, except that the repair of tires, lights, charging of batteries or engine repairs and adjustments when conducted within an enclosed building shall not be excluded.

Gazebo - A small open-air accessory structure or shelter having a roof, which is primarily used for dining, entertaining, and sitting and is not intended to house or enclose any individual, animal, process, equipment, goods, or materials of any kind.

Grade - An average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

Greenbelt - A planting strip for screening at least ten (10) feet in width, composed of deciduous and/or evergreen trees spaced not more than fifteen (15) feet apart and not less than one (1) row of dense shrubs, spaced not more than five (5) feet apart and not less than five (5) feet in height at planting.

Group Day Care Home - A private home in which minor children are received for care and supervision for periods of less than 24 hours a day, for more than four (4) weeks during a calendar year, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

Home-Based Business - Any activity conducted either entirely within an accessory building or within an accessory building and a portion of a dwelling, including the exterior storage of materials or equipment related to the home-based business, which is clearly secondary to a residential use and carried out for economic gain. A home-based business shall include, but not be limited to, auto repair and parts facilities, small engine repair businesses, welding shops, contractor/construction businesses, contractor equipment storage facilities, lumber mill/woodworking facilities, storage of bulk petroleum products, veterinary hospitals, blacksmith

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shops, appliance repair businesses, art fabrication/sales, alternative energy sales and repair businesses and garden centers. Provided, however, a home-based business shall not include an adult or sexually oriented business or a business conducting retail sales on site, except for items that are incidental to services provided or performed on site and for items produced by the home-based business.

Home Occupation — An activity conducted entirely within a dwelling that does not involve retail sales, except for items that are incidental to services provided or performed on site and for items produced by the home occupation, which is clearly secondary to the residential use and carried out for economic gain. A home occupation shall include, but not be limited to, beauty salons, business and professional offices, telecommuting businesses, and the manufacture of hand-crafted products. Provided, however, a home occupation shall not include an adult or sexually oriented business or a business conducting retail sales on site, except for items that are incidental to services provided or performed on site and for items produced by the home occupation.

Industry - Manufacturing or fabricating activities on a small scale.

Institutional or Public Use - Churches, schools teaching academic subjects, hospitals, convalescent and nursing homes, parks, civic centers, libraries and other governmental structures.

Junk - Worn out and discarded material that may not be returned to some use. Rubbish of any kind that may not be returned to some use.

Junkyard – A going commercial concern licensed and acting in accordance with federal, state, and local laws and engaged in the collection and/or storage of scrap or dismantled and partially dismantled vehicles, or both, with the intent to sell or process and sell same.

Lot - A parcel of land or site condominium exclusive of any adjoining street or right-of-way, whether public or private, which is or may be occupied, including one principal building or use together with accessory buildings, open spaces, and parking areas required by this Ordinance and having its principal frontage on an approved public or private street.

Lot-Corner - A lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of less than 145 degrees.

Lot Coverage - The amount of a lot, stated in terms of percentage that is covered by all roofed buildings and other structures located thereon. This shall be deemed to include all buildings, porches, arbors, breezeways, patio-roofs and the like, whether open box type and/or lath roofs or fully roofed, but shall not include fences, walls or hedges used as fences, or swimming pools.

Lot Depth: The distance between the front and rear lot lines measured in the mean direction of the side lot lines.

Lot-Interior - A lot other than a corner lot.

Lot-Lake – A riparian parcel.

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Lot-Through - A lot, other than a corner lot, having frontage on more than one (1) street.

Lot Line - For the purpose of this Ordinance, a lot line is the property line bounding a lot, or two or more lots used as one development site.

a) **Front Lot Line:** In the case of an interior lot and a lake lot, the boundary line of the lot immediately adjacent to the right-of-way upon which the lot fronts. In the case of a corner lot, the boundary line of the lot immediately adjacent to the right-of-way on either street as determined by the owner.

b) **Rear Lot Line:** A lot line, which is opposite the front lot line and, in the case of an irregular-shaped lot, a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line. On a corner lot, interior lot, and lake lot, the rear lot line shall in all cases, be at the opposite end of the lot from the front lot line.

c) **Side Lot Line:** Any boundary line not a front lot line, a rear lot line, or a street side lot line.

d) **Street Side Lot Line:** The lot line on a corner lot that is immediately adjacent to a street or road right-of-way, but which is not the front lot line.

Lot of Record – A lot legally in existence on the date of adoption of the first Zoning Ordinance (March 18, 1974), or any amendments thereto, regardless of whether such deed or land contract is recorded.

Lot Width - The horizontal distance between the side lot lines measured at right angles to the lot depth along a straight line parallel to the front lot line at the minimum required building setback line.

Manufactured Home – A structure, transportable in one or more sections, which is built and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained in the structure.

Manufactured Home Development - A parcel or tract of land under the control of a person upon which three (3) or more manufactured homes are located, on a continual nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the occupancy of a manufactured home.

Manufactured Home Subdivision - Any site, field or tract that is platted into recorded lots and which is used exclusively for manufactured home use.

Manufactured Home Development Lot - A designated site within a manufactured home development for the exclusive use of the occupants of a single manufactured home.

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Mobile Home – Any vehicle or structure so designed and constructed that it will permit the occupancy thereof as sleeping quarters for one (1) or more persons, or the conduct of any business or profession, occupation or trade, or storage and which when manufactured had no foundation other than wheels, jacks, skids or skirting and is so designed that it may be mounted on wheels and moved from place to place on streets, but not including travel trailers or recreation vehicles which are used for temporary seasonal travel. The term house trailer shall be construed to be synonymous with mobile home.

Motel/Hotel - Groups of furnished rooms or separate structures providing sleeping and parking accommodations for transient tourist trade, offered to the public for compensation.

Nonconforming Use - Any use, whether a building or other structure or a tract of land, which was lawfully established prior to the adoption of this Ordinance but does not conform to the applicable use regulations for the district, either at the effective date of this Ordinance or as a result of a subsequent amendment hereto.

Nude Model Studio – Any place where a person who displays Specified Anatomical Areas is provide to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include an educational institution funded, chartered, or recognized by the State of Michigan.

Nudity or a State of Nudity – Knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to, payment of promise of payment of an admission fee, any individual’s genitals or anus with less than a fully opaque covering, or a female individual’s breast with less than a fully opaque covering of the nipple or areola. Public nudity does not include any of the following:

- a) A woman’s breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
- b) Material as defined in section 2 of Act No. 343 of the Public Acts of 1984, being section 752.362 of the Michigan Compiled Laws.
- c) Sexually explicit visual material as defined in section 3 of Act No. 33 of the Public Acts of 1978, being section 722.673 of the Michigan Compiled Laws.

Open Space - An unoccupied space open to the sky on the same lot with a building.

Ordinary High Water Elevation – The boundary of lakes and streams, which elevation shall be the elevation delineating the highest water elevation which has been maintained for a sufficient period of time to leave evidence upon the landscape; commonly that point where the vegetation changes from predominantly aquatic to predominantly terrestrial.

Owner - A person holding any legal, equitable, option or contract interest in land.

Park – Properties and facilities owned or operated by any governmental agency, or owned or operated by any private agency, which are open to the general public for recreational purposes.

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Person – An individual, firm, corporation, partnership, limited liability company, or other legal entity.

Place of Worship – A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary buildings.

Planning Commission – The body created and authorized by the Township Board to plan for the Townships in accordance with Public Act 168 of 1959, as amended, and Public Act 33 of 2008, MCL 125.3801 et seq, as amended.

Principal or Main Use - The primary or predominant use of the premises.

Public Place – Any real property or an appurtenance to the real property which is owned by this state, any municipality of this state, a public agency, or by a college or university in this state and may include a structure, enclosure, facility, or complex, including a court, mall, park, or other area, feature, or element; a public place shall also mean a business or an educational, refreshment, establishment, recreation, health, or transportation facility, or institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

Restaurant – An establishment where food and drink are prepared, served, and consumed primarily within the principal building or in outdoor areas that are specifically designed for eating such as decks, courtyards, and porches.

Restaurant, Drive-In – An establishment where food and /or beverages are prepared and sold in a form ready for consumption, where all or a significant portion of the consumption takes place or is designed to take place beyond the confines of the restaurant and associated outdoor areas specifically designed for eating such as decks, courtyards, and porches, and where the ordering and pickup of food may take place from an automobile.

Right-Of-Way - A street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

School – A public or private educational institution offering students a conventional academic curriculum, including kindergartens, elementary schools, middle schools, and high schools. Such term shall also include all adjacent properties owned by and used by such schools for educational, research, and recreational purposes.

Seasonal Dwelling - A dwelling other than a permanent residence occupied for less than six (6) months in any one (1) year.

Setback— The minimum horizontal distance from an applicable lot line within which no building or structure can be placed, except as otherwise provided in this Ordinance.

- a) Front Yard Setback: The required setback measured from the front lot line.

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- b) Rear Yard Setback: The required setback measured from the rear lot line.
- c) Side Yard Setback: The required setback measured from a side lot line.
- d) Street Side Yard Setback: The required setback measured from a street side lot line.

Sexual Encounter Center – A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- a) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- b) activities between male and female persons and/or of the same sex when one or more of the persons is in a state of nudity.

Sexually Oriented Business – A business or commercial enterprise engaging in any of the following: (1) adult arcade; (2) adult bookstore or adult video store; (3) adult cabaret; (4) adult motel; (5) adult motion picture theater; (6) adult theater; (7) escort agency; (8) nude motel studio; and (9) sexual encounter center.

Short-term Rental — A building, or portion thereof, designed or used exclusively for residential purposes containing complete independent living facilities, including permanent provisions for living, sleeping, heating, cooking, and sanitation which is rented to the transient public for compensation for a period of less than thirty (30) days; is not a bed & breakfast, boarding house — rooming house, or motel/hotel, as those terms are defined in this Ordinance; and meets both of the following criteria: (1) the building and the lot on which it is located complies with all dimensional requirements of this Ordinance related to lot area, lot width, setbacks, floor area requirements applicable to a dwelling, and height and (2) the building is non-owner occupied.

Sign - An announcement, written declaration, pictorial representation, emblem, flag, illustration, insignia or any figures of similar character which is a structure or any part thereof or is attached to, painted, or in any other manner represented on a building or structure is used to announce, direct attention to, or advertise and is visible from outside the building. Signs shall include billboards but shall not include illustrations, pictorial representations or other similar items within buildings.

Sign, Off Premise - A type of advertising sign which is either erected on the ground or attached to, painted on, or supported by a building, which directs attention to a business commodity, service, entertainment or other activity conducted, sold or offered at a place other than on the premises of which the sign is located.

Sign, Political – A temporary sign announcing or supporting political candidates or issues in connection with any national, state, or local election.

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Sign, Real Estate – A sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located.

Sign, Noncommercial Speech – A sign that contains religious or other noncommercial messages.

Slope – The deviation of a surface from the horizontal expressed in percent and computed by dividing the vertical distance by the horizontal distance, times one hundred.

Specified Anatomical Areas – are defined as:

- b) Less than completely and opaquely covered human genitals, pubic region, buttock, anus and female breast below a point immediately above the top of the areola; and
- b) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

Specified Sexual Activities – means and includes any of the following:

- a) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- b) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- c) masturbation, actual or simulated; or
- d) excretory functions as part of or in connection with any of the activities set forth in 1 through 3 above.

Stable - A structure that is used for the shelter or care of horses.

Stable, Commercial - A stable where, for a fee, horses other than those of the property owner/occupant are boarded and cared for and/or where riding, jumping, and showing is offered and/or where horses may be hired for riding.

Stable, Noncommercial - A stable used or to be used by a person for the housing of horses owned by said person for the exclusive use of his or her immediate family.

Story - That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the surface between such floor and the ceiling next above it, and exclusive of any mezzanine, balcony or basement.

Story-Half - That portion of a building between the eaves and ridgelines of a pitched roof, which may or may not be used for tenant purposes.

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Street - A public or private way that is permanently established for the passage of vehicles.

Structure - Anything constructed, erected or to be moved to or from any premises, which is permanently located above, on, or below the ground, including signs, billboards, septic tanks, drain fields, and fences.

Structural Alterations - Any change in the supporting members of a building such as bearing walls, columns, beams or girders, or any substantial changes in the roof or exterior walls.

Tavern - Any place where malt, vinous or spirituous liquors are sold for consumption on the premises.

Theater-Indoor - Any building used for the presentation of dramatic spectacles, shows, movies or other entertainment, which building has a roof completely sheltering actors and patrons, open to the public, with or without charge.

Theater-Outdoor - Any place other than an indoor theater used for the presentation of dramatic spectacles, shows, movies or other entertainment open to the public, with or without charge, including drive-in theaters.

Travel Trailer - Travel trailer shall mean a mobile home, which is less than ten (10) feet in width and is generally moved from location to location by a passenger car and is generally used for recreation purposes.

Travel Trailer Park - Any site, lot, field or tract upon which one (1) or more occupied travel trailers are harbored, either free of charge or for revenue purposes, including any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such travel trailer park; which site, lot, field or tract shall be licensed and regulated by the Michigan Department of Public Health.

Vehicle Sales-New - An authorized dealership primarily for the sale of new vehicles but as an incidental use may include the sale of used vehicles, and with complete and enclosed facilities on the premises for the display, service, repair and sale of new vehicles and accessories.

Vehicle Sales-Used - An authorized dealership for the sale of used vehicles, with completely enclosed office and sales facilities on the premises. All related activities incidental to the sale of used vehicles such as minor repairing, servicing and restoring, shall be performed within completely enclosed facilities.

Yard — The space between a principal building and a lot line.

- a) Front Yard: The yard between the principal building and the front lot line extending across the entire width of the lot.

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b) Rear Yard: The yard between the principal building and the rear lot line extending across the entire width of the lot.

c) Side Yard: The yard between the principal building and a side lot line or a street side lot line extending between the front yard and the rear yard.

Zoning Administrator - The administrator of this Ordinance, appointed by the Township Board.

Zoning Permit - A standard form issued by the Zoning Administrator upon application and declaration by the owner or his duly authorized agent regarding proposed construction and use of land and buildings and structures thereon granting approval for the construction or use applied for.

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ARTICLE IV GENERAL PROVISIONS

SECTION 4.1 PURPOSE

General regulations apply to all districts except as noted herein. Where requirements of a general regulation and a district regulation differ, the more restrictive requirement shall prevail.

SECTION 4.2 APPLICATION OF REGULATIONS

Zoning affects every structure and use and extends vertically, except as hereinafter provided:

- (a) No building or structure shall hereafter be erected, altered or moved, nor shall any building or premises hereafter be used for any purpose other than is permitted in the district in which said building or premises are located.
- (b) No building shall hereafter be erected or altered to exceed the height limitations, or occupy a greater percentage of lot area, or intrude further upon the required front yard, rear yard, side yards or inner or outer courts, or accommodate or house a greater number of families, or provide less space per dwelling unit than is specified for the district in which such building is located.
- (c) No lot area and no yard, court, parking areas or other required space shall be so divided, altered, reduced or diminished as to make said area or dimension less than the minimum required under this Ordinance, except where such reduction has been brought about by the expansion or acquisition of public rights-of-way for a street, road or highway. If a required area is already less than the minimum required under this Ordinance, said area or dimension shall not be further divided or reduced.

SECTION 4.3 LOT – BUILDING RELATIONSHIPS

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

SECTION 4.4 ACCESSORY BUILDINGS

- (a) No accessory building or structure shall be located within any required rear yard setback.
- (b) No detached accessory building or structure shall be located nearer to a side lot line than the permitted distance for the principal building on the same lot.

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- (c) All accessory buildings and structures shall maintain front and street side yard setbacks equal to or greater than required for principle buildings and structures.
- (d) Accessory buildings or structures shall not occupy more than 30% of a rear yard.
- (e) The Zoning Administrator may issue a permit for a garage, before a permit is issued for the principal residence, provided that sufficient area remains for required drain fields, water wells, and a residence of the minimum required size. The Zoning Administrator shall not issue a permit for a garage until the Administrator has received a permit or certification from the Health Department of Northwest Michigan providing that the property will be suitable for a water well, drain field and septic.

SECTION 4.5 ACCESSORY DWELLINGS IN RESIDENTIAL DISTRICTS

No accessory building on the same lot as a principal dwelling shall be used as a dwelling, except by guests, renters, security personnel, caretakers or other domestic employees whose employment is directly related to the function of the principal building, and providing that all other applicable requirements of this Ordinance are satisfied. An accessory dwelling may have separate sleeping, cooking, and sanitary facilities provided it meets the specific provisions of the zoning district within which it is located. Not more than one (1) accessory dwelling shall be permitted on any one (1) lot.

SECTION 4.6 TEMPORARY BUILDINGS AND DWELLINGS

A temporary building that is incidental to a construction project shall be required to have a zoning permit, issued by the Zoning Administrator, for the lesser of one year or the term of the construction. The Zoning Administrator may extend the term of the permit for up to six (6) additional months if construction progress is being made. Such buildings, and all debris, shall be removed from the construction site within thirty (30) days following completion or abandonment of the construction. No temporary building or structure shall be used for dwelling purposes that does not comply with the requirements of this Ordinance and the applicable building codes. No garage or other accessory building, mobile home, basement, partial or temporary structure, whether of a fixed or portable construction, shall be erected or moved onto a lot and used for dwelling purposes unless in compliance with this Ordinance and authorized by the issuance of a permit by the Zoning Administrator.

SECTION 4.7 MOVING OF BUILDINGS

The moving of a building to a different location shall be considered the same as erection of a new building, and all provisions, regulations or requirements relative to the erection of a new building shall be applicable thereto.

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SECTION 4.8 RAZING OF BUILDINGS

No building shall be razed until a permit has been obtained from the Zoning Administrator. Said permit shall be conditioned on the applicant's completing the razing within such reasonable time as shall be prescribed in the permit and complying with such regulations as to health and safety as the Building Inspector may prescribe including restoration of site and filling of excavations and proper termination of utility connections.

SECTION 4.9 PERMITTED YARD AND SETBACK ENCROACHMENTS

The yard and setback requirements of all zones are subject to the following permitted encroachments:

- (a) Terraces and patios may project into a required setback, provided they are not greater than one (1) foot in height as measured from the ground up, are unroofed, and without walls or other continuous enclosures. Porches, decks, and other appurtenances shall be considered structures and shall be subject to all of the setback requirements of the district within which they are located.
- (b) Chimneys, flues, belt sources, leaders, sills, pilasters, cornices, eaves, gutters and similar features may project into any required setback a maximum of twenty-four (24) inches.
- (c) Accessory buildings constructed on residential lake lots may be located in the front yard provided they conform to the district setback requirements for principal buildings.
- (d) Fences may be constructed within a required setback provided they conform to the requirements of Section 4.10.
- (e) Septic tanks and drain fields may be located within a required setback, provided that they are no closer than ten (10) feet from any property line, road right-of-way, or easement and provided that for residential uses they are no closer than fifty (50) feet from any existing well or for commercial uses they are no closer than seventy-five (75) feet from any existing well.

SECTION 4.10 FENCES, WALLS, AND HEDGES, IN RESIDENTIAL, MR. H, AND CD DISTRICTS

A fence, wall, other than a necessary retaining wall or snow fence in season, hedge, or other screening located within a required setback, in any but a commercial or agriculture district, shall not exceed a height of three (3) feet as measured from the top of the fence, wall, hedge or other screening to the lowest point of approved grade located perpendicular to and within five feet on either side of the fence, wall, hedge or other screening. No fence or wall located in a rear or side yard shall exceed a height of six (6) feet as measured from the top of the fence or wall, to the lowest point of approved grade located perpendicular to and within five feet on either

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side of the fence or wall. Trees used for ornamental purposes, which together do not exceed opacity of 30% as viewed from the road shall be exempt from the front and street side yard provisions of this section.

SECTION 4.11 INTERSECTION VISIBILITY

On any corner lot in any district requiring front and side yards, no fence, wall, screen, hedge, sign or other structure or planting shall obstruct vision between the heights of three (3) feet and ten (10) feet within the triangular area formed by the intersecting street right-of-way lines and a straight line intersecting them at points which are on said right-of-way lines and thirty (30) feet distance from their point of intersection. Such heights of clear vision areas shall be measured from the elevation of the street centerlines at the point of intersection. No fence, wall, screen, hedge, sign or other structure or planing shall obstruct vision between the heights of three (3) feet and ten (10) feet, measured above the elevation of the street center line, within ten (10) feet of any front property line.

SECTION 4.12 THROUGH LOTS

In any district, a through lot, as herein defined, shall have a front yard setback, as required for the district within which located, on each street.

SECTION 4.13 ESSENTIAL SERVICES

Essential services, as defined herein, shall be permitted as authorized and regulated by law, public policy and specific zoning regulations in any district. New rights-of-way for public utilities require Planning Commission approval.

SECTION 4.14 REQUIRED WATER SUPPLY AND SEWAGE DISPOSAL FACILITIES

Every building hereafter erected, altered or moved upon any premises and used in whole or in part for dwellings (year-round or seasonal), recreational, business, commercial or industrial purposes, including churches, schools and other buildings in which persons customarily congregate, shall be provided with a safe and sanitary water supply system and with means for collecting and disposing of all human excreta and of all water-carried domestic, commercial, industrial and other wastes that may adversely affect health conditions. The written approval of such facilities by the Northwest Michigan Community Health Agency shall be filed with an application for a zoning permit.

SECTION 4.15 DUMPING AND STORAGE OF RUBBISH AND WASTE MATTER

It shall be unlawful throughout the Township to store, collect or place discarded material, building materials, refuse, junk or inoperable motor vehicles upon land owned and/or occupied by any individual, or company, or public place unless such land has been designated as a solid waste disposal site by the Charlevoix County Solid Waste Management Plan or designated as a junkyard by the Township Planning Commission.

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SECTION 4.16 STREET CLOSURES

Whenever any street, alley or other public right-of-way, or railroad right-of-way, is vacated by official action of the appropriate agency or governmental body, the zoning district adjoining each side of such right-of-way shall automatically be extended to the center of such vacation, and all areas included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

SECTION 4.17 GRADES

No premises shall be filled or graded so as to increase the amount or rate at which water is discharged to abutting premises in such a manner as to cause inconvenience or damage to adjacent properties. When property is developed adjacent to existing properties previously developed, existing grades shall have priority.

SECTION 4.18 VEHICLE STORAGE

No inoperable vehicle shall be stored outside an enclosed building except in permitted and licensed junkyards or landfills.

SECTION 4.19 REMOVAL OF SOIL, SAND OR OTHER MATERIAL

The removal of soil, sand, topsoil or other material from the land is not permitted in any zone until issued a special use permit by the Planning Commission. No material shall be taken from any part of any lot within two hundred (200) feet of any road or trail traveled by the general public or within twenty-five (25) feet of an adjacent lot line. Such removal shall not leave the land in an unstable condition or unfit for growing of turf or trees. Any temporary borrow pit shall be leveled off and planted with grass and trees and left in a stable condition. The provisions of this section shall not be construed to prohibit normal excavations or grading incidental to the construction or alterations of buildings or to affect normal farm operations.

SECTION 4.20 OCCUPANCY AND STORAGE OF MOBILE HOMES, TRAVEL TRAILERS, MOTOR HOMES, AND PICK-UP AND POP-UP CAMPERS

No mobile home, travel trailer, motor home, pick-up or pop-up camper shall be parked on any lot or parcel except as provided for by this section.

- (a) It shall be unlawful for any person to park, or cause to be parked, any travel trailer, utility trailer, motor home, pick-up or pop-up camper on any street, alley, highway, or other public place in the Township for storage, use as a dwelling, either temporarily or permanently, or for overnight stops, outside a licensed manufactured home park, a forest campground, a state park, or a Township park.
- (b) It shall be unlawful for any person or persons to occupy a travel trailer, motor home, pick-up or pop-up camper for dwelling purposes as provided herein, either temporarily or permanently, except while the occupants thereof are building a permanent residence, provided the travel trailer, motor home or pick-up camper

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shall be located on the property where the permanent residence is being built and further provided the requirements of Section 4.14 are satisfied. The term of said occupancy shall be not longer than twelve (12) months; provided that such term may be extended for up to six (6) additional months by the Zoning Administrator if progress is being made toward completion of the construction of the permanent residence and a specific time table is established for said completion. Prior to the occupancy of a travel trailer, motor home or pick-up or pop-up camper as a temporary dwelling while the occupants are building a permanent residence, a zoning permit shall be obtained from the Zoning Administrator who shall determine, that the travel trailer, motor home, or pick-up camper, is for temporary use and meets all of the requirements of the Health Department of Northwest Michigan. Refer also to Section 4.6 of this Ordinance

- (c) Travel trailers, motor homes, pickup and pop-up campers may be parked on a residential lot or parcel. The vehicle shall not be parked where it can be seen from a road, thoroughfare, or an adjoining residence.

SECTION 4.21 GREENBELTS

A greenbelt, as defined herein, shall be required for any commercial or industrial use that abuts a residential or agricultural district or use on either a side or rear yard. In all instances, this may be provided as part of the side or rear yard setback requirements. The greenbelt may be omitted or a fence substituted for a greenbelt if, after a public hearing and notice, the Planning Commission finds that there would be no adverse effects upon the neighboring properties resulting from the waiver or omission.

SECTION 4.22 SHORELINE PROTECTION STRIP

Except for the marine related district, no building or structure, except docks, launch ramps, unroofed and unenclosed decks, and walkways, shall be erected closer than one hundred (100) feet from the ordinary high water elevation of Lake Michigan or closer than fifty (50) feet from the high water elevation of an inland lake, stream, or creek within the Township. Such decks and walkways shall be subject to the following requirements:

- (a) No structure shall exceed the height of four (4) feet above the ground elevation, as measured at a point where the top of the structure is closest to the ground elevation.
- (b) Post construction shall be employed so as to minimize disturbance of the natural terrain and vegetation.
- (c) On Lake Michigan lots, no structures of any kind, including walkways, shall be allowed within the twenty-five (25) feet landward of the ordinary high water elevation. A deck attached to the principal structure shall not be erected closer than ninety (90) feet landward from the ordinary high water elevation.

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- (d) On inland lake lots, decks and walkways shall be allowed to the high water mark in order to access docks and minimize pedestrian impacts on vegetation.

Not more than one-third (1/3) of the trees and shrubs shall be removed in a strip twenty-five (25) feet landward from the ordinary high water elevation of Lake Michigan or the high water mark on any lake, stream or creek. Stumps shall be cut flush with the ground but not removed, and fill material shall be of sand or gravel or other pervious material. Fill material shall not be allowed to enter the water by erosion or mechanical means.

SECTION 4.23 RESTORATION OF UNSAFE BUILDINGS

Nothing in this Ordinance shall prevent the strengthening or restoring, to a safe condition, of any part of any building or structure declared unsafe by the Building Inspector.

SECTION 4.24 CONTINUED CONFORMANCE WITH REGULATIONS

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

SECTION 4.25 OUTDOOR LIGHTING

The outdoor lighting of yards, buildings, parking areas, grounds, signs, roads and waters shall be designed and constructed to insure that direct or directly reflected light is confined to the site on which the light is located and lamps and luminaries are hooded to insure that there will be no direct light spillage beyond the boundaries of the site or road right-of-way.

SECTION 4.26 SATELLITE DISHES

A satellite dish that is one meter or less (3 feet 3 inches) in diameter, is or is not attached to a building or structure, and conforms to the setback requirements of the district within which located, shall not require the issuance of a Zoning Permit. Larger satellite dishes, whether located on the ground or on a structure, shall conform to the setback requirements of the district within which located and shall not be erected until the Zoning Administrator has issued a Zoning Permit.

SECTION 4.27 CONTIGUOUS LOTS/COMBINATION REQUIRED

Where two or more contiguous lots are owned by the same person, no zoning permit shall be issued for a new or expanded structure and no excavation or construction of any kind shall be commenced thereon unless the setback requirements of the district are fully complied with for each individual lot or the applicant files a Notice of Intent to Combine form with the Township Assessor.

SECTION 4.27 — UNLISTED PROPERTY USES

When the proposed use of land or use of a structure is not specified in this Ordinance, the Zoning Board of Appeals shall have the power upon written request of the property owner

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or zoning administrator to classify the unlisted property use with a comparable permitted use. In determining whether the unlisted use is comparable to a permitted use, the Zoning Board of Appeals shall consider the characteristics of the proposed unlisted property use in relation to similar and comparable uses listed in any zoning district and in relation to the requirements of the Township Master Plan. Once classified, the unlisted property use is subject to all applicable regulations pertaining to the comparable use in the zoning district, including the regulations pertaining to uses subject to special use permit approval, if classified as comparable to such a use by the Zoning Board of Appeals. If there is no comparable use to classify the unlisted property use with, then an amendment to the text of the ordinance shall be necessary prior to establishing the unlisted use.

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ARTICLE V ESTABLISHMENT OF ZONING DISTRICTS

SECTION 5.1 ZONING DISTRICTS

In order to regulate and restrict the location, erection, alteration or use of buildings, structures or land to carry out the purpose of this Ordinance, Peaine Township and St. James Township are hereby divided into the following zoning districts:

- 6.1 – “R-1” Single-Family Residential District.
- 6.2 - "R-2" Single-Family Residential District.
- 6.3 - "R-3" Manufactured Home Development District.
- 6.4 - “R-4” Multiple-family Residential District
- 6.5 - "C-1" Resort Commercial District.
- 6.6 - "C-2" General Commercial District.
- 6.7 - "I" Industrial District.
- 6.8 - "A" Agricultural District.
- 6.9 – Reserved.
- 6.10 - “ PLFD” Public Land and Facilities District.
- 6.11 – “AA” Airport District.
- 6.12 - "AB" Airport Protection District.
- 6.13 - "MR" Marine Related District.
- 6.14 - "H" Harbor District.
- 6.15 - “CD” Critical Dune District.

SECTION 5.2 ZONING DISTRICT MAPS

The locations and boundaries of these districts, so established, are bounded and defined as shown on the map, entitled " Peaine Township Zoning Map" and "St. James Township Zoning Map", which accompanies and is hereby declared to be a part of this Ordinance with the same force and effect as if the districts shown thereon were fully set forth by metes and bounds herein. A current and up-to-date Peaine and St. James Township Zoning District Map, with all amendments noted, shall be kept on file at the Township Hall and this map shall be the final

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authority as to the current zoning status of land, buildings and other structures in the unincorporated portions of Peaine Township and St. James Township.

SECTION 5.3 INTERPRETATION OF ZONING DISTRICT BOUNDARIES

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

- (a) Where district boundaries are indicated as approximately coterminous with street or highway centerlines or right-of-way lines, such centerlines or right-of-way lines shall be construed to be boundaries.
- (b) Where district boundaries are indicated as approximately coterminous with platted lot lines, quarter-section lines, or other survey lines, such lines shall be construed to be said boundaries.
- (c) Where district boundaries are indicated as approximately parallel to street or highway center lines or right-of-way lines, or to section lines, quarter-section lines or other survey lines, such boundaries shall be construed to be parallel thereto and at such distance therefrom as indicated on the Zoning District Map.
- (d) Where the boundary of a district follows a railroad line, such boundary shall be deemed to be coterminous with the centerline of the main track of said railroad line.
- (e) Where the boundary of a district follows a shoreline of a stream, lake or other body of water, the boundary line shall be interpreted as following such shoreline and in the event of change in shoreline shall be construed as moving with said shoreline.
- (f) Where the application of the above rules leaves a reasonable doubt the Zoning Board of Appeals shall rule as to the specific location.

SECTION 5.4 AREAS NOT INCLUDED WITHIN A DISTRICT

If property within the Township is not included within the boundaries of a zoning district (for example, by the vacation of a platted street), then that property shall assume the zoning classification of adjacent property. If there are more than one zoning classifications for adjacent properties, then the zoning classification of the most restrictive district shall apply. The Township can then rezone that property, if desired.

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ARTICLE VI ZONING DISTRICT REGULATIONS

SECTION 6.1 “R-1” SINGLE-FAMILY RESIDENTIAL DISTRICT

- (a) **Purpose** - The purpose of this district and its accompanying regulations is to provide for a stable and sound residential environment and to encourage the proper development of land abutting lakes and waterways, avoid pollution, and preserve lakefront and other waterfront properties.
- (b) **Use Regulations** - Land and/or buildings in this Zoning District may be used for the following purposes only:
 - 1) One (1) single-family dwelling on a lot.
 - 2) One accessory dwelling per lot subject to the provisions of Section 4.5 of this Ordinance and further provided the accessory dwelling shall not exceed the lesser of 1,500 square feet or 50 % of the floor area of the principal dwelling and have the same architectural style and character as the principal dwelling in terms of materials of construction and roof line slope. An accessory dwelling shall be no smaller than 600 square feet.
 - 3) Public schools and colleges, when owned and operated by a governmental agency. Fifty (50) foot side and rear yards are required if the property abuts any residential zoned lots.
 - 4) Parks, playgrounds, playfields, museums, libraries, fire stations, community centers and other public buildings owned and operated by a governmental agency or a non-profit neighborhood group.
 - 5) Docks, boat landings and similar structures are permitted subject to the regulations provided in this Ordinance and subject to the State of Michigan regulations.
 - 6) In addition to an accessory dwelling, there shall be no more than two (2) detached accessory buildings located on a lot, subject to the requirements of Sections 4.4 and 4.5 of this Ordinance. An accessory gazebo or garage shall not exceed a height of twenty (20) feet.
 - 7) Home occupations as defined herein, subject to the following conditions:

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- a. The home occupation shall be clearly secondary and incidental to the use of the premises as a residence.
 - b. All activities shall be conducted within the interior of the principal dwelling.
 - c. Home occupations shall be owned and operated solely by persons residing in the residence except that one person not in residence on the premises may be employed.
 - d. No alterations to the exterior of the dwelling, accessory building, or yard shall be permitted which alters the residential character of the premises.
 - e. Parking shall be allowed only within driveway areas.
 - f. No sign, display, or other device identifying the business shall be used.
 - g. No sales or rental of goods shall be permitted on the premises, except as may be incidental to the furnishing of a service.
 - h. No use shall generate automobile or truck traffic in excess of that normally associated with a residence.
 - i. No equipment shall be used in the home occupation that will create electrical interference for surrounding properties.
 - j. The use shall not generate noise, vibration, odor, glare, or airborne particulates, other than those customarily associated with a residence, beyond the property line of the home occupation.
 - k. Instruction in crafts and fine arts are recognized as permitted home occupations if they meet the above conditions.
- 8) Religious institutions.
 - 9) Adult foster care facilities for six (6) or less persons (State licensed residential facility) as defined by MCL 125.3102(t).
 - 10) Group day care homes subject to the conditions and standards established by Act 116 of the Public Acts of 1973, as amended.

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- 11) Child day care facilities for six (6) or fewer children, licensed by the State of Michigan.
 - 12) Other accessory uses customarily incidental to the preceding listed permitted uses including, but not limited to, off-street parking as regulated by Article VII of this Ordinance.
 - 13) Special uses that may be authorized in this district include cemeteries, institutions for human care, and bed and breakfasts, provided an application is submitted for a Special Use Permit and is approved in accordance with the procedures, provisions, and standards of Article IX of this Ordinance.
 - 14) Short-term rentals.
- (c) **Height Regulations** - No building shall exceed thirty-five (35) feet in height.
- (d) **Area Regulations** - No building or structure shall hereafter be erected, altered or enlarged unless the following setback and lot area requirements are provided and maintained in connection with such building, erection, alteration or enlargement.
- 1) **Minimum Front Yard Setback** - There shall be a front yard setback of not less than thirty-five (35) feet. On a corner lot where the front yard is determined by the owner to be on the lesser of the two streets, the setback from the greater street shall also not be less than thirty-five (35) feet.
 - 2) **Minimum Side Yard Setback** - There shall be a side yard setback of not less than twenty-five (25) feet on each side of any dwelling or accessory building.
 - 3) **Minimum Rear Yard Setback** - There shall be a rear yard setback of not less than thirty-five (35) feet, except in the case of lake lots. On lake lots where 40% or more of the lots located within 1,000 feet on either side of and parallel to the shoreline are occupied by buildings, no building hereafter erected or structurally altered shall extend nearer the water's edge than the average rear yard line established by these buildings. In addition, the regulations contained within Section 4.22 for Shoreline Protection, shall apply.
 - 4) **Lot Area** - The minimum lot area for uses in this zoning district shall be one hundred thousand (100,000) square feet and have a minimum width of two hundred (200) feet at the building line. Smaller lots than specified above may be permitted provided that the following standards are met: (i) only lots of record as of August 5, 1992 may be split; (ii) the split lot shall be a minimum of one hundred fifty (150) feet in width at the front lot

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line or shall be split in half whichever is more; (iii) minimum lot to measure 90,000 square feet in area.

5) **Nonconforming Lots** – Notwithstanding the requirements of subsection 2) above, lots of record lawfully in existence on or before August 5, 1992 that are 100 feet or less in width may have a side yard setback of not less than ten (10) feet on each side of any dwelling or accessory building, except on the street side of a corner lot, where a twenty-five (25) foot side yard setback shall be provided and maintained.

(e) **Floor Area Requirements** - Each principal dwelling unit in this zoning district shall have a minimum of 768 square feet of floor area exclusive of porches, garages, basements, and utility areas, with a multistory building having a minimum of 600 square feet on the first floor. Accessory dwellings shall have a minimum of 600 square feet of floor area.

(f) **Other Development Regulations**

1) Docks, boat landings and similar structures shall comply with the side yard setback requirements of this Zoning District and shall not be longer than is required to reach a water depth of four (4) feet at normal low water, nor shall extend more than forty (40) feet into the water.

2) No subsoil footings drain system shall empty directly into any water body.

3) The developer or builder shall be required to ensure that new or altered structures in this zoning district will not be damaged by flooding or flood hazards and that excessive soil erosion, adverse changes in the natural drainage courses, or unnecessary destruction of natural features will be avoided, or remedies will be provided.

4) This District shall comply with Section 4.22 (Shoreline Protection Strip).

SECTION 6.2 “R-2” SINGLE FAMILY RESIDENTIAL DISTRICT

(a) **Purpose** - This Zoning District is intended to encourage the proper development of land abutting lakes and waterways, avoid pollution, and preserve lakefront and other waterfront properties.

(b) **Use Regulations** - Land and/or buildings in this Zoning District may be used for the following purposes only:

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- 1) One (1) single-family dwelling on a lot.
 - 2) One accessory dwelling per lot subject to the provisions of Section 4.5 of this Ordinance and further provided the lot or parcel shall have a minimum area of 30,000 square feet and the accessory dwelling shall not exceed the lesser of 1,000 square feet or 50 % of the floor area of the principal dwelling and have the same architectural style and character as the principal dwelling in terms of materials of construction and roof line slope.
 - 3) Parks, playgrounds, playfields, and other recreation facilities, owned and operated by a governmental agency or a non-profit neighborhood group.
 - 4) Docks, boat landings and similar structures are permitted as accessory structures subject to the regulations provided in this Ordinance and subject to the State of Michigan regulations.
 - 5) Other accessory uses customarily incidental to the preceding listed permitted uses including, but not limited to, off-street parking, as required by Article VIII, and signs, as regulated by Article VII of this Ordinance.
 - 6) In addition to an accessory dwelling, there shall be no more than two (2) detached accessory buildings located on a lot, subject to the requirements of Sections 4.4 and 4.5 of this Ordinance. An accessory gazebo or garage shall not exceed a height of twenty (20) feet.
 - 7) Adult foster care facilities, group day care homes, and child day care facilities as permitted in the R-1 District.
 - 8) Home-based businesses subject to the same conditions as specified for the R-1 District.
 - 9) Special uses as permitted in the R-1 District subject to the same procedures, provisions, and standards of Article IX of this Ordinance.
 - 10) Short-term rentals.
- (c) **Height Regulations** - No building shall exceed thirty-five (35) feet in height.

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- (d) **Area Regulations** - No building or structure shall be hereafter erected, altered or enlarged unless the following setback and lot areas are provided and maintained in connection with such alterations, construction or enlargement.
- 1) **Minimum Front Yard Setback** - There shall be a front yard setback of not less than twenty-five (25) feet.
 - 2) **Minimum Side Yard Setback** - There shall be a side yard setback of not less than ten (10) feet on each side of any dwelling or accessory building, excepting the street side of a corner lot on which not less than a twenty-five (25) foot side yard setback shall be maintained.
 - 3) **Minimum Rear Yard Setback** - There shall be a rear yard setback of not less than thirty-five (35) feet, except in the case of lake lots. On lake lots where 40% or more of the lots located within 1,000 feet on either side of and parallel to the shoreline are occupied by buildings, no building hereafter erected or structurally altered shall extend nearer the water's edge than the average rear yard line established by these buildings. In addition, the regulations contained within Section 4.22 for Shoreline Protection, shall apply.
 - 4) **Lot Area** - The minimum lot area for use in this Zoning District shall be fifteen thousand (15,000) square feet and a minimum width of one hundred (100) feet at the building line.
- (e) **Floor Area Requirements** - Each principal dwelling shall have a minimum of 600 square feet of floor area, exclusive of porches, garages, basements and utility areas, with a multistory building having a minimum of 600 square feet on the first floor. Each accessory dwelling shall have a minimum of 400 square feet of floor area, exclusive of porches, garages, basements, and utility areas, but may not exceed the lesser of 1000 square feet or 50% of the floor area of the principle structure.
- (f) **Other Development Regulations**
- 1) Docks, boat landings and similar structures shall comply with the side yard setback requirements of this Zoning District and shall not be longer than is required to reach a water depth of four (4) feet at normal low water, nor shall extend more than forty (40) feet into the water.
 - 2) No subsoil footings drain system shall empty directly into any body of water.

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- 3) The developer or builder shall be required to ensure that new or altered structures in this Zoning District will not be damaged by flooding or flood hazards and that excessive soil erosion, adverse changes in the natural drainage courses, or unnecessary destruction of natural features will be avoided, or remedies will be provided.
- 4) This District shall comply with Section 4.22 (Shoreline Protection Strip).

SECTION 6.3 "R-3" MANUFACTURED HOME DEVELOPMENT DISTRICT

- (a) **Purpose** - The purpose of this district and its accompanying regulations is to provide for a stable and sound environment for manufactured home developments. There is no intention to promote, by these regulations, a Zoning District of a lower quality or desirability than in the "R-1" Zoning District, although a higher density is permitted.
- (b) **Use Regulations** - Land and/or buildings in this Zoning District may be used for the following purposes only:
 - 1) Manufactured home developments provided that all State regulations governing manufactured homes and the following requirements and procedures are met:
 - (a) Each park shall be in single ownership and shall contain a minimum land area of ten (10) acres.
 - (b) All manufactured home developments shall maintain a one-hundred (100) foot landscape setback from any public street that borders the development's boundaries, and fifty (50) foot minimum landscaped rear and side yards shall be provided and maintained adjacent to any adjoining properties.
 - (c) Private water supply and sewerage disposal systems shall be connected to public systems within two (2) years after such public facilities become available within five hundred (500) feet of the park.
 - (d) All utility lines (power, telephone, water, gas, cable TV) shall be installed underground.
 - (e) Each park shall have a minimum of two (2) access streets entering a public arterial or collector street with no ingress from or egress to a local street.

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- (f) All streets within a manufactured home development shall provide a forty (40) foot right-of-way for one-way streets and a fifty (50) foot right-of-way for two-way streets, and a minimum roadway of twenty (20) feet exclusive of parking facilities.
 - (g) All properties in any manufactured home development shall be graded so as to be well drained, and a means of conveying storm water away from structures and streets shall be provided.
 - (h) Off-street parking shall be provided. At least ten (10%) percent of the manufactured home development area shall be retained for open space and recreation purposes.
 - (i) All sanitary waste disposal permits shall be obtained, and evidence of such approval must be submitted with the application for a zoning permit.
 - (j) Buildings housing laundry facilities, offices, restrooms or shower facilities, a pool or the sale of retail goods for the exclusive use of residents of the park may be permitted as an accessory use.
 - (k) Sites for travel trailers or camping accommodations may be provided within a manufactured home development for temporary stays not to exceed ninety (90) days. At a minimum, the area serving RV's shall be provided with restrooms, showers, laundry facilities and water supply. Provisions shall be made for the sanitary disposal of sewage into a system on the premises or a public system equipped to handle this waste.
- 2) A development plan shall be submitted for each manufactured home development in accordance with Article XIV of this Ordinance, and said plan shall indicate or illustrate how the requirements of this Section are being met.
 - 3) Accessory uses customarily incidental to the preceding listed uses including, but not limited to, off-street parking as required by Article VIII and signs as regulated by Article VII of this Ordinance.
 - 4) Special uses that may be authorized in this Zoning District include the following, provided that an application is submitted for a Special Use Permit and approved in accordance with the procedures, provisions and standards of Article IX of this Ordinance: (i) multiple-family dwellings.

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- (c) **Height Regulations** - No building shall exceed thirty-five (35) feet in height.
- (d) **Area Regulations** - No building or structure shall hereafter be erected, altered or enlarged or located in this Zoning District unless the following setback and lot area requirements are provided and maintained in connection with such building, structure or enlargement.
 - 1) **Front Yard** - There shall be a minimum front yard setback of twenty (20) feet.
 - 2) **Side Yard** - There shall be a minimum side yard setback of ten (10) feet on each side of the building excepting the street side of the corner lot, where a twenty (20) foot side yard setback shall be required.
 - 3) **Rear Yard** - There shall be a minimum rear yard setback of twenty (20) feet.
 - 4) **Lot Area** - There shall be a minimum lot area of five thousand (5,000) square feet with a minimum width of fifty (50) feet.
- (e) **Floor Area Regulations** - Each dwelling unit in this Zoning District shall have a minimum of six hundred (600) square feet of usable floor area exclusive of porches, garages, basements, and utility rooms.

SECTION 6.4 "R-4" MULTIPLE FAMILY RESIDENTIAL DISTRICT

- (a) **Purpose** - This Zoning District is provided to encourage the development of a sound and stable environment for multiple-family dwelling units. The health, safety and general welfare of the residents of dwelling units in this Zoning District are safeguarded through the regulations of this Zoning District which govern the amount of open space, off-street parking, distance between buildings, the maximum density permitted, the maximum area of lot coverage and the required setbacks, etc.
- (b) **Use Regulations** - Land and/or buildings in this Zoning District may be used for the following purposes only:
 - 1) Multiple-family dwellings as defined herein.
 - 2) Two (2) family dwelling units.
 - 3) Playgrounds, parks, tot lots, open spaces and other recreational uses, either enclosed or in the open, for the use of occupants only.

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- 4) Accessory uses customarily incidental to the preceding listed permitted uses including, but not limited to, off-street parking as required in Article VIII, and signs as regulated in Article VII, of this Ordinance.
- (c) **Height Regulations** - No building shall exceed forty (40) feet or three (3) stories in height, whichever is less.
- (d) **Area Regulations** - No building or structure shall be hereafter erected, altered or enlarged, unless the following yards and lot area requirements are provided and maintained in connection with such construction, alteration or enlargement for multiple-family residential development.
- 1) **Front Yard** - Where it is the intention of the developer to utilize the front yard area for parking, there shall be a setback from the right-of-way of each street on which this Zoning District abuts of at least seventy-five (75) feet; the front twenty-five (25) feet of which shall be landscaped. Where the front yard setback area is not used for parking, there shall be a setback from the right-of-way of all streets on which this Zoning District abuts of forty (40) feet; the total of which shall be landscaped.
 - 2) **Side and Rear Yards** - There shall be a minimum side yard and rear yards of thirty (30) feet, except where the subject property abuts any agricultural or single-family zoning district, in which case side yards and rear yards shall be forty (40) feet.
 - 3) Not more than fifteen (15%) percent of the area of each project in this Zoning District may be occupied by residential buildings.
 - 4) Not more than eight (8) dwelling units per net area (exclusive of streets and alleys) shall be permitted in this Zoning District, and the units in any development shall average at least seven hundred twenty (720) square feet of living space, with a minimum of five hundred (500) square feet per individual unit.
- (e) **Other Development Regulations**
- 1) The horizontal distance measured in feet between parallel or nearly parallel elements of buildings forming courts and courtyards shall be not less than twice the height of the taller building measured in feet.
 - 2) Off Street Parking shall be provided as required by Article VIII of this Ordinance.

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- 3) Areas for loading and unloading delivery trucks and other vehicles and for refuse collection service, fuel and other services shall be provided and shall be adequate in size and shall be so arranged that they may be used without blockage or interference with the use of access ways or automobile parking facilities.
- 4) Provisions shall be made for safe and efficient ingress and egress to the public streets and highways servicing this Zoning District without undue congestion or interference with normal traffic flow.
- 5) Private water supply and sewage disposal systems shall be connected to public systems within two (2) years after such public facilities become available within five hundred (500) feet of this residential district. All utility lines (power, telephone, water, gas, cable TV) serving this Zoning District shall be placed underground.
- 6) The developer shall be required to preserve and incorporate natural features such as woods, streams and open spaces which add to the overall quality of the development of the area.
- 7) The developer shall be encouraged to give consideration to the provision of community areas, laundry facilities, playground and tot lots, and other services necessary for the comfort and convenience of residents of this district.
- 8) A development plan shall be submitted for each multiple family development or other permitted use in this Zoning District in accordance with Article XIV, of this Ordinance, and said plan shall indicate or illustrate how the requirements of this section are being met.

SECTION 6.5 "C-1" RESORT COMMERCIAL DISTRICT

- (a) **Purpose** - This Zoning District is intended to provide areas for business uses that primarily serve the resort and tourist needs of the community.
- (b) **Use Regulations** - Land and/or buildings in this Zoning District may be used for the following purposes only:
 - 1) Boathouses dry boat storage.
 - 2) Boat motor or related marine repair establishments.
 - 3) Book, stationary, gift, florist, souvenir shops, barber or beauty shops.

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- 4) Bowling alley, including associated restaurant and/or tavern.
- 5) Business and professional offices.
- 6) Excursion or sightseeing boats. (Excluded from requirements of Section 4.22).
- 7) Grocery stores, package take-out stores, delicatessen store.
- 8) Lodge Halls, private clubs, and veterans' clubs.
- 9) Hardware store, clothing, drygoods or variety store.
- 10) Marinas and/or yacht basins including associated uses such as taverns, shops and restaurants. (Excluded from requirements of Section 4.22).
- 11) Motels, autotels, hotels and cabins.
- 12) Retail sales and services stores.
- 13) Restaurants and taverns.
- 14) Accessory uses customarily incidental to the preceding listed permitted uses, including, but not limited to, off-street parking as required by Article VIII, and signs as regulated by Article VII of this Ordinance.
- 15) Living quarters with a minimum of 600 square feet of floor area may be provided above or attached to the principal structure as long as a Special Use Permit has been approved in accordance with the procedures, provisions and standards of Article IX of this Ordinance.
- 16) Special uses that may be authorized in this district include multiple-family dwellings, sexually oriented businesses and the outdoor display of goods for sale or lease on premises that are not owned by the applicant and are not associated with the principal use of that lot upon which the display is to occur, provided an application is submitted for a Special Use Permit and is approved in accordance with the procedures, provisions, and standards of Article IX of this Ordinance.

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- (c) **Height Regulations** - No building shall exceed thirty-five (35) feet in height.
- (d) **Area Regulations** - No building or structure shall hereafter be erected altered or enlarged unless the following setbacks and lot areas are provided and maintained in connection with such alterations, construction or enlargement:
 - 1) **Front Yard** - There shall be a front yard setback of not less than twenty-five (25) feet, provided that where established buildings on adjacent lots vary from this minimum, a new building shall be constructed with a front yard of no less depth than the average front setbacks for those buildings located on each side of the proposed building and provided that this provision shall not be interpreted to require a front yard of more than forty (40) feet nor less than fifteen (15) feet.
 - 2) **Side Yard** - There shall be a side yard setback of not less than ten (10) feet on each side of any building except on the street side of a corner lot, where a setback of not less than twenty-five (25) feet shall be maintained.
 - 3) **Rear Yard** - There shall be a rear yard setback of not less than thirty-five (35) feet.
 - 4) **Lot Area** - There shall be no minimum lot area requirement in this Zoning District.
- (e) **Floor Area Requirements** - There shall be no minimum floor area requirements in this zoning district, except as stipulated in (b), (15) above.
- (f) **Other Development Regulations**
 - 1) Docks, boat landings and similar structures shall comply with the side yard setback requirement of this Zoning District and shall not be longer than is required to reach a water depth of ten (10) feet at normal low water.
 - 2) No subsurface footings drain system shall empty directly into any body of water.
 - 3) Any fill material shall be of sand or gravel or other pervious material and shall not be allowed to enter the water by erosion or mechanical means.

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- 4) The developer or builder shall be required, where possible, to ensure that new or altered structures in this Zoning District will not be damaged by flooding or flood hazards and that excessive soil erosion, adverse changes in the natural drainage courses, or unnecessary destruction of natural features will be avoided, or remedies will be provided.
- 5) Except as otherwise provided, this Zoning District shall comply with Section 4.22 (Shoreline Protection Strip) of this Ordinance.
- 6) A development plan in accordance with Article XIV of this Ordinance is required.

SECTION 6.6 "C-2" - GENERAL COMMERCIAL DISTRICT

- (a) **Purpose** - This Zoning District is intended to provide areas for the general commercial needs of the community. The location of these uses will generally be in or near existing retail service centers within the rural portion of the Township.
- (b) **Use Regulations** - Land and/or buildings in this Zoning District may be used for the following purposes only:
 - 1) Uses permitted in the C-1 Resort Commercial District.
 - 2) Automobile and other vehicle sales, new.
 - 3) Automobile and other vehicle sales, used.
 - 4) Automobile repair shops or garages, if all operations are conducted within a completely enclosed structure.
 - 5) Automobile service stations.
 - 6) Car wash establishments, if wholly enclosed and provided with adequate vehicle waiting lanes.
 - 7) Contractors, provided all operations and storage are within a completely enclosed structure or hidden from public view by a greenbelt as defined in Section 3.2 of this Ordinance.
 - 8) Contractor's heavy equipment storage yard.

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- 9) Drive-in theaters and drive-in restaurants.
- 10) Freight or trucking terminal.
- 11) Lumber mill and sash work, if conducted within a completely enclosed structure.
- 12) Nursery, flower, plant or garden shop, provided all incidental equipment and supplies, including fertilizer, tools and containers, are kept within a completely enclosed structure.
- 13) Stone monument works.
- 14) Storage of bulk petroleum products.
- 15) Tire and battery shop and store.
- 16) Warehousing and wholesale establishments.
- 17) Veterinary or dog and cat hospital and kennels.
- 18) Laundromats.
- 19) Lumber and building material sales and bulk storage yards.
- 20) Machine shops, blacksmith shops, and tool and die shops.
- 21) Shops for plumbing, sheet metal and woodworking.
- 22) Assembly and repair of electrical appliances, instruments and devices.
- 23) Off-street parking as required by Article VIII and signs as regulated by Article VII of this Ordinance.
- 24) Accessory uses, customarily incidental to the preceding permitted uses.
- 25) Living quarters may be provided above or attached to the principle structure as long as the requirements of the R-2 Zoning District are met as to floor area, and a Special Use Permit has been approved in

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accordance with the procedures, provisions and standards of Article IX of this Ordinance.

- (c) **Height Regulations** - No building shall exceed thirty-five (35) feet in height.
- (d) **Area Regulations** - No building or structures, nor the enlargement of any building or structure, shall be hereafter erected unless the following setbacks and lot area requirements are provided and maintained in connection with such building, structure or enlargement:
 - 1) **Front Yard** - There shall be a minimum front yard setback of not less than twenty-five (25) feet, provided that where established buildings on adjacent lots vary from this minimum, a new building shall be constructed with a front yard setback of no less depth than the front yards for these buildings located on either side of the proposed building and provided that this provision shall not be interpreted to require a front yard setback of more than forty (40) feet nor less than fifteen (15) feet.
 - 2) **Side Yard** - There shall be a side yard setback of not less than ten (10) feet on each side of any building excepting the street side of a corner lot, in which case a twenty-five (25) foot side yard setback shall be required and maintained.
 - 3) **Rear Yard** - There shall be a rear yard setback of not less than twenty-five (25) feet.
 - 4) **Lot Area** - There shall be no minimum lot area requirements in this Zoning District.
- (e) **Floor Area Regulations** - There shall be no minimum floor area regulations in this Zoning District, except as stipulated in (b) (25), above.
- (f) **Other Development Regulations:**
 - 1) All business shall be conducted in such a manner that no unreasonable noise, dust, vibration or any other like nuisances shall exist to adversely affect adjoining properties.
 - 2) Construction materials and debris stored outdoors shall not be visible from any road, street, or dwelling.
 - 3) Greenbelts shall be provided in accordance with Section 4.21 of this Ordinance and where the Planning Commission determines that

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greenbelts are needed to satisfy the standards of Article XIV of this Ordinance. Greenbelts may also be required by the Planning Commission adjacent to roadways where, in the judgment of the Planning Commission, they are required to screen the outdoor storage of construction materials and debris.

- 4) This Zoning District shall comply with Section 4.22 (Shoreline Protection Strip) where required.
- 5) A development plan in accordance with Article XIV, of this Ordinance is required.

SECTION 6.7 "I", INDUSTRIAL DISTRICT

- (a) **Purpose** - This Zoning District is intended to accommodate the industrial needs of the entire community in such a manner that no unreasonable noise, dust, vibration or other like nuisance shall exist to adversely affect any adjoining properties.
- (b) **Use Regulations** - Land and/or buildings in this Zoning District may be used for the following purposes only:
 - 1) Lumber and building material sales and bulk storage yards.
 - 2) Facilities for the manufacture, compounding, processing and packaging of such products as candy, cosmetics, drugs, perfumes, ceramics, pharmaceuticals, toiletries and food products except the rendering or refining of fats and oils.
 - 3) Warehousing, truck terminals and transshipment facilities.
 - 4) The manufacture, compounding, assembly or treatment of articles from this following previously prepared materials, including, but not limited to: aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fibers, fur, glass, hair, leather, paint, paper, plastic, rubber, tin, iron, steel, tobacco, wood and yarn.
 - 5) Public service installations, including public utility buildings and structures for gas, water and electrical service, telephone exchanges, transformer stations, power generating substations, plants including the storage of equipment and vehicles.
 - 6) Machine shops, blacksmith shops, and tool and die shops.

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- 7) Shops for plumbing, sheet metal and woodworking.
 - 8) Assembly and repair of electrical appliances, instruments and devices.
 - 9) Sales, service and repair of motor vehicles, farm machinery, boats, trailers and heavy equipment.
 - 10) Contractor's supply and building materials, sales and storage yards, including equipment storage yards.
 - 11) Concrete or cement products manufacture.
 - 12) Off-street parking as required by Article VIII and signs as regulated by Article VII of this Ordinance.
 - 13) Accessory uses, customarily incidental to the preceding listed permitted uses, including, but not limited to, restaurant or cafeteria facilities for employees, and office facilities.
- (c) **Height Regulations** - No building shall exceed forty (40) feet in height unless each required yard is increased two (2) feet for each additional one (1) foot in height.
- (d) **Area Regulations** - No building or structure shall hereafter be erected, altered or enlarged unless the following setbacks and lot areas requirements are provided and maintained in connection with such building erection, alteration or enlargement:
- 1) **Front Yard** - There shall be a minimum front yard setback of fifty (50) feet.
 - 2) **Side Yard** - There shall be a minimum side yard setback of twenty (20) feet in this Zoning District except on the street side of corner lots, where not less than thirty-five (35) feet shall be required. Where an industrial district abuts a residential zone on the side, there shall also be maintained not less than a fifty (50) foot side yard setback on such side.
 - 3) **Rear Yard** - There shall be a minimum rear yard setback of twenty-five (25) feet in this Zoning District except that where such uses abut a residential zone, a minimum rear yard setback of fifty (50) feet shall be provided.

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- 4) **Lot Area** - The minimum lot area for use in this zone shall be one (1) acre with a minimum width of one hundred fifty (150) feet.
- (e) **Floor Area Regulations** - There shall be no minimum floor area requirements in this Zoning District.
- (f) **Other Development Regulations:**
 - 1) All uses shall be conducted within a completely enclosed building or within an area enclosed on all sides by a solid noncombustible fence or wall at least six (6) feet in height. All business shall be conducted in such a manner that no unreasonable noise, dust, vibration or other like nuisance shall exist to adversely affect adjoining properties.
 - 2) A greenbelt, as required by Article IV Section 4.21, of this Ordinance, shall be provided where required.
 - 3) A development plan, in accordance with Article XIV, of this Ordinance shall be submitted for uses in this zoning district.

SECTION 6.8 "A" AGRICULTURE DISTRICT

- (a) **Purpose** – It is the intent of this District to encourage the continuation of existing agricultural uses and preserve larger tracts of land for the reestablishment of agricultural activities and large lot residential development.
- (b) **Use Regulations** - Land and/or buildings in the "A" Agricultural District may be used for the following purposes only:
 - 1) Any use permitted in the "R-1" District.
 - 2) Farms for both general and specialized farming, together with farm dwellings and buildings and other installations useful to such farms, including the raising and keeping of cattle, hogs, horses, ponies, poultry, sheep and similar livestock and the planting and harvest of crops and trees, either for hobby or economic gain, on a minimum of 10 acres.
 - 3) Airports and their associated facilities.
 - 4) Non-intensive recreation facilities such as ski hills and lifts, snowmobile trails, archery and rifle, skeet or gun ranges, and hunting and fishing preserves or clubs, provided that commercial activities such as bars, hotels and/or lodge accommodations, retail stores, service establishments are not permitted.

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- 5) Roadside stands for the sale of products raised on the lot or parcel, provided that off-street parking shall be provided and no hazardous traffic condition shall result from such activity.
- 6) Accessory uses customarily incidental to the preceding list permitted uses including but not limited to off-street parking as required by Article VIII and signs as regulated by Article VII of this Ordinance.
- 7) Stables, commercial and non commercial.
- 8) Special uses that may be authorized in this Zoning District include the following uses, provided that an application is submitted for a Special Use Permit and approved in accordance with the procedures, provisions and standards of Article IX of this Ordinance subject to requirements of Article 4.19: (i) junkyards, salvage yards, sewage treatment facilities and sanitary landfills; (ii) commercial natural resource extraction or relocation, including sand and gravel operations; (iii) camps, clubs, and campgrounds with accessory seasonal commercial uses; (iv) housing for transient labor; (v) dog kennels and related facilities; (vi) golf courses, country clubs, commercial stables, retreat centers, and publicly owned recreation areas; (vii) cabins and cabin courts; (viii) bed and breakfasts; (ix) all towers, (x) sexually oriented businesses, (y) Home based businesses, as defined in this Ordinance, subject to the requirements of Section 9.5(q) which shall also be subject to the Township's sign ordinance, Article VII, as amended from time to time.
- 9) Short-term rentals.

Height Regulations - No residential building shall exceed thirty-five (35) feet in height.

- (c) **Area Regulations** - No building or structure shall hereafter be erected, altered or enlarged unless the following setbacks and lot area requirements are provided and maintained in connection with such building erection, alteration or enlargement:

- 1) **Front Yard** - There shall be a front yard setback of not less than fifty (50) feet.
- 2) **Side Yard** - For residential buildings, there shall be a side yard setback of not less than twenty-five (25) feet. For all other buildings, there shall be a minimum side yard setback of sixty (60) feet.

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- 3) **Rear Yard** - There shall be a rear yard setback of not less than one hundred (100) feet.
- 4) **Lot Area** - The minimum lot area for use in this Zoning District shall be ten (10) acres with a minimum lot width of two hundred (200) feet.
- (d) **Floor Area Requirements** - Each dwelling unit in this zoning district shall have a minimum floor area of 600 square feet of usable floor area on the first floor, exclusive of porches, garages, basements and utility areas. Accessory dwellings and cabins shall have a minimum floor area of 400 square feet.

SECTION 6.9 RESERVED.

SECTION 6.10 “PLFD” PUBLIC LAND AND FACILITIES DISTRICT

- (a) **Purpose-** This Zoning District is intended to regulate buildings, land, and uses on property owned or leased by the Township or any other government agency or public institution. Buildings, lands, and uses on such property are to be beneficial to the general public with respect to health, safety, recreation, and/or operation of the government entity or institution.
- (b) **Use Regulations-** Land and/or buildings in this Zoning District may be used for the following purposes only:
 - 1) A park, playground, or land which is owned and operated by a government agency.
 - 2) Campgrounds.
 - 3) Fire station and emergency services.
 - 4) Township hall.
 - 5) Public health center or facility.
 - 6) Public Library.
 - 7) Nature conservancies and environmental education facilities.
 - 8) Solid Waste Transfer station.
 - 9) Hunting, skiing, and other state permitted activity on state land.

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- 10) Building or use that provides the services that one would typically expect from a government entity.
 - 11) Other accessory use/structure customarily incidental to the preceding permitted uses including, but not limited to, off-street parking as regulated by Article VIII, and signs as regulated by Article VII of this Ordinance.
 - 12) Telecommunication tower, provided an application is submitted for a Special Use Permit and it is approved in accordance with the procedures, provisions, and standards of Article IX of this Ordinance.
- (c) **Height Regulations-** No structure shall exceed thirty-five (35) feet in height, except essential service towers and telecommunication towers provided a Development Plan is approved by the Planning Commission in accordance with Article XIV of this Ordinance.
- (d) **Yard Regulations-** No building or structure shall hereafter be erected, altered or enlarged unless the following yards and lot areas are provided and maintained in connection with such alterations, construction or enlargement:
- 1) **Front Yard** - There shall be a front yard setback of not less than twenty-five (25) feet.
 - 2) **Side Yard** - There shall be a side yard setback of not less than ten (10) feet on each side of any building or structure.
 - 3) **Rear Yard** - There shall be a rear yard setback of not less than thirty-five (35) feet.
- (e) **Floor Area Regulations** - There shall be no floor area requirements in this Zoning District.
- (f) **Lot Area Regulations-** There shall be no lot area requirements in this Zoning District.
- (g) **Development Plan Required-** A development plan shall be required for any use which includes a structure in this zoning district. This development plan shall be approved by the Planning Commission in accordance with Article XIV, of this Ordinance, and said Plan shall indicate or illustrate how the requirements of this Section are being met.

SECTION 6.11 "AA" AIRPORT DISTRICT

- (a) **Purpose** - This Zoning District is intended to regulate the use of airport lands, to prevent development without proper planning, to accommodate air

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traffic for the Townships in such a manner as to eliminate foreseeable ground hazards to air traffic, and to protect property and the public safety and welfare.

- (b) **Use Regulations** - Land and/or buildings in this Zoning District may be used for the following purposes only:
- 1) Any agricultural use permitted in the "A" Agricultural District.
 - 2) Airports, runways, terminals, hangars, fueling and incidental commercial activities and facilities normally associated with the operation of an airport. *Incidental commercial activities* shall include temporary living quarters in a hangar provided that occupancy is limited to pilots, mechanics, airport personnel and individuals related to the aircraft housed in the hangar, that the number of persons housed in the hangar not exceed four (4) persons at any one time and that any occupancy not exceed thirty (30) consecutive days. If a hangar is used for temporary housing, it shall be serviced by an on-site septic system approved by the Northwest Michigan Community Health Agency.
- (c) **Height Regulations**
- 1) No building in this Zoning District shall exceed twenty-five (25) feet in height.
 - 2) No radio or television antenna or other communication tower of any type shall be erected within this district.
- (d) **Yard Regulations** – No building or structure shall hereafter be erected, altered or enlarged unless the following setbacks and lot areas are provided and maintained in connection with such alterations, construction, or enlargement:
- 1) Front Yard – No front yard setback is required.
 - 2) Side Yard – Not less than a 10-foot setback.
 - 3) Rear Yard – There shall be a rear yard setback of not less than 10 feet.
- (e) **Floor Area Regulations** - There shall be no floor area requirements in this Zoning District.
- (f) **Lot Area Regulations** - There shall be no lot area requirements in this Zoning District.

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SECTION 6.12 "AB" AIRPORT PROTECTION DISTRICT

- (a) **Purpose** - This Zoning District is intended to provide for land uses near the ends of runways that are compatible with flight paths, to limit certain types of development within airport hazard areas, and to limit the height of structures, which may create hazards for the safe landing and take off of aircraft.
- (b) **Use Regulations** - Land and/or buildings in this Zoning District may be used for the following purposes only: Any use permitted in the "A" Agricultural District. The following uses are excluded: Churches, convents, monasteries, dormitories, residence halls, hospitals, orphanages, retirement homes, schools, universities, auditoriums, exhibit halls, hotels and motels, public buildings, theaters, fairgrounds, playgrounds, multi-family apartments or multifamily dwellings.
- (c) **Height Regulations**
 - 1) No building in this Zoning District shall exceed thirty-five (35) feet in height.
 - 2) No radio or television antenna, communications tower, or structure of any type shall be erected or tree allowed to grow to a height that exceeds a twenty-to-one (20-to-1) glide slope from the end of each runway. This glide slope starts two hundred (200) feet from the runway and at the same elevation as the end of the runway.
- (d) **Area Regulations** - No building or structure shall hereafter be erected, altered or enlarged unless the following setback and lot area requirements are provided and maintained in connection with such buildings erection, alteration or enlargement:
 - 1) **Front Yard** - There shall be a front yard setback of not less than fifty (50) feet.
 - 2) **Side Yard** - For residential buildings, there shall be a side yard setback of not less than twenty-five (25) feet. For all other buildings there shall be a minimum side yard setback of sixty (60) feet.
 - 3) **Rear Yard** - There shall be a rear yard setback of not less than one hundred (100) feet.
 - 4) **Lot Area** - The minimum lot area for use in this Zoning District shall be ten (10) acres, with a minimum lot width of two hundred (200) feet.

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- (e) **Floor Area Regulations** - Each dwelling unit in this Zoning District shall have a minimum floor area of six hundred (600) square feet of floor area on the first floor, exclusive of porches, garages, basements and utility areas.

SECTION 6.13 "MR" MARINE RELATED DISTRICT

- (a) **Purposes** – The purposes of this district are to preserve and perpetuate the historical use, appearance, and character of the waterfront as a place for business and recreational uses that are directly related to and depend on the water for access and amenity value while maintaining the open character of the bay shore. In particular, the Marine Related District is intended to accommodate businesses and facilities that have a relationship to boating including the sales, harborage, and the transportation of goods, services, freight, and passengers by water transport, and publicly owned lands and uses, including recreation lands, facilities, and uses. This district is not intended to accommodate dwellings, residential accessory buildings, or retail shops although existing dwellings, residential accessory buildings, and retail shops are nonconforming uses. This district is intended to accommodate uses and structures that will result in no greater impairment of views to the water from Main Street or properties on the opposite side of the Street from the water's edge. While the replacement and reconstruction of existing buildings and structures is intended to be accommodated, it is intended to be done in a manner that results in no net loss of views to the Bay
- (b) **Use Regulations** - Land, buildings, docks or other structures in this district may be used for the following purposes only:
 - 1) Commercial docks, recreational docks, launch ramps and associated parking areas.
 - 2) Public or private swimming beaches, parks and park improvements, and open space.
 - 3) Excursion or sightseeing boats and dock facilities including information, waiting and ticket areas or other passenger service operations.
 - 4) Storage or terminal operations buildings for passenger ferry and excursion and freight boat services, provided that the storage of any freight is short-term.
 - 5) Marinas and/or yacht basins including associated uses such as marine supply and rental shops, summer dockage, watercraft fuel sales, and bait and tackle shops.

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- 6) Sales and rental of fishing and water related recreational equipment such as, but not limited to, scuba shops, and other marine type equipment.
 - 7) Charter fishing and charter boat services and facilities.
 - 8) Marine contractors facilities.
 - 9) Marine-related instruction and school facilities.
 - 10) Commercial fishing operations with associated or separate fish markets.
 - 11) Nonconforming dwellings, residential accessory buildings, and retail shops provided there are no changes in the number, size, and configuration of such buildings and structures, other than normal maintenance, and no increases in the number of dwelling units or businesses.
 - 12) Replacement or reconstruction of nonconforming dwellings, residential accessory buildings, and retail shops subject to the following requirements: (i) the wall faces of all buildings adjacent to the Street shall not be increased in width or height. The peak and ridgelines of the roof shall be configured to maintain or increase the view of the Bay; (ii) there shall be no greater impairment of views to the Bay than already exists for buildings and structures on the opposite side of the Street and those using the Street for driving and walking; (iii) there shall be no increase in the number of buildings, structures, dwelling units, or businesses.
 - 13) Accessory uses customarily incidental to the preceding listed permitted uses, including, but not limited to, off-street parking as required by Article VIII, and signs as regulated by Article VII of this Ordinance.
 - 14) Short-term rentals.
- (c) **Height Regulations** - No new building shall exceed sixteen (16) feet in height.
- (d) **Area Regulations** - No building or structure shall hereafter be erected, altered or enlarged unless the following yards and lot areas are provided and maintained in connection with such alteration, construction or enlargement:
- 1) **Front Yard (inland side)** - There shall be a front yard setback of not less than twenty-five (25) feet, provided that where established buildings on

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adjacent lots vary from this minimum, a new building shall be constructed with a front yard setback of not less than the averaged front yard setbacks for those buildings located on each side of the proposed building and provided that this provision shall not be interpreted to require a front yard setback of more than forty (40) nor less than ten (10) feet.

- 2) **Side Yard** - There shall be a side yard setback of not less than ten (10) feet on each side of any building or structure.
 - 3) **Rear Yard - (lakeside)** - There shall be a rear yard setback requirement, excluding decks, of not less than twenty-five (25) feet from the ordinary high water elevation.
 - 4) **Lot Area** - There shall be no minimum lot area requirement in this zoning district.
- (e) **Floor Area Requirements** - There shall be no minimum floor area requirements in this zoning district, but the total square footage of all structures placed on any "MR" District lot shall not exceed 50% of the total lot area.
- (f) **Other Development Regulations**
- 1) Docks, boat landings and similar structures shall comply with the side yard setback requirements of this zoning district and shall not be longer than is required to reach a water depth of ten (10) feet at normal low water provided that no docks shall be longer than one hundred twenty (120) feet in length from the normal water's edge to the end of the dock.
 - 2) Only one marine service area structure not to exceed forty-eight (48) square feet shall be placed on a dock.
 - 3) Freight or materials stored on any lot in this "MR" District for export or import may be stored for no more than fifteen (15) days during the period from May 1 to October 1.
 - 4) No new residential dwellings, residential accessory buildings, or retail shops shall be constructed on any lot or in any structure in this district except as otherwise provided for by this district.
 - 5) Any construction of a dock or structure in this zone shall be constructed in such a way as to insure that the building or said dock or structure does not in any way cause erosion or adverse changes to the shoreline of any adjacent lots, or in any way impair the water access or use of water by adjacent property owners.

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- 6) Facilities for the storage of petroleum and/or chemical products shall be provided only with the expressed written permission of the Township Planning Commission upon evidence shown by such agencies as Fire Marshall, proving that there is no hazard to health and safety, as provided in Article 1.00, before they are placed in this district.
- 7) A Development Plan in accordance with Article XIV of this Ordinance is required, and shall be submitted to the Township Planning Commission for a public meeting on the Development Plan. A Zoning Permit shall not be issued until a Final Development Plan has been approved by the Planning Commission.

SECTION 6.14 "H" HARBOR DISTRICT

- (a) **Purpose** - This Zoning District is provided to promote the welfare of the Harbor District designated on the Zoning Map; to promote the topographic features of the harbor and its adjacent lands; to promote the economic advantages of the area's unique existing features; to provide for and preserve commercial and residential structures and uses; and to maintain a compatible development pattern of uses historically or presently existing in this zoning district.
- (b) **Use Regulations** - Land and/or buildings in this zoning district may be used for the following purposes only:
 - 1) **Residential Use**
 - (a) Single-family and multiple-family dwellings, including not more than two (2) detached accessory buildings located on a lot, subject to the requirements of Sections 4.4 and 4.5 of this Ordinance. An accessory gazebo or garage shall not exceed a height of twenty (20) feet.
 - (b) Minimum Dwelling Unit Size.
 - (1) Single Family Residence - 768 square feet of floor area, 600 feet on first floor of a multistory building.
 - (2) Each Multiple Family dwelling unit shall have a minimum of 600 square feet of floor area exclusive of porches, decks, garages and utility rooms.
 - 2) **Commercial Use** - Commercial uses shall be limited to the following uses:
 - (a) Automobile and other vehicle sales.

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- (b) Boat, boat motor or related marine repair facilities.
- (c) Wet or dry storage of boats, boat sales and brokerage firms, boat builders, yards and shops.
- (d) General Office Building (executive, administrative, professional).
- (e) Banks, Savings & Loan, Insurance, Real Estate.
- (f) Bed and Breakfasts.
- (g) Public Utility Offices.
- (h) Generally recognized retail business including but not limited to: groceries, drugs, dry goods, clothing, and hardware.
- (i) Single Family Residential dwelling to be used for rental purposes, and motels, hotels, and boarding houses.
- (j) Museums, Art Galleries.
- (k) Publicly owned and occupied Municipal buildings.
- (l) Churches and accessory buildings.
- (m) Municipal playgrounds, recreation areas.
- (n) Private club, halls.
- (o) Indoor storage in a permanent structure excluding toxic and/or hazardous materials.
- (p) Indoor recreational uses (bowling alley, billiards).
- (q) Theaters.
- (r) Personal service establishments, which perform services on the premises: repair (TV, radio, shoe), barber or beauty shop.

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- (s) Shop for custom work, i.e., for making articles provided that the conduct of such business is not objectionable as being odorous, unsightly or noisy.
- (t) Bakery not employing more than five (5) persons.
- (u) Restaurants, (not including drive-in restaurants), and bars.
- (v) Gasoline filling or service station subject to the following requirements:
 - (1) Gas pumps, air and water hose shall be set back no less than fifteen (15) feet from all street right-of-way lines.
 - (2) Proper driveways for entrance and exit shall be installed.
 - (3) Gas pumps, vents, and filler pipes must be not less than one hundred (100) feet from a Single Family residence.
 - (4) Prohibited activities include the following: outdoor storage of disabled vehicles for more than seven (7) consecutive calendar days, vehicle body repair, undercoating, painting, tire recapping, and other such activities whose external physical effects could adversely extend beyond the property line.
- (w) Special uses that may be authorized include the following uses provided a Special Use Permit has been approved by the Planning Commission in accordance with the procedures, provisions, and standards of Article IX of this Ordinance:
 - (1) Living quarters above or attached to the principal structure as long as it has a minimum of 600 square feet of floor area.
 - (2) Temporary outdoor displays.
 - (3) Institutions for human care including senior housing.
- (x) Short-term rentals.

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(c) Development Regulations

1) All buildings are subject to the following requirements:

(a) **Minimum Requirements:**

Front Yard Setback: There shall be a minimum front yard setback of twenty-five (25) feet except for commercial buildings where established buildings on adjacent lots have an average setback of less than the minimum. In such cases, a new or expanded building shall be constructed with a front yard setback equal to the average setback established by the buildings on both sides of and within 200 feet of the new or expanded building. No off-street parking shall be permitted between the street and the front of the commercial building.

Rear Yard Setback: 35 feet

Side Yard Setback: (each side) 10 feet

Lot Size 10,000 square feet

(b) **Maximum Requirements:**

Building Height 40 feet

Lot Coverage 40 %

2) All utility lines (power, telephone, water, gas, and cable TV) serving this zoning district shall be placed underground.

3) A buffer strip or screening may be required by the Planning Commission to obtain compatibility between dissimilar uses.

4) Areas for loading and unloading delivery trucks and other vehicles and for refuse collection service, fuel and other services shall be provided and shall be adequate in size and shall be arranged so that they may be used without blockage or interference with the use of access ways or parking facilities.

5) Provisions shall be made for safe and efficient ingress and egress to the public streets servicing this zoning district without undue congestion or interference with normal traffic flow.

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- 6) The developer of residential structures other than Single Family dwellings shall be required to give consideration to the provision of community areas, laundry facilities, playground and tot lots, and other services necessary for the comfort and convenience of residents of this district.
- 7) The property owner shall be required to preserve and incorporate natural features such as woods, streams and open spaces, which add to the overall development of the area.
- 8) The Development Plan shall have the following: Provisions for safe and efficient ingress and egress to the public streets servicing this zoning district without undue congestion or interference with normal traffic flow.
- 9) All uses must comply with Article VIII, which requires off-street parking and Article VII, which regulates signs.
- 10) A Development Plan for each structure in this zoning district shall be reviewed for approval by the Planning Commission for compatibility of use with existing land uses, in accordance with Article XIV, of this Ordinance, and said Plan shall indicate or illustrate how the requirements of this Section are being met.

SECTION 6.15 "CD", CRITICAL DUNE DISTRICT

a) **Purpose** - The Township of Peaine hereby declares that the Critical Dune areas are a unique, irreplaceable, and fragile resource that provides significant recreational, economic, scientific, geological, scenic, botanical, educational, agricultural, and ecological benefits to the people of the Township, to the state, and to people from other states and countries who visit this resource. These lands include the entire Critical Dune area as designated by the Michigan Department of Environmental Quality, Water Resources Division (hereinafter referred to as "the Department") pursuant to Part 353 of the Natural Resources and Environmental Protection Act, being the Sand Dunes Protection and Management Act (hereinafter referred to as the "Act") being a portion of Act 451 of the Public Acts of 1994, as amended.

b) **Definitions** - The following terms apply in the CD Critical Dunes District only and supplement the terms defined in the Definition Article of this Zoning Ordinance:

- 1) "**Contour change**" includes any grading, filling digging, or excavating that significantly alters the physical characteristic of a critical dune area, except that which is involved in sand dune mining.

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2) "**Crest**" means the line at which the first lakeward facing slope of a critical dune ridge breaks to a slope of less than 1-foot vertical rise in a 5-1/2 foot horizontal place for a distance of at least 20 feet, if the areal extent where this break occurs is greater than 1/10 acre in size.

3) "**Critical Dune Area**" means that geographic area designated in the "atlas of critical dune areas" dated February 1989 that was prepared by the Department and lands that are within two hundred and fifty (250) feet of a Critical Dune Area, that are determined by the Planning Commission to be essential to the hydrology, ecology, topography, or integrity of a Critical Dune area even if not so depicted on the zoning map and any other such area determined by the Township to be essential to the hydrology, ecology, topography, or integrity of a Critical Dune Area.

4) "**Foredune**" means 1 or more low linear dune ridges that are parallel and adjacent to the shoreline of a Great Lake and are rarely greater than 20 feet in height. The lakeward face of a foredune is often gently sloping and may be vegetated with dune grasses and low shrub vegetation or may have an exposed sand face.

5) "**Person**" means an individual, partnership, firm, corporation, association, local unit of government, or other political subdivision of the state, or a state or agency.

6) "**Restabilization**" means restoration of the natural contours of a critical dune to the extent practicable, and the restoration of the protective vegetative cover of a critical dune through the establishment of indigenous vegetation, and the placement of snow fencing or other temporary sand trapping measures for the purpose of preventing erosion, drifting, and slumping of sand.

7) "**Sand dune area**" means that area designated by the Department which includes those geomorphic features composed primarily of sand, whether windblown or of other origin and which lies within two (2) miles of the ordinary high-water mark on a Great Lake as defined by the Act.

8) "**Sand dune mining**" means the removal of sand from sand dune areas for commercial, or industrial purposes, or both.

9) "**Use**" means a developmental, silvicultural, or recreational activity done or caused to be done by a person that significantly alters the physical characteristics of a Critical Dune Area or contour change done or caused to be done by a person, but does not include sand dune mining.

c) **Use Regulations** - Land or buildings in this Zoning District may be used for the following purposes only and not more than three (3) buildings may be erected in total on

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a single piece of property. No use shall be permitted that does not comply with the minimum setback requirements that are set forth in the Act.

Prior to the creation and recording of any new lot, the property owner is encouraged to seek a zoning permit to insure that the lot will be useable for a purpose permitted under this Ordinance. If a subdivision, site condo, or any similar type of land division is proposed in this District, the Planning Commission shall submit the application and land division plan/site plan and their proposed decision to the Department. The Department shall have sixty (60) days to review the plan and may affirm, modify, or reverse the decision of the Planning Commission.

1) Not more than one (1) single family dwelling on each lot.

2) Not more than one guesthouse provided the following conditions exist:

(a) The guest house shall be located a minimum of fifteen (15) feet landward of the principal dwelling as determined by the Planning Commission after consideration of the best location to protect the dune.

(b) The floor area of the guesthouse shall not be larger than 50% of the principal dwelling or 1,500 square feet which ever is less, and shall be architecturally compatible with the principle dwelling. A guesthouse shall be no smaller than 400 square feet.

(c) In no event shall a guesthouse be permitted on a lot of less than two hundred (200) feet in width as measured at the building line.

3) Not more than two (2) detached accessory buildings not more than twelve (12) feet in height, subject to the following conditions:

(a) Said accessory building shall not be located closer to a side lot line than allowed for a principal building.

(b) Detached accessory buildings, any portion of which is located on the side of a principal building, shall not be less than six (6) feet from such principal building and not nearer to the side lot line than the width of the side yard required on the lot for the principal building and shall maintain a front yard setback equal to or greater than that of the principal building.

4) Other accessory uses customarily incidental to the preceding listed permitted uses including, but not limited to, off-street parking as required by Article VIII and signs as regulated by Article VII of this Ordinance.

5) A special use project as defined in Section 35301 of the Act.

d) Height Regulations - No building shall exceed thirty-five (35) feet in height.

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e) **Area Regulations** - No building or structure shall hereafter be erected, altered or enlarged unless the following yard and lot area requirements are provided and maintained in connection with such building, erection, alteration, or enlargement.

1) **Front Yard** - There shall be a front yard setback of not less than thirty-five (35) feet.

2) **Side Yard** - There shall be a side yard setback of not less than twenty-five (25) feet on each side of any dwelling or accessory building. The Planning Commission may reduce this requirement to a minimum of ten (10) feet for the purpose of reducing dune impact: On the street side of a corner lot, a twenty-five (25) foot setback shall be provided and maintained.

3) **Rear Yard** - There shall be a rear yard setback of not less than thirty-five (35) feet. (See Section 4.22).

4) **Lot Area and Width** - The minimum lot area for uses in this zoning district shall be one hundred thousand (100,000) square feet and have a minimum width of two hundred (200) feet as measured at the building line. The Planning Commission, however, shall authorize lots with a minimum width of less than two hundred (200) feet if it finds that all of the following standards are met:

a. The lot was a lot of record as of the effective date of the amendment that added Section 6.14 to the zoning ordinance.

b. The lot is no less than one hundred fifty (150) feet in width as measured at the building line or is no less than half of the original lot width, whichever is greater.

c. The lot is served by an access drive which serves two (2) or more lots up to where it must split to serve individual dwellings, unless it is demonstrated that the one (1) access drive will have a more deleterious effect on the dune environment than multiple access drives, in which case multiple access drives may be permitted (but only the minimum number necessary to reasonably access the dwellings).

d. The lot has the legal right to use an access path to the beach which serves two (2) or more lots, unless it is demonstrated that the one (1) access path will have a more deleterious effect on the dune environment than multiple access paths, in which case multiple access paths may be permitted (but only the minimum number necessary to reasonably provide access to the beach).

5) **Shared Access** – When feasible, approval may be conditioned upon access to the lot or the lake being shared as between adjacent parcels.

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(a) One access drive may serve two (2) or more lots up to where it must split to serve individual dwellings and it is demonstrated that one (1) access drive will have a less deleterious effect on the dune environment than multiple drives.

(b) One access path or boardwalk to the beach for each two (2) lots provided it is demonstrated that one (1) beach access path will have a less deleterious effect on the dune environment than multiple paths.

f) **Floor Area Requirements** - Each dwelling unit in this Zoning District shall have a minimum of seven hundred sixty-eight (768) square feet of usable floor area exclusive of porches, garages, unfinished basements, and utility areas, with a twostory building having a minimum of six hundred (600) square feet on the first floor.

g) **Parking Requirements** – There shall be no minimum parking area requirements. Rather parking shall be provided for on the parcel so as to minimize the impact on the Critical Dune Area.

h) **Development Plan Requirements** - A development plan, in accordance with this Section and with Article XIV of this Ordinance, shall be submitted for all uses in a CD Critical Dune District. Requirements for such a development plan are as follows:

1) Preliminary sketches of proposed site and development plans shall 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 their proposed plans prior to incurring extensive engineering and other costs, which might be necessary for final site plan approval. Such plans shall include information of Article XIV as deemed necessary by the Zoning Administrator. The Planning Commission shall review the preliminary development plan and make recommendations to the applicant based on the purposes, objectives and requirements of this Ordinance, and specifically paragraph 4 of this subsection. If the preliminary plan meets the requirements of paragraphs 2 and 3 below, the Planning Commission may grant plan approval.

2) A Final Development Plan shall be submitted, as per Article XIV, for each permitted and accessory use prior to any site work or grading conducted on the property. No structure shall be constructed, reconstructed, altered, or relocated in this District prior to the Planning Commission approving the Final Development Plan. A zoning permit shall not be issued until permits have been granted from all local and state agencies and a Final Development Plan has been approved by the Planning Commission. The plan shall illustrate porches, decks and other structures to be built on the site.

If the plan submitted illustrates less than three (3) buildings as permitted by this Section, the Planning Commission shall inquire about potential future building on the site. The purpose of this request is to promote the maximum protection of the dune in relation to all proposed or future buildings.

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3) In addition to the information required in Article XIV - Development Plan Requirements, the Planning Commission may request, and the applicant shall submit, the following in written or graphic form:

(a) A finding that the project is in compliance with Part 91 of the Natural Resources and Environmental Protection Act, being Act 451 of the Public Acts of 1994, as amended, including a written review by the Charlevoix County Soil Erosion and Sedimentation Control Officer.

(b) Assurances that the cutting and removing of trees and other vegetation will be performed according to the instructions or plans of the Charlevoix County Soil Conservation District. Copies of instructions and plans shall be submitted.

(c) A topographic map of the site with 2-foot contour intervals at or near any proposed structure or roadway or consult with the local Soil Conservation District regarding the percent of slope.

(d) A written statement that the proposed structure will occupy land having a slope of less than thirty-three (33) percent. (See slope definition in Article III).

(e) If the proposed structure is on a slope that is twenty-five (25) to thirty-three (33) percent, the Development Plan shall be prepared by a registered professional architect, landscape architect, or professional engineer. Prior to the approval of the plan, the Planning Commission shall consult with the Charlevoix Conservation District.

(f) A structure that is proposed to occupy a slope that is greater than thirty-three (33) percent shall be prohibited, unless a variance is granted by the Zoning Board of Appeals.

(g) The proposed use will be constructed behind the crest of the first landward ridge of a critical dune area that is not a foredune. However, if construction occurs within one hundred (100) feet measured landward from the crest of the first landward ridge that is not a foredune, the applicant shall demonstrate that the proposed use meets all of the following requirements:

(1) The use will not destabilize the Critical Dune Area

(2) Contour changes and vegetative removal are limited to that essential to siting the structure.

(3) Access to the structure is from the landward side of the dune

(4) The dune is restabilized with indigenous vegetation

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(5) Excavation techniques and methods shall be employed that insure no unnecessary destabilization of the landward and/or lakeward side of the dune including the possibility that mechanical equipment may not be used

(6) The crest of the dune is not reduced in elevation

(h) Any proposed sewage treatment or disposal system on the site shall be approved by the Health Department of Northwest Michigan . Proof of such approval shall be submitted before any zoning permit is granted.

(i) The property owner has caused the staking of the location of all proposed structures and uses and property corners for the Planning Commission site inspection a minimum of seven (7) days prior to the Commission meeting.

(j) The Planning Commission may require additional information as it deems necessary to evaluate the proposed development including an environmental assessment as outlined in the sample ordinance language prepared by the Department of Natural Resources.

4) Review Standards of the Development Plan

(a) Development shall not result in the clearance of vegetation in excess of that which is necessary for the structure, required access and the required well, septic, or sewage disposal system. Generally, removal of trees over 3 inches in diameter at breast height (DBH) is prohibited without a permit. With a permit, dead, diseased, or dying trees may be removed provided that where such removal of dead vegetation occurs, the open area thereby created shall be replanted within ninety (90) days or by spring with more vegetation than was removed and with vegetation native to the area.

Selective trimming of trees to provide a better view of the lake and to maintain the health of the vegetation is permitted, provided the proposed selective trimming is done in conformance with the following standards:

(1) No tree trimming is permitted on a foredune.

(2) Vegetation lakeward of the principal structure setback may be selectively trimmed, provided each of the following standards is met:

a) An area equal to no more than thirty (30) percent of the width of the lot as measured from the lot width at the shoreline setback line, may be selectively cut of vegetation or an area not more than thirty (30) feet wide for each one hundred (100) feet of shoreline, whichever is less.

b) Selective trimming shall leave sufficient vegetation to screen cars, dwellings, and accessory structures as seen from the water, to preserve natural beauty and to control erosion.

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c) Natural shrubbery and low vegetation shall be preserved as far as practicable and where removed it shall be replaced with indigenous vegetation native to the area that is equally effective in retarding runoff, preventing erosion, and preserving natural beauty. Where possible, stump and root systems shall be left in place.

d) Where trimming would result in exposed sand and/or significantly increase the chance of serious wind or water erosion, it shall not be permitted.

(b) Development shall result in the least topographic modification of the site as is possible.

(c) Filling and grading shall be permitted only according to an approved site plan and approved Soil Erosion and Sedimentation Control Permit. Sand and bluff stabilization shall be required during all phases of construction and post-construction as specified by standards set forth in Part 91 of the Natural Resources and Environmental Protection Act, being Act 451 of the Public Acts of 1994, as amended. Such a revegetation program shall be designed to return open sand areas, both pre-existing and newly created, to a stable condition, to be initiated as soon as possible following construction and include the measures to be taken for the maintenance of revegetated areas for at least two years after the time of planting. No fill shall be placed in an established floodplain or wetland. No fill shall cause surface water to collect or to run off onto adjoining lands contrary to existing natural drainage.

(d) No soil, sand, gravel or other material shall be permitted to be removed from lands within this District except as may be authorized by a permit granted pursuant to the Act or as may be incidental to the establishment of a permitted use approved by a development plan under the terms of this Section and Article XIV of this Ordinance. Incidental soil, sand or gravel removal shall conform with the following standards: Removal for the purpose of constructing a basement shall be permitted but soil removed shall be retained on the site when doing so does not enlarge the risk of erosion or create another threat to the development or the natural environment.

(e) The total impervious surface area of the site, including the principal structure, accessory structures, paved drive and parking areas, patios and accessory uses shall not exceed ten (10) percent of the total area of the lot, except on nonconforming lots of record in existence as of the effective date of this Section where it shall not exceed thirty (30) percent of the total lot area.

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(f) The following access requirements apply to all development in this District.

(1) A use, including driveways, on a slope that is greater than thirty-three percent (33%) shall be prohibited, unless a variance is granted by the Zoning Board of Appeals.

(2) Roads and pathways shall be located and constructed in a manner which minimizes disruption to the dune.

(3) Roads or driveways shall be located landward of the principal structure. Access roads or driveways shall respect the natural topography and may be run in a dry trough between dunes and/or through natural gaps within the dune system. The natural topography of dune shall not be altered unless no other means of access is feasible.

(4) Whenever feasible, shared access drives and utility easements shall be provided.

(5) No vehicles shall have access lakeward of the foredune except where public access has been provided, is approved, and is lawful. No off-road vehicle use is permitted from the shoreline to the inland boundary of a Critical Dune Area, except in Department designated areas and on the access drive providing access to an approved structure.

(6) If a pathway or trail to the shore would cause erosion or damage to non-vegetated or vegetated sand areas, raised boardwalks or stairs may be required. Such a structure shall not be designed so as to cause any weakening or damage to the bluff or dune.

(7) Stairways or lifts shall be designed so as to avoid placement on dune faces unless there is no other feasible alternative. Even then, approval may be conditioned on a design, color, and materials that blends the structure into the dune environment and the planting of obscuring vegetation where appropriate.

(g) The Planning Commission may recommend alternatives to a proposed development to minimize adverse impacts anticipated if the development is approved and to assure compliance with all applicable state and local requirements

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ARTICLE VII SIGN REGULATIONS

SECTION 7.1 PURPOSE AND SCOPE

The regulations set forth herein shall apply and govern signs in all zoning districts. No sign shall hereafter be erected, moved or structurally altered unless it is in conformity with the provisions of this Ordinance.

SECTION 7.2 GENERAL REGULATIONS

Notwithstanding any part of this Ordinance to the contrary, the following regulations shall apply to the erection of all signs.

- (a) No sign shall project over a public right-of-way.
- (b) Signs not exceeding four (4) square feet in area may be utilized for traffic or direction.
- (c) No sign shall be erected upon the inside of a curve of a street, which may cause any interference to sight distance, as determined by the Zoning Administrator.
- (d) No sign shall be placed as to interfere with visibility or effectiveness of any traffic signal, or with driver vision at any access point or intersection.
- (e) The lighting of any sign shall be only with white light and shall be indirect, not internal. Sign lighting shall conform to Section 4.25, Outdoor Lighting.
- (f) Expressly prohibited are roof signs, flashing, oscillating or intermittent types of illumination, bare or exposed incandescent, or neon or fluorescent bulbs, mechanically moving signs or components, streamers, windblown devices, spinners. Banners may be approved for special events. Portable signs may be in use on a lot or in one area for no longer than three (3) consecutive days.
- (g) Projecting signs may extend no further than five (5) feet from building wall. Such signs shall not be greater in overall area than twelve (12) square feet on each side and the bottom of the sign shall be at least eight (8) feet above ground.
- (h) If any provisions of any other ordinance, statute or law of Charlevoix County or the State of Michigan impose greater restrictions than herein set forth, then the provisions of such ordinance or statute shall control.
- (i) The owner or user of a sign permitted, and approved, and in use, shall maintain said sign in a neat attractive condition and in good repair. Non-compliance shall cause the Zoning Administrator, under the direction of the Planning Commission, to order its removal.

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- (j) A maximum of two signs shall be permitted on each lot.
- (k) Free Standing signs shall not exceed a maximum of 12 feet in height.

SECTION 7.3 CLASSES OF SIGNS

The following classifications of signs shall be deemed to include all signs permitted in any zone unless other signs are specifically listed and provided for. In the event a sign is not able to be classified by the Zoning Administrator, its classification shall be determined by the Planning Commission.

Class 1 – On-premise sign advertising a public or quasi-public use. There shall be no more than one (1) sign for each street upon which the property faces. Such signs shall not exceed six (6) square feet in area and, if illuminated, the light source shall not be visible from adjacent properties.

Class 2 – On-premises signs advertising the permitted professional or office use. Such signs shall not exceed six (6) square feet and, if illuminated, the light source shall not be visible from adjacent properties. There shall be no more than one (1) sign for each permitted use.

Class 3 - Directory signs affixed to a building advertising businesses or activities conducted, an area of interest, or a service available on the premises. Directory signs shall be limited to one (1) sign per lot, regardless of the number of businesses located on that lot. The total area of such sign shall not exceed 10% of the area of the building face upon which it is mounted. The sign shall not exceed the height of the structure to which it is attached. Where a sign projects more than three (3) inches from the face of the building, it shall be at least eight (8) feet above the ground at its lowest level.

Class 4 – On-premise freestanding directory signs advertising businesses or activities conducted, an area of interest, or a service available on the premises. Such signs shall not exceed thirty-two (32) square feet, and there shall be no more than one (1) sign for each street the property faces. Such signs shall convey only identification of the permitted uses on the property on which they are located.

Class 5 - A non-illuminated, freestanding sign advertising a recorded subdivision or development. Such signs shall not exceed thirty-two (32) square feet in area, and shall be placed no closer than fifteen (15) feet to a street right-of-way line. Class 5 signs shall be authorized in all residential districts by Special Use Permit, provided an application is submitted for a Special Use Permit and is approved in accordance with the procedures, provisions and stands of Article IX of this ordinance.

Class 6 – Off-premise signs. These signs shall be limited to directions to a place of interest. No more than two (2) signs shall be permitted giving directions to any one location. Off-premise signs for direction to a place of interest may be erected only upon obtaining the consent of the majority of the property owners adjacent to the property upon which the sign is to be

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erected. No more than two (2) signs shall be permitted for any one business. No sign shall exceed four (4) square feet in area.

Class 7 – Temporary signs including political signs, real estate signs, and noncommercial speech signs provided there shall be no more than one per street frontage and each sign shall not exceed six (6) square feet in area in the R-1, R-2, R-3, R-4, H, and MR Districts and twelve (12) square feet in area in the A, C-1, C-2 and I Districts. Political signs shall be removed within 30 days following the date of the election.

SECTION 7.4 PERMITTED SIGNS

The following classes of signs are permitted in the following zoning districts:

<u>Zoning Districts</u>	<u>Classes of Signs Permitted</u>
R-1	1,2,5, 7
R-2	1,2,5 ,7
R-3	1,5,6,7
R-4	1,5,6,7
C-1	1,2,3,4,5,6,7
C-2	1,2,3,4,5,6,7
Harbor	1,2,3,4,5,6,7
MR	1,2,3,4,6,7
I	1,3,4,6,7
A	1,4,6,7

SECTION 7.5 SIGN PERMIT REQUIRED FOR ERECTION OF SIGNS

Except as otherwise excepted by this Ordinance, no sign shall be erected, moved or structurally altered until a sign permit has been issued for such sign by the Zoning Administrator and all required fees have been paid.

- (a) If any sign is removed and a new sign erected in its place, a new permit shall be obtained.
- (b) If any sign is removed for maintenance or change of advertising copy and replaced on the same supports, a new permit will not be necessary if the size or type of sign is not changed.
- (c) If any sign is removed from one location and erected in a new location, a new permit shall be obtained.
- (d) The following signs shall be permitted without a permit in any zone; however, this exception shall not relieve the owner or agent from complying with the applicable provisions and regulations set forth in this section.
 - (1) One (1) non-illuminated sign advertising the sale or lease of the lot or building on which the sign is placed. Such sign shall not exceed eight (8) square

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feet in area, and no more than one 1) such sign per lot or building is permitted.

- (2) Signs not over twenty (20) square feet in area with a maximum height of eight (8) feet which denotes the person, firm, architect, engineer, contractor or agency where construction work is being performed. Such sign shall be removed by the owner or agent within ten (10) calendar days after completion of the project.
- (3) Non-illuminated signs advertising a customary home occupation or professional service not to exceed two (2) square feet and attached flat against a building wall. No more than one (1) such sign for each business or service is permitted.
- (4) Signs inside a building.
- (5) Temporary non-illuminated signs advertising sales, bazaars, and other events provided such signs shall not exceed eight (8) square feet and shall be removed after a period not to exceed sixty (60) days.
- (6) Nameplates not to exceed six (6) square feet each, identifying owners of property.
- (7) Signs advertising seasonal uses that are retired yearly shall be required to obtain one (1) sign permit per sign.
- (8) Class 7 signs. See requirements in Section 7.3.

SECTION 7.6 APPLICATION FOR SIGN PERMIT

Application for a sign permit shall be made and submitted at the office of the Zoning Administrator on the appropriate forms furnished by said Administrator.

SECTION 7.7 SIGN PERMIT FEES

Fees for sign permits shall be in accordance with the fee schedule established from time to time by resolution of the Township Board.

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ARTICLE VIII OFF-STREET PARKING

SECTION 8.1 DESCRIPTION AND PURPOSE

This Article is provided to permit and regulate parking of automotive vehicles in all zones.

SECTION 8.2 GENERAL REGULATIONS AND DEFINITIONS

The following definitions and regulations shall apply to all zoning districts:

- (a) A plan of the proposed parking areas shall be submitted to the Zoning Administrator for all new uses in any district where off-street parking is required.
- (b) A minimum area of two hundred (200) square feet shall be provided for each vehicle parking space.
- (c) "Gross floor area" is the sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior walls.
- (d) The Planning Commission may reduce or eliminate the parking requirements as part of a Development Plan review upon a finding by the Planning Commission that the parking required by this Ordinance is not needed and the reduction or elimination of parking will not be detrimental to surrounding properties.

SECTION 8.3 OFF – STREET PARKING REGULATIONS

The following regulations shall apply:

- (a) When units or measurements determining number of required parking spaces result in the requirement of a fractional space, the fraction shall be considered one (1) required parking space.
- (b) In all zoning districts, off-street parking shall be provided in amounts not less than specified for the various uses.
- (c) Requirements for a use not mentioned shall be the same for that use which is most similar to the use not listed, as determined by the Planning Commission.
- (d) Additional parking shall be provided and maintained in proper ratio to any increase in floor area or building use capacity.
- (e) Where benches, pews, or other similar seating facilities are used as seats, each twenty (20) inches of such seating facilities shall be counted as one (1) seat.

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- (f) In the case of mixed uses in the same building, the total requirements for off-street parking and loading shall be the sum of the requirements for each individual use computed separately.
- (g) It shall be unlawful to use any of the off-street parking established to meet the requirements of this Ordinance for any purpose other than the parking of licensed vehicles.
- (h) No commercial repair work, servicing, or selling of any kind shall be conducted on any parking area except as provided elsewhere in this Ordinance. Required parking spaces shall be used only for the parking of vehicles used to service the establishment to which it is accessory and by its patrons.
- (i) No advertising sign shall be erected on required parking areas except that not more than one (1) directional sign at each point of ingress or egress may be erected which may also bear the name of the enterprise the lot is intended to serve. Such signs shall not exceed two (2) square feet in area and shall not project beyond the property line of the premises.
- (j) The joint use of parking facilities by two (2) or more uses is recommended, and may be approved by the Planning Commission when the following can be satisfied.
 - (1) Computing Capacities: In computing capacities of any joint use, the total space requirement is the sum of the individual requirements that will occur at the same time. If space requirements for individual uses occur at distinctly different times, the total of such off-street parking facilities required for joint or collective use may be reduced below the sum total of the individual space requirements.
 - (2) Record of Agreement: A copy of an agreement between joint users shall be filed with the application for a zoning permit and recorded with the Register of Deeds for Charlevoix County. The agreement shall include a recorded easement for continued use of the parking facility for each party of the joint use.

SECTION 8.4 OFF-STREET PARKING SPACE REQUIREMENTS

Hereafter, no building shall be erected and no land used except in accordance with the following off-street parking space requirements:

	USE	PARKING SPACE REQUIREMENTS
a)	Automobile, equipment or machinery sales and service garages	One (1) space for each 800 square feet of showroom floor area, plus two (2) spaces for each service bay, plus one (1) during maximum employment hours.

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b)	Banks, Business and Professional Offices	One (1) parking space for each 400 square feet of floor area, plus one (1) parking space for each employee during maximum employment hours.
c)	Barber Shops and Beauty Parlors	Two (2) spaces for each chair, plus one (1) space for each employee working during maximum employment hours.
d)	Boarding, Tourist, Bed and Breakfast and Lodging Houses	One (1) parking space for each lodging room plus two (2) spaces for residential dwelling.
e)	Bowling Alleys	Four (4) parking spaces for each alley, plus one (1) space for each employee working during maximum employment hours.
f)	Churches, Auditoriums, Stadiums, Theaters, Dance Halls, Assembly Hall other than schools.	One (1) space for each three (3) seats, or for each four (4) people permitted in such buildings as determined by the State Fire Marshall.
g)	Clinics	Four (4) spaces for each Health Care Provider plus one (1) space for each employee working during maximum employment hours.
h)	Convalescent or Nuring Home, Orphanage or State Licensed Foster Care Home or Hospitals	One (1) parking space for each two (2) beds, plus one (1) space for each employee, including Nurses, working during maximum employment hours.
i)	Drive-thru Businesses	One (1) parking space, plus one (1) parking space for each employee working during maximum employment hours.
j)	Drive-in Eating Establishments without inside seating	Ten (10) parking spaces, plus one (1) parking space for each area and one (1) parking space for each employee working during maximum employment hours.
k)	Dwellings (single and two family)	Two (2) parking spaces for each dwelling unit.
l)	Dwelling (Multiple family and Mobile Home Parks)	Two (2) parking spaces per Dwelling unit, plus one (1) additional space for each four (4) dwelling units and one (1) space for each employee working during maximum employment hours.

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m)	Funeral Homes and Mortuaries	Four (4) spaces for each slumber room or one (1) space each 50 square feet of gross floor area, whichever is greater, plus one (1) space for each fleet vehicle and one (1) space for each employee working during maximum employment hours.
n)	Furniture, Appliance Stores, Household Equipment and Furniture Repair Shops, Showrooms	One (1) space for each 800 square feet of floor area, plus one (1) parking space for each employee during maximum employment hours.
o)	Gasoline Filing and Service Stations	One (1) parking space for each repair and service stall plus one (1) space for each employee.
p)	General Office Buildings	One (1) parking space for each 400 square feet of gross area, and one (1) parking space for each employee working during maximum employment hours.
q)	Hotels and Motels	One (1) space for each rental unit, plus one (1) parking space for each employee working during maximum employment hours.
r)	Libraries, Museums, Post Offices	One (1) parking space for each 800 square feet of floor area plus one (1) parking space for each employee working during maximum employment hours.
s)	Auction Facilities	One (1) parking space for each 100 square feet of floor area one (1) parking space for each employee working during maximum employment hours.
t)	Manufacturing, Assembling, Fabricating, Processing and Bottling Plants	One (1) space for each employee during maximum employment hours.
u)	Restaurants, Beer Parlors, Taverns, Cocktail Lounges, Night Clubs and Private Clubs, including Golf Clubs	One (1) parking space for each four (4) customer seats, plus one (1) parking space for each employee working during maximum employment hours.
v)	Retail Stores, Gift Shops, Clothing and Boutiques	One (1) parking space for each 250 square feet of floor area, plus one (1) parking space for each employee working during maximum

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		employment hours.
w)	Streetside Stands	Two (2) parking spaces
x)	Schools; Private or Public Elementary or Junior High Schools	One (1) space for each employee working during the maximum employment building and on the grounds, plus one (1) space for each thirty (30) students of maximum enrollment capacity.
y)	Institutions of Higher Learning, High Schools, Private or Public and State Licensed Family and Group Child Day Care Facilities	One (1) parking space for each employee plus one (1) for each five students, plus the parking requirements for an Auditorium, a day gymnasium, and an athletic field if they are included.
z)	Self-Service Laundry or Dry Cleaning Stores	One (1) space for each two (2) washing and dry-cleaning machines, plus one (1) space for each employee working during maximum employment hours.
aa)	Supermarket, Self-Serve Food and Discount Stores	Two (2) spaces for each 200 square feet of floor area, plus one (1) space for each employee working during maximum employment hours.
bb)	Wholesale Establishments and Warehouses	One (1) space for each 800 square feet of floor area, plus one (1) space for each employee working during maximum employment hours.
cc)	Golf Driving Ranges and Miniture Golf Courses	One (1) space per driving station or one (1) space per hole.
dd)	Child Day Care Facilities	One (1) space per employee, plus one (1) space for each ten (10) children.

If a use is not specifically listed, the parking requirements of a similar or related use shall apply as determined by the Planning Commission.

Multi Purpose Use: In the case of a multiple use Building, the Parking Requirements will be determined by consideration of both floor space and usage with the overall intent of providing adequate parking for the named building uses.

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Final Determination of the number of off-street parking spaces required for a particular use of property in the MR & H Districts shall be decided by the Planning Commission as part of Development Review Process.

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ARTICLE IX SPECIAL USES

SECTION 9.1 PERMIT REQUIRED FOR CERTAIN USES

- (a) **Purpose** - Certain land use activities entitled "Special Uses" may be authorized in the various zoning districts, but only if adequate safeguards are provided to ensure the protection of the public health, safety and general welfare. The special uses that may be authorized are listed in the "Use Regulation" section of each zoning district.
- (b) Special uses may be authorized by the Township Planning Commission by the issuance of a Special Use Permit provided that:
 - 1) The proposed use is one listed as a special use for that district in which said use is to be located.
 - 2) The provisions of this Article (Article IX) are complied with.
 - 3) The general and specific standards for the particular use as stated in this Article are fulfilled.

SECTION 9.2 PROCEDURE

- (a) Application for special use permits authorized in this Ordinance shall be submitted to the Zoning Administrator on a form supplied for such purposes. Application shall be accompanied by the payment of the fee specified in Section 12.9 and by a development plan as described in Section XIV.
- (b) An application for a special use permit shall be processed in the following manner:
 - 1) The Zoning Administrator shall forward the application and supporting data to the Planning Commission.
 - 2) The Planning Commission shall review the application and supporting data in terms of the specifications established in this Ordinance.
 - 3) After adequate review and study of any application, the Planning Commission shall hold a Public Hearing on the requested Special Use Permit. The notices for all Public Hearings before the Planning

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Commission concerning requests for Special Use Permits shall comply with all of the following:

- (a) The content of the notice shall include all of the following information:
 - (1) A description of the nature of the proposed Special Use request.
 - (2) A description of the property on which the proposed Special Use will be located. The notice shall include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as using tax identification numbers or including a map showing the location of the property.
 - (3) The time, date, and place the proposed Special Use request will be considered.
 - (4) The address where and the deadline when written comments will be received concerning the proposed Special Use request.
 - (b) The notice shall be published in a newspaper of general circulation within the Township not less than 15 days before the scheduled Public Hearing.
 - (c) The notice shall be sent by first-class mail or personal delivery to the owners of the property on which the proposed Special Use will be located no less than 15 days before the scheduled Public Hearing.
 - (d) The notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is accessed within 300 feet of the property on which the proposed Special Use will be located and to the occupants of all structures within 300 feet of the property on which the proposed Special Use will be located not less than 15 days before the scheduled Public Hearing, regardless of whether the property of occupant is located in the Township. If the name of the occupant is not know, the term “occupant” may be used in making notification under this subsection.
 - (e) After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the Planning Commission may adjourn from time to time a duly called Public Hearing by passing a motion specifying the time, date, and place of the continued Public Hearing.
- 4) The Planning Commission, after public hearing procedures, may instruct the Zoning Administrator to issue a Special Use Permit. A

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copy of the decision of the Planning Commission, with any conditions or reasons for rejection, if it were so, shall be sent promptly to the Zoning Administrator and the applicant.

SECTION 9.3 BASIS OF DETERMINATION

The Planning Commission shall approve, or approve with conditions, an application for a special use only upon a finding that the proposed special use complies with all of the following general standards and any applicable specific standards contained in Section 9.5 of this Ordinance.

- (a) Will be designed, constructed, operated and maintained so as to be harmonious with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed to be located.
- (b) Will not be hazardous or disturbing to existing or future nearby uses.
- (c) Will be equal to, or an improvement on, property in the immediate vicinity and to the Township as a whole.
- (d) Will be served adequately by essential public services and facilities available or that the persons responsible for the establishment of the proposed use will provide adequately any such service or facility.
- (e) Will not create excessive additional public costs and will not be detrimental to the economic welfare of this Township.

SECTION 9.4 CONDITIONS

The Planning Commission may impose reasonable conditions in connection with the approval of a special use permit pursuant to Section 12.6 of this Ordinance.

SECTION 9.5 SPECIFIC STANDARDS FOR SPECIAL LAND USES

The Planning Commission shall have the authority to grant Special Use Permits for the following special uses provided the specific standards and requirements associated with each are satisfied. All Special Uses are subject to the requirements of Article XIV, Development Plan Review.

- (a) Bed and Breakfasts in the “R-1”, “R-2”, “CD” “A,” and “H” Districts subject to the following requirements:

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- 1) Established through obtaining an approved Special Use Permit in accordance with the procedures, provisions and standards of Article IX of this ordinance.
 - 2) Must provide a diagram of all existing Bed & Breakfasts.
 - 3) After the initial permit is obtained, the number of rooms cannot be changed without Planning Commission approval.
 - 4) The sign regulations of the district in which the use is established must be followed.
 - 5) The established use is located within a residence, which is the principal dwelling unit on the property and said residence is owner occupied at all times.
 - 6) The residence has at least two (2) exits to the outdoors.
 - 7) The rental sleeping rooms have a minimum size of one hundred (100) square feet for each two (2) occupants with an additional thirty (30) square feet for each additional occupant not to exceed a maximum of four (4) occupants per room, and not to exceed a maximum of five (5) rooms.
 - 8) A Special Use Permit shall not be granted to a bed & breakfast establishment if the essential character of a lot or structure within a residential district, in terms of use, traffic generation, or appearance will be changed substantially by the occurrence of the bed and breakfast established use.
 - 9) Off street parking shall be required at a rate of 1/2 parking space per rental room in addition to the space already required within the zone in which the use is established
- (b) Cemeteries in the “R-1” and “R-2” Districts subject to the following requirements:

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- 1) There shall be a minimum of a twenty-five (25) foot setback around the perimeter of the property. This area shall be landscaped with trees, shrubs, and other plant life.
 - 2) Fencing may be required, if it is determined by the Planning Commission that the separation is needed between the proposed site and adjacent properties.
 - 3) Required parking shall be determined by the Planning Commission. Parking may be provided on cemetery streets.
- (c) Institutions for human care including senior housing in the “R-1” and “R-2”, and “H” Districts subject to the following requirements:
- 1) The minimum side yard setback shall be twenty-five (25) feet.
 - 2) The proposed site shall be located as to have at least one (1) property line on a public improved street. Primary access to the site shall be from this street.
 - 3) The Planning Commission may require fences or other methods of secure enclosure that it deems appropriate for the type of facility being considered.
 - 4) A greenbelt, as defined by this Ordinance, shall be placed in the rear and side yard setback areas.
 - 5) All parking shall be provided on site and shall comply with the requirements listed in Article VIII of this Ordinance.
 - 6) All loading areas shall be screened from public streets and residential areas to a opacity of 80%.
 - 7) Primary access to the site shall not be routed through residential areas.
- (d) Multiple-family dwellings in the “C-1”, and “C-2” Districts subject to the following requirements:
- 1) Structures shall not exceed the maximum height requirements for the District.
 - 2) Front yard: Where it is the intention of the developer to utilize the front yard area for parking, there shall be a setback from the right-of-way

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of at least seventy-five (75) feet; the front twenty-five (25) feet (at a minimum) shall be landscaped. Where the front yard setback area is not used for parking, there shall be a minimum setback from the right-of-way of all streets of forty (40) feet.

- 3) Side and Rear Yards. There shall be a minimum side and rear yard setback of thirty (30) feet, except where the subject property abuts any agricultural or single-family zoning district, in which case side and rear yard setbacks shall be a minimum of forty (40) feet.
 - 4) Not more than forty (40%) percent of the parcel shall be occupied by residential buildings.
 - 5) The maximum number of units per building shall be eight (8).
 - 6) A minimum of six hundred (600) square feet per individual unit.
 - 7) Parking shall meet the requirements listed in Article VIII of this Ordinance. A greenbelt, as defined by this Ordinance, shall surround the parking area. All parking shall be provided on site.
 - 8) All developments shall be designed and built for safe and efficient ingress and egress to the public streets.
 - 9) The developer shall preserve and incorporate significant natural features, such as woods, streams, and open spaces, which add to the quality of the overall development.
 - 10) The developer shall provide community areas, laundry facilities, playgrounds and tot lots, and other services necessary for the comfort and convenience of residents, if requested by the Planning Commission.
 - 11) A development plan shall be submitted for each multiple-family development in accordance with Article XIV, of this Ordinance, and said plan shall indicate or illustrate how the requirements of this section are being met.
- (e) Living quarters, single or multiple, above or attached to a principal structure in the “C-1”, “C-2”, and “H” Districts subject to the following requirements:

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- 1) The principal structure is a business.
 - 2) The living quarters shall be designed to be compatible with the architectural style and character of the principal business in terms of materials of construction and roofline slope.
 - 3) At a minimum, one (1) parking space per unit shall be provided on the site. This parking is in addition to the parking requirements of the business operation on the site.
 - 4) The Planning Commission may reduce off-street parking requirements if the applicant can demonstrate that full compliance is unnecessary because of the characteristics of the proposed use, the availability of shared or public parking, or other circumstances. Shared parking shall be encouraged wherever feasible.
- (f) Temporary outdoor display of goods for sale or lease on vacant lots in the “H”, “C-1” and “C-2” Districts subject to the following requirements and issuance of a zoning permit:
- 1) Evidence of permission for the use of any site shall accompany all permit requests.
 - 2) The outdoor display is only permitted for a maximum of ninety (90) days per year. After the ninety (90) day period, the outdoor display shall be removed and shall not be displayed on another parcel for any additional time period.
 - 3) No permits shall be issued for a parcel that already has a current permit for an outdoor display for the regulated time period. If an outdoor display was on a parcel for less than ninety (90) days, another outdoor display may be permitted on the parcel for the difference in the time periods.
 - 4) No permanent structures are permitted for a temporary use. Temporary structures are permitted if they are no larger than one hundred and fifty (150) square feet and have no foundation. They must be removed prior to the expiration of the special use permit. All structures shall be approved by the Zoning Administrator prior to their placement.
 - 5) The display shall not create any negative impacts to adjacent properties, including but not limited to: degradation in property values, increased noise, and/or devaluation of neighborhood character.

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- 6) The Planning Commission may review the hours of operation to insure that they conform to the surrounding property's character and use.
 - 7) Prior to approval, the applicant shall show the Planning Commission that sufficient parking exists for this use and the principal use.
- (g) Junkyards, salvage yards, sewage treatment facilities and sanitary landfills in the "A" Agricultural District subject to all applicable regulations of the State of Michigan. If any of the requirements of this subsection are less than those in applicable state statutes, the state requirements shall prevail.
- 1) No junkyard, salvage yard, sewage treatment facility or sanitary landfill shall be located within one half (1/2) mile of an existing subdivision or site condominium development. The Planning Commission may lessen this requirement if it finds that lessening the requirement would not have a substantially detrimental impact on surrounding properties.
 - 2) A greenbelt, as defined by this Ordinance, shall be developed around the site within the required setbacks.
 - 3) No hazardous or toxic wastes, as defined by the Department of Environmental Quality, shall be deposited or stored by any use in this group.
 - 4) All proposals shall be submitted to the Charlevoix County Road Commission for review. Wear on public roads; traffic hazards, and encroachment of noise, dust, and other nuisances upon adjacent uses are factors that may be considered by the Planning Commission.
 - 5) No open burning shall be permitted and all commercial and industrial processes involving the use of equipment for cutting, compressing (other than landfill compaction operations), or packaging shall be conducted within completely enclosed buildings.
 - 6) Fencing and screening requirements:
 - (a) Landfill: Greenbelt and fences shall be constructed around any landfill as required by the State. The fences shall be placed in the interior of the vegetated greenbelt. Fences shall have a gate entrance, which shall be locked during hours when no operation is taking place.
 - (b) Junk Yard and/or Salvage Yards: A solid fence or wall at least eight (8) feet in height shall be provided around the active area to screen activity from the surrounding property. Such fence

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or wall shall be of sound construction, painted, or otherwise finished neatly. All activities shall be confined within the fenced-in area. There shall be no stacking of material above the fence or wall except that moveable equipment used on the site may exceed the wall or fence height. No equipment, material, signs, or lighting shall be used or stored outside the fenced-in area. The applicant shall provide evidence that he/she has obtained or is capable of obtaining a permit/license from the Secretary of State.

- (c) Sewage Treatment Facilities: All operations shall be completely enclosed by a fence not less than six (6) feet high.

- 7) Once a portion of a landfill has been closed and operations completed, it shall be graded and reseeded. Each used portion of the site shall be restored with topsoil, graded and revegetated to promote proper drainage. The restoration shall eliminate all hazards and be blended with the general surrounding ground form.

- 8) 8) Parking shall be determined by the Planning Commission.

- (h) Natural resource extraction, mining, or relocation operations in the “A” agricultural District subject to the provisions and standards established in Section 14.5(b).

- (i) Clubs, camps and campgrounds in the “A” Agricultural District subject to the following requirements:
 - 1) Commercial and retail activity conducted on the premises shall be clearly secondary and incidental to the principal use and shall be located and designed to serve only those who patronize the principal use.
 - 2) Structures shall not exceed a height of thirty five (35) feet.
 - 3) Parking facilities shall be no closer than twenty (20) feet to any property line.

- (j) Housing for transient labor in the “A” Agricultural District subject to the following requirements:
 - 1) Such housing shall not be occupied for more than one hundred and eighty (180) days in any calendar year.
 - 2) Housing units shall comply with all applicable regulations of the State of Michigan and of the County of Charlevoix. These regulations include, but

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are not limited to, public health and building codes and Michigan Department of Agriculture rules.

- (k) Kennels in the “A” Agricultural District subject to the following requirements:
 - 1) All animals shall be kept in a fenced area. The fenced area shall be built to prevent the escape of any animal.
 - 2) A greenbelt, which will help to mitigate the impact, shall be developed around the site in the required setbacks.
 - 3) Parking, at a minimum, shall be one (1) space per five (5) animal boarding spaces.
 - 4) Parking facilities shall be no closer than twenty (20) feet to any property line.
 - 5) No building or animal run shall be less than one hundred and fifty (150’) feet from a lot line abutting a residential district.
- (l) Golf Courses, country clubs commercial stables and publicly owned recreation areas in the “A” Agricultural District subject to the following requirements:
 - 1) There shall be a minimum one hundred (100) foot setback around the perimeter of the property.
 - 2) Fencing shall be required if the Planning Commission determines that separation is needed between the proposed site and adjacent properties.
 - 3) Lighting shall be shielded to reduce glare and be arranged and maintained to direct light away from all adjacent properties.
 - 4) A storm water management plan mitigating phosphorus impact shall be designed by a Certified Professional Engineer, submitted to the Planning Commission, and implemented with approval of a Special Use Permit for golf courses.
 - 5) Parking facilities shall be no closer than twenty (20) feet to any property line.

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- 6) The required parking for a golf course, at a minimum, shall be 60 spaces per nine holes, plus amounts required for accessory uses as listed in Article VIII of this Ordinance. The Planning Commission may reduce the parking requirement if the applicant can demonstrate that full compliance is unnecessary because of the characteristics of the proposed use. Shared parking is encouraged. All parking shall be provided on site.
 - 7) The required parking for county clubs, clubhouses, and publicly owned recreation areas shall be determined by the Planning Commission.
- (m) Retreat Centers in the “A” Agricultural District subject to the following requirements:
- 1) Commercial, retail, and recreational activities and facilities conducted on the premises shall be clearly secondary and incidental to the principal use and shall be located and designed to serve only those who patronize the principal use.
 - 2) There shall be a minimum one hundred (100) foot setback around the perimeter of the property.
 - 3) The retreat center shall not exceed 24 patron rooms.
 - 4) Facilities, including meeting rooms, patron rooms, and accessory facilities shall be located so as to minimize their visibility from public roads.
 - 5) The facility shall conform to all applicable building codes.
 - 6) Off-street parking shall be as required by the Planning Commission.
 - 7) One identification sign shall be permitted not to exceed an area of 36 square feet.
- (n) Cabins and cabin courts in the “A” Agricultural District subject to the following requirements:
- 1) Commercial and retail activity conducted on the premises shall be clearly secondary and incidental to the principal use and shall be located and designed to serve only those who patronize the principal use.
 - 2) Buildings shall not exceed a height of thirty five (35) feet.

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- 3) Parking facilities shall be no closer than twenty (20) feet to any property line.
- (o) Telecommunications towers in the “A” Agricultural District subject to the provisions and standards of Article XV.
 - (p) Sexually Oriented Businesses: Additional Standards for the Approval of Sexually Oriented Businesses in the Agricultural and C-1 Districts. The purpose and intent of this section of the Ordinance pertaining to the regulation of Sexually Oriented Businesses is to regulate the location and operation of, but not to exclude, Sexually Oriented Businesses within the Township, and to minimize their negative secondary effects. It is recognized that Sexually Oriented Businesses, because of their very nature, have serious objectionable operational characteristics which cause negative secondary effects upon nearby residential, educational, religious and other similar public and private uses. The regulation of Sexually Oriented Businesses is necessary to ensure that their negative secondary effects will not contribute to the blighting and downgrading of surrounding areas and will not negatively impact the health, safety and general welfare of Township residents. The provisions of this Section specifically and the Ordinance generally are not intended to offend the guarantees of the First Amendment of the United States Constitution or to deny adults access to Sexually Oriented Businesses and their products, or to deny Sexually Oriented Businesses access to their intended market. Neither is it the intent of this Ordinance to legitimize activities that are prohibited by Township Ordinance, state or federal law. If any portion of this Ordinance relating to the regulation of Sexually Oriented Businesses or referenced in those sections is found to be invalid or unconstitutional by a court of competent jurisdiction, the Township intends said portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law. The Township further states that it would have passed and adopted what remains of any portion of this Ordinance relating to regulation of Sexually Oriented Businesses following the removal, reduction or revision of any portion so found to be invalid or unconstitutional.
- 1) No Sexually Oriented Business shall be permitted in a location in which any principal or accessory structure, including signs, is within one thousand (1,000) feet of any principal or accessory structure of another Sexually Oriented Business.
 - 2) No Sexually Oriented Business shall be established on a parcel that is within one thousand (1,000) feet of any parcel zoned R-1, R-2, C-2, Harbor, and Marine Related.
 - 3) No Sexually Oriented Business shall be established on a parcel within one thousand (1,000) feet of any dwelling, park, school, childcare organization, or place of worship. This distance shall be measured in a straight line from the nearest property line upon which the proposed

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Sexually Oriented Business is to be located to the nearest property line of the dwelling, school, childcare organization, place of worship.

- 4) The proposed use shall conform to all specific density of setback regulations, etc. of the Zoning District in which it is located.
- 5) The proposed use must meet all applicable written and duly promulgated standards of the Township and other governments or governmental agencies having jurisdiction, and that to the extent required, the approval of these governments and/or governmental agencies has been obtained or is reasonably assured.
- 6) The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not visible from neighboring properties or adjacent roadways.
- 7) Any sign or signs proposed for the Sexually Oriented Business must comply with the provisions of this Ordinance, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.
- 8) Entrances to the proposed Sexually Oriented Business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than two (2) inches in height that: 1) "Persons under the age of 18 are not permitted to enter the premises", and 2) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
- 9) No product of service for sale of gift, or any picture of other representation of any product or service for sale or gift, shall be displayed so as to be visible from the nearest adjoining roadway or a neighboring property.
- 10) Hours of operation shall be limited to 8:00 AM to 12:00 AM.
- 11) All off-street parking areas shall be illuminated during all hours of operation of the Sexually Oriented Businesses, and until one hour after the business closes.
- 12) Any booth, room or cubicle available in any Sexually Oriented Business, excepting an adult motel, used by patrons for the viewing any entertainment characterized by the showing of Specified Anatomical Areas or Specified Sexual Activities:
 - (a) Is handicap accessible to the extent required by the Americans With Disabilities Act;

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- (b) Is unobstructed by any door, lock or other entrance and exit control device;
 - (c) Has at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;
 - (d) Is illuminated by a light bulb of wattage of no less than 25 watts;
 - (e) Has no holes or opening in any side or rear walls.
- 13) Review Procedures for Sexually Oriented Businesses: The Planning Commission shall adhere to the following procedures when reviewing a Special Approval Application for a Sexually Oriented Business.
- (a) If the Planning Commission determines that a Special Approval Application of a Sexually Oriented Business is not complete when it is first presented to the Planning Commission, it shall provide written notice by first-class mail within five (5) business days of said determination detailing the items required to complete the application. Upon payment of a new filing fee, the applicant may resubmit the amended application for review by the Planning Commission for completeness.
 - (b) If the Planning Commission determines that the application is complete, it shall within (90) days of said determination make and adopt specific finding with respect to whether the proposed Sexually Oriented Business is in compliance with the standards designated in Sections 12.4, 12.5, Chapter VXII (Special Uses) and Chapter XVIII (Site Plan Review). If the Planning Commission has not made and adopted findings of fact with respect to a proposed Sexually Oriented Business and either approved or denied the issuance of a Special Approval for the same within ninety (90) days of its determination that a completed application has been filed, then the Special Approval Application shall be deemed to have been approved.
- 14) All conditions required by the Planning Commission shall take effect immediately upon approval of the Special Use. Any application approved by the Planning Commission, either as submitted or resubmitted in modified form, shall constitute a binding agreement by the applicant that the Special Use permitted shall be made, completed and operated as shown on the Development Plan. Failure to complete the permitted activity in conformance to the agreed upon Development Plan and

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conditions or to undertake the activity within one (1) year shall cause loss of Special Use status.

15) If the Planning Commission denies a Special Approval Application for a Sexually Oriented Business pursuant to the above paragraphs, then the applicant shall be entitled to prompt Judicial Review by submitting a written request to the Zoning Administrator. The Township shall within five (5) business days of receipt of such written notice do the following:

(a) File a petition in the Circuit Court of the County of Charlevoix seeking a Judicial Determination with respect to the validity of such denial and, in conjunction therewith, apply for a preliminary and permanent injunction restraining the applicant from operating the Sexually Oriented Business in violation of the Township Zoning Ordinance; and

(b) Request that the application for issuance of a preliminary injunction be set for a show-cause hearing within five (5) business days or as soon thereafter as is possible after the filing of such petition. In the event that applicant appears at or before the time of such show-cause hearing, waives the notice otherwise provided by Michigan Court Rules, and requests that at the time set for such hearing the Court proceed to hear the case under applicable rules of civil procedure for the issuance of such permanent injunction on its merits, the Township shall be required to waive its application for preliminary injunction and shall join in such request. In the event that the applicant does not waive notice and/or does not request an early hearing on the Township's application for permanent injunction, it shall nevertheless be the duty of the Township to seek the earliest possible hearing date under Michigan law and the Michigan Court Rules. The filing of written notice of intent to contest the Planning Commission's denial of a Special Approval Application shall not in any way affect the validity of such denial, but such denial shall be deemed invalid and the Special Approval Application automatically approved it, within fifteen (15) business days of the filing of Township's petition, a show-cause hearing has not been scheduled.

q) Home-based businesses in the "A" Agricultural District subject to the following requirements:

1. The property on which the home-based business will be located is no less than ten (10) acres in area.

2. The proposed home-based business will have no more than two (2) nonresident employees.

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3. The proposed home-based business will not have retail sales or rental of goods, except as may be incidental to the furnishing of a service.
4. The proposed home-based business will have no more than one (1) Class 4, non-illuminated sign 24 square feet or less in area per side to identify the business. The sign may be attached to the building or located in the front yard provided it is setback from the road right-of-way at least ten (10) feet.
5. The proposed home-based business will be conducted on the premises and/or the premises will serve as a base of operation from which to conduct the activity off-site.
6. The proposed home-based business will be conducted in such a manner so as to retain the residential character of the property.
- 7.. The proposed home-based business will have adequate off-street parking for patrons, clients and all nonresident employees.
8. Any exterior storage of materials or equipment related to the home-based business, including the temporary storage of waste and trash, will be screened from the view of neighboring residents and from view by the general public along public rights-of-way by vegetation, natural topographic features, fencing or other constructed visual barriers.
9. The proposed home-based business will not create a nuisance in fact for surrounding properties in terms of lighting, noise, fumes, odors, vibrations, glare, airborne particulates, or electrical interference.
10. The proposed home-based business will not generate automobile or truck traffic in excess of that normally associated with a residence.

SECTION 9.6 REHEARINGS

Where exceptional circumstances exist including misrepresentation by an applicant or a material change in circumstances has occurred or a rehearing is requested by the applicant or the Zoning Administrator, the Planning Commission may grant a rehearing pursuant to Section 12.7 of this Ordinance.

SECTION 9.7 REAPPLICATION

No application for a special use permit, which has been denied wholly or in part, shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions found to be sufficient to justify reconsideration by the Township Planning Commission.

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SECTION 9.8 JURISDICTION OF ZONING BOARD OF APPEALS

The Zoning Board of Appeals shall have no jurisdiction over decisions of the Planning Commission in regard to matters concerning the granting of special use permits.

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ARTICLE X NONCONFORMING USES, LOTS AND STRUCTURES

SECTION 10.1 CONTINUATION OF USE

The lawful use of any premises existing at the time of the adoption of this Ordinance, or any amendment thereto, may be continued although such use does not conform to the provisions hereof, but if such nonconforming use is abandoned as provided in Section 10.5, the future use of said premises shall be in conformity with the provisions of this Ordinance.

SECTION 10.2 EXPANSION OF NONCONFORMING STRUCTURE OR USE

- (a) Structures that are nonconforming because they do not meet the dimensional requirements of this Ordinance may be extended, enlarged, altered, remodeled or modernized even if the extent of the nonconformity is increased, provided the degree of the nonconformity (the distance to the property line) is not increased, the other dimensional requirements of the District are satisfied, and the alteration complies fully with the requirements of the Northwest Michigan Community Health Agency, and carries ZBA approval.
- (b) A legally existing, nonconforming use may be extended only throughout a building being used for a legally existing, nonconforming use at the adoption of this Ordinance, or any amendment thereto, or as provided for in Section 10.9 of this Ordinance.

SECTION 10.3 RESTORATION OF A NONCONFORMING USE AND STRUCTURE

In the event that a legal non-conforming building, structure, or use shall be damaged by fire, wind or Act of God or the public enemy, such use or structure may be rebuilt or restored with the approval of the Planning Commission, provided the requirements of Section 10.9 are satisfied.

SECTION 10.4 CHANGE OF NONCONFORMING USE

Whenever a zoning district shall be changed, any then legally existing nonconforming use in such changed district may be continued, provided all other regulations governing the use are complied with. Whenever a nonconforming use of a building or premises has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

SECTION 10.5 ABANDONMENT OF NONCONFORMING USE

If a property owner has an intent to abandon a nonconforming use or structure and in fact abandons this nonconforming use or structure for a period of three (3) years or more, then any subsequent use of the property or structure shall conform to the requirements of

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this Ordinance. When determining the intent of the property owner to abandon a nonconforming use or structure, the zoning administrator shall consider the following factors:

- (a) Whether utilities, such as water, gas, and electricity to the property have been disconnected.
- (b) Whether the property, buildings, and grounds have fallen into disrepair.
- (c) Whether signs or other indications of the existence of the nonconforming use have been removed.
- (d) Whether equipment or fixtures necessary for the operation of the nonconforming use have been removed.
- (e) Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use or structure.

SECTION 10.6 BUILDINGS UNDER CONSTRUCTION

Nothing in this Ordinance shall require any change in the erection or intended use of a building or structure for which a zoning permit has been issued and substantial construction of the building has been commenced.

SECTION 10.7 MAINTENANCE OF NONCONFORMING BUILDINGS

Nothing in this Ordinance shall prevent the repair or reinforcement of a nonconforming building, or part thereof, whether or not it contains a nonconforming use, rendered necessary by wear and tear, deterioration or depreciation. No provision of this Ordinance shall prevent compliance with the provision of any building code in effect in the Township.

SECTION 10.8 LAWFUL NONCONFORMING LOTS OF RECORD

Lawful nonconforming lots of record that do not comply with the lot area and width requirements of this ordinance are considered buildable provided all setback requirements can be met. In cases where setback requirements cannot be met, variances may be granted provided potable water supply and safe sewage disposal facilities can be provided. Contiguous lots under the same ownership are to be considered as one lot for the purpose of complying with this zoning ordinance.

SECTION 10.9 REPLACEMENT OF NONCONFORMING BUILDINGS, STRUCTURES AND USES

- (a) A legal nonconforming building or structure may be replaced with the approval of the Planning Commission even if the extent of the nonconformity is increased provided as follows:

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- 1) The replacement building or structure does not exceed the general height, size, or scope of the existing building or structure, and
 - 2) The degree of the nonconformity is not increased (i.e. the distance to the property line is not further decreased when it does not currently meet the required setback).
- (b) In addition to the above requirements, an existing residential dwelling, residential accessory building, or retail shop located in the “MR” Marine Related District may be reconstructed with the approval of the Planning Commission subject to the following requirements:
- 1) The wall faces of all buildings adjacent to the street shall not be increased in width,
 - 2) There shall be no greater impairment of views to the Bay than already exists for buildings and structures on the opposite side of the street and those using the street for driving and walking, and
 - 3) There shall be no increase in the number of buildings, structures, dwelling units, or businesses.

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ARTICLE XI ZONING BOARD OF APPEALS

SECTION 11.1 PURPOSE

In order that the objectives of this Ordinance may be fully and equitably achieved, that a means shall be provided for competent interpretation of this Ordinance, that adequate but controlled flexibility be provided in the application of this Ordinance, that the health, safety and welfare of the public be secured, and that justice be done, there is hereby established a Township Zoning Board of Appeals..

SECTION 11.2 ZONING BOARD OF APPEALS - CREATION, MEMBERSHIP, CONFLICT OF INTEREST, ALTERNATE MEMBERS, TERMS OF OFFICE

The Township Board shall appoint a Township Zoning Board of Appeals to consist of three (3) members. The first member of the Board of Appeals shall be a member of the Township Planning Commission. The remaining members of the Board of Appeals shall be selected from the electors of the Township. The members shall be representative of the population distribution and of the various interests present in the Township. An employee or contractor of the Township Board may not serve as a member of the Zoning Board of Appeals. One member may be a member of the Township Board. An elected officer of the Township shall not serve as chairperson of the Board of Appeals.

Members of the Board of Appeals may be removable by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest shall constitute malfeasance in office.

The Township Board may appoint two alternate members of the Zoning Board of Appeals for terms of three (3) years. The alternate members shall be called by the Chair of the Zoning Board of Appeals on a rotating basis to sit as members of the Zoning Board of Appeals in the absence of a regular member. An alternate member may also be called by the Chair to serve in the place of a regular member for the purpose of reaching a decision on a case in which a regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.

The terms of regular members shall be for 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 members of the Planning Commission or Township Board, respectively, and the period stated in the resolution appointing them.

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When members are first appointed, the appointments may be for less than three (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. All vacancies for unexpired terms shall be filled for the remainder of the term.

SECTION 11.3 COMPENSATION

The total amount allowed any member of the Zoning Board of Appeals in any one (1) year as per diem or as expenses actually incurred in the discharge of his duties shall not exceed a reasonable sum which shall be budgeted in advance by the Township Board.

SECTION 11.4 RULES OF PROCEDURE

a) **Rules** - The Board of Appeals shall adopt its own rules and regulations to ensure proper conduct of its meetings. Copies of such regulations shall be made available to the public at the office of the Township Clerk.

b) **Public Open Meetings** - Meetings of the Board shall be open to the public and shall be held at the call of the chairperson and at such times as the Board may determine. All meetings shall comply with the Michigan Open Meetings Act.

c) **The Board of Appeals shall act by motion made by a member** – The concurring vote of a majority of the members of said Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of an administrative official or body to decide in favor of the applicant upon any matter which the Board is required to pass under this Ordinance, or to grant a variance.

d) **Records** - Minutes shall be recorded of all proceedings, which shall contain evidence and data relevant to every case considered together with the votes of the members and the final disposition of each case. The grounds of every determination shall be stated and such determination from which the appeal is taken. Such minutes shall accompany and can be attached to the standard forms required of persons appealing as part of the Zoning Board of Appeals' permanent records. Such minutes shall become public record and as such shall be filed in the office of the Township Clerk. A copy of the decision shall be sent promptly to the applicant and to the Zoning Administrator.

e) **Secretary and Counsel** - The Township Clerk shall be responsible for acting as secretary, or for providing secretarial services for the Zoning Board of Appeals, and all records of the Board of Appeals action shall be taken and recorded under his/her direction. The Township Attorney shall act as legal counsel for the Board and shall, upon request by the Board, be present at designated meeting.

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SECTION 11.5 APPEALS

a) Appeals to the Zoning Board of Appeals may be taken by any person aggrieved, or by an officer, department or board of the Township.

b) **Time Limit** - Any appeal from the ruling of the Zoning Administrator concerning the enforcement of the provisions of this Ordinance shall be made to the Zoning Board of Appeals through the Zoning Administrator within thirty (30) days after the date of the Zoning Administrator's decision, which is the basis of the appeal. The persons making the appeal must file with the Zoning Administrator a signed notice of appeal specifying the grounds for appeal. The Zoning Administrator shall immediately transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

c) **Decisions** - The Zoning Board of Appeals shall return a decision upon each case within a reasonable time after a request or appeal has been filed with the Board. Decisions made by the Zoning Board of Appeals will be forwarded, in writing to the appealing party and the Zoning Administrator. Any decision of the Board shall not become final until the expiration of ten (10) business days from the date of entry of such order and service of the same upon the parties concerned unless the Board shall find the immediate effect of such order is necessary for the preservation of property or such personal rights or public safety and shall so certify on the record.

d) **Representation** - Any party may appear in person or by agent or by attorney at a hearing considering his request or appeal.

SECTION 11.6 NOTICE REQUIREMENTS

Following receipt of a written request concerning an appeal of an administrative decision, a request for an interpretation of the Zoning Ordinance, or a request for a variance, the Zoning Board of Appeals shall hold a Public Hearing. The notices for all Public Hearings before the Zoning Board of Appeals concerning appeals, interpretations, and variances shall comply with all of the following applicable provisions:

- a) For an appeal or a request for an interpretation, the notice shall comply with all of the following:
 - 1) The content of the notice shall include all of the following information:
 - (a) A description of the nature of the appeal or interpretation request.
 - (b) If the appeal or interpretation request involves a specific parcel, then the notice shall describe the property involved. The notice shall also include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be

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used, such as using tax parcel identification numbers or including a map showing the location of the property.

- (c) The time, date, and place the appeal or interpretation request will be considered.
 - (d) The address where and the deadline when written comments will be received concerning the appeal or interpretation request.
- 2) The notice shall be published in a newspaper of general circulation within the Township not less than 15 days before the scheduled Public Hearing.
 - 3) The notice shall be sent by first-class mail or personal delivery to the person filing the appeal or requesting the interpretation and, if the appeal or interpretation request involves a specific parcel, to the owners of the property involved not less than 15 days before the scheduled Public Hearing.
 - 4) If the appeal or interpretation request involves a specific parcel, then the notice shall also be sent by first- class mail or personal delivery to all persons to who real property is assessed within 300 feet of the property involved and to the occupants of all structures within 300 feet of the property involved not less than 15 days before the scheduled public hearing, regardless of whether the property or occupant is located in the Township. If the name of the occupant or tenant is not known, the term “occupant” may be used in making notification under this subsection.
- b) For a variance request, the notice shall comply with all the following:
 - 1) The content of the notice shall include all of the following information:
 - (a) A description of the nature of the variance request.
 - (b) A description of the property in which the requested variance will apply. The notice shall also include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
 - (c) The time, date, and place the variance request will be considered.
 - (d) The address where and the deadline when written comments will be received concerning the variance request.

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- 2) The notice shall be published in a newspaper of general circulation within the Township not less than 15 days before the scheduled public hearing.
 - 3) The notice shall be sent by first-class mail or personal delivery to the owners of the property seeking the variance not less than 15 days before the scheduled public hearing.
 - 4) The notice shall also be sent by first-class mail or personal delivery to all persons to who real property is assessed within 300 feet of the property on which the requested variance will apply and to the occupants of all structures within 300 feet of the property to which the requested variance will apply not less than 15 days before the scheduled public hearing, regardless of whether the property or occupant is located in the Township. If the name of the occupant or tenant is not known, the term “occupant” may be used in making notification under this subsection.
- c) After providing the notice required under this section and without further notice, except that as require under the Open Meetings Act, the Zoning Board of Appeals may adjourn from time to time a duly called Public Hearing by passing a motion specifying the time, date, and place of the continued Public Hearing.

SECTION 11.7 DUTIES AND POWERS OF THE ZONING BOARD OF APPEALS

The Township Zoning Board of Appeals shall have the following specified duties and powers:

a) **Appeal** - Shall hear and decide appeals from any review, order, requirement, decision or determination made by the Zoning Administrator or Planning Commission in the administration of this Ordinance.

1) An administrative decision may result in an affirmation, or reversal, in whole or in part, or may modify the order, requirement, decision or determination appealed.

2) An administrative decision may be altered by the Zoning Board of Appeals only if it finds that the action or decision appealed meets one (1) or more of the following requirements:

a) was arbitrary or capricious

b) was based upon an erroneous finding of a material fact

c) constituted an abuse of discretion

d) was based upon an erroneous interpretation of the Zoning Ordinance or the Michigan Zoning Enabling Act.

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b) **Interpretation** – Upon the request of the Township Board, Planning Commission, Zoning Administrator or on appeal of an applicant, the Zoning Board of Appeals shall have the power to:

- 1) Hear and decide upon appeals the interpretation of the provisions of this Ordinance;
- 2) Determine the precise location of boundary lines between Zoning Districts when the boundaries of zoning districts cannot be clearly discerned from the official zoning map ;
- 3) Determine the off-street parking requirements of any use which is not mentioned in Article VIII, Section 8.03, either by classifying it with one of the groups listed in that section or by an analysis of the specific need.

c) **Dimensional Variances** - The Zoning Board of Appeals shall have the power to grant, or authorize, upon appeal, specific variances from such dimensional requirements as lot area and width regulations, yard width and depth regulations, and such requirements as off-street parking as specified in this Ordinance when all the basic conditions listed below are satisfied.

- 1) It shall be found by the Zoning Board of Appeals that any variance granted:
 - (a) Will not cause any adverse effect to property in the vicinity or in the zoning district or Township.
 - (b) Is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions practicable:
 - (c) Relates only to property that is under control of the applicant;
 - (d) The need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic situation.
 - (e) The need for the requested variance is not the result of action taken by the property owner or previous property owners that was in violation of zoning regulations in effect at the time the action was taken (self-created).
 - (f) The requested variance is the minimum variance necessary to grant substantial relief to the applicant while at the same time minimizing any adverse impacts to other property owners in the general neighborhood or zoning district.
 - (g) To obtain a variance from the dimensional requirements of the ordinance (area setback), frontage, height, bulk, density, or other dimensional requirements), the applicant must establish that district compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will

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unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations necessarily burdensome.

2) In addition to the foregoing findings, the following rules shall be applied in the granting of variances:

(a) In granting a variance, the Zoning Board of Appeals may specify, in writing, to the applicant reasonable conditions pursuant to Section 12.6 of this Ordinance, as amended.

(b) No application for a variance which has been denied, wholly or in part, by the Zoning Board of Appeals, shall be submitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found by the Board to be valid upon inspection.

(c) Each variance granted shall become null and void unless the variance has been utilized within five (5) years after having been granted.

(d) Variance rehearing procedures shall be pursuant to Section 12.7 of this Ordinance, as amended.

(e) No action shall be taken nor decision rendered by the Zoning Board of Appeals, that would have the effect of permitting the establishment within a zoning district of any use which is not permitted as a use by right within that district.

d.) **Variances within CD or Critical Dunes District** – The Zoning Board of Appeals shall also have the authority to grant variances or special exceptions to the requirements of Part 353 of the Natural Resources and Environmental Protection Act or Section 6.15 of this Ordinance in which case such variances or specials exceptions shall be only considered and granted pursuant to Section 35317 of Part 353.

SECTION 11.8 STAY OF PROCEEDINGS

An appeal stays all proceedings in the furtherance of the action appealed unless the Zoning Administrator certifies to the Zoning Board of Appeals after the notice of the appeal shall have been filed with him/her that, for reasons of facts stated in the certificate, a stay would, in his/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, on application, by the Circuit Court on notice to the officer from whom the appeal is taken and on due cause shown.

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SECTION 11.9 VARIANCE FROM CD DISTRICT REQUIREMENTS

The Board of Appeals may grant a variance from the requirements of the "CD" Critical Dune District if an unreasonable hardship will occur to the owner of the property if the variance is not granted. A variance shall be subject to the following limitations:

- (a) A variance shall not be granted from a setback requirement of this Article unless the property for which the variance is requested is one of the following:
 - 1) A non-conforming lot of record that is recorded prior to July 5, 1989 and that becomes non-conforming due to the application of Part 801 of the Natural Resources and Environmental Protection Act, being Act 451 of the Public Acts of 1994, as amended.
 - 2) A lot legally created after July 5, 1989 that later becomes non-conforming due to natural shoreline erosion.
 - 3) Property on which the base of the first landward critical dune of at least twenty (20) feet in height, that is not a foredune, is located at least five-hundred (500) feet inland from the first foredune crest or line of vegetation on the property. However, the setback shall be a minimum of two hundred (200) feet measured from the foredune crest or line of vegetation.
- (b) A variance shall not be granted that authorizes construction of a dwelling or other permanent building on the first lakeward facing slope of a critical dune area or a foredune. However, a variance may be granted if the proposed construction is near the base of the lakeward facing slope of the critical dune on a slope of less than twelve (12) percent on a nonconforming lot of record that is recorded prior to July 5, 1989 that has borders that lie entirely on the first lakeward facing slope of the critical dune area that is not a foredune.
- (c) A variance shall not be granted for a use that is not in the public interest. In determining whether a proposed use is in the public interest, the Board of Appeals shall consider both of the following:
 - 1) The availability of feasible and prudent alternative locations or methods, or both, to accomplish the benefits expected from the use. If a proposed use is a single family dwelling on a lot of record owned by the applicant, consideration of feasible and prudent alternative locations shall be limited to the lot of record on which the use is proposed. A lot of record shall not be created strictly for the purpose of avoiding consideration of alternative locations under this subparagraph.

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- 2) The impact that is expected to occur to the critical dune area, and the extent to which the impact may be minimized.

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ARTICLE XII ADMINISTRATION AND ENFORCEMENT

SECTION 12.1 ADMINISTRATION

The provisions of this Ordinance shall be administered by the Township Board in accordance with the State of Michigan Township Zoning Act, Act 184, of the Public Acts of 1943, as amended.

The Township Board shall appoint a Zoning Administrator to act as its officer and except as otherwise provided in this Ordinance, the Zoning Administrator shall administer and enforce this Ordinance including the receiving and processing of applications for zoning permits, special use permits, sign permits, appeals for variances or other matters the Zoning Board of Appeals or Township Planning Commission is required to decide; and the Administrator shall be responsible for the inspection of premises, the issuing of zoning permits and the institution of proceedings for the enforcement of the provisions of this Zoning Ordinance.

SECTION 12.2 ZONING PERMITS

It shall be unlawful for any person to commence excavating for any building or structure or to commence the erection, addition, alteration or repair of any building, structure or parking area or repair or move any building or structure, and no land use shall be commenced, until a Zoning Permit has been secured from the Zoning Administrator. Except upon a written order of the Board of Appeals, no such zoning permit or certificate of occupancy shall be issued for any building where the construction, addition, alteration or use thereof would be in violation of any of the provisions of this Ordinance.

Exempted from the requirement of Paragraph 12.2 are ordinary farm buildings used in an agricultural pursuit (other than those used or intended for human habitation or storage of nonfarm items such as barns, sheds, outbuildings, silos, grain storage facilities, pens, fences and corrals. Also exempted from the permit requirements are ordinary maintenance repairs made on dwellings and their related out-buildings.

SECTION 12.3 ZONING PERMIT EXPIRATION

A Zoning Permit shall automatically expire 12 months from the date of issuance whether construction has begun or not. The Zoning Administrator may extend the Permit for up to one additional 12-month period if he/she determines that the applicant will make a good faith effort to commence construction. If a permit expires while the construction is still in progress, the applicant or his designee shall apply for a new Permit.

SECTION 12.4 ZONING PERMIT APPLICATION

Application for a Zoning Permit shall be filed in writing with the Zoning Administrator, signed by the person, firm, or co-partnership or corporation requesting the same or by the

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duly authorized agent of such person, firm, co-partnership or corporation. There shall be submitted with all applications for zoning permits two (2) copies of a plot plan, giving accurate dimensions on either a scale drawing or a rough sketch. Scale drawings shall be required for all structures and shall contain the following information:

- (a) Existing or intended use of the structure.
- (b) Lines and dimensions of the lots to be used.
- (c) Location upon the lot of all existing and proposed structures and streets.
- (d) Application for zoning permits under the provisions of this Ordinance shall be accompanied by evidence of ownership of all property affected by the coverage of the permit.
- (e) Evidence of all required federal, state and county licenses or permits have been acquired or that applications have been filed for same.
- (f) Other information with respect to the proposed structure, use, lot and adjoining property as may be required by the Zoning Administrator.
- (g) The following information shall also accompany the application for a Zoning Permit:
 - 1) A survey may be required by the Zoning Administrator. A permit may not be issued until the Zoning Administrator has seen the surveyed lot lines.
 - 2) Any Permit required to be issued by the Charlevoix County Road Commission for any road or access.
 - 3) Proof of ownership.
 - 4) Approval from the Northwest Michigan Community Health Agency and Soil Erosion Control Officer, where applicable.

The written approval of the water supply and sewage disposal facilities, as obtained from the Northwest Michigan Community Health Agency, and as required in Article IV, Section 4.14, of this Ordinance, shall be accompanied by one (1) copy of both plans and specifications, which shall be filled in and retained by the office of the Zoning Administrator. The second copy shall be delivered to the applicant when the Zoning Administrator has inspected the premises and has approved the application and issued the permit. In cases of minor alterations, the Zoning Administrator may waive portions of the foregoing requirements obviously not necessary for determination of compliance with this Ordinance. Any permit required by this Zoning Ordinance or the Building Code of the Township shall be displayed face out, within twenty-four (24) hours of its issuance by placing the same in a conspicuous place on the

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premises facing the nearest street and shall be continuously so displayed until all work, or the term for which issued, or purpose for which issued is completed. Failure to obtain and display any such permit shall constitute a violation of the Zoning Ordinance and Building Code and shall subject each person or persons or corporation for whose benefit the permit is required and the owner or owners of the premises involved to prosecution for such violation.

SECTION 12.5 OCCUPANCY CERTIFICATE

It shall be unlawful to use or permit the use of any structure or premises hereafter altered, extended or erected, until the Building Inspector has made an inspection of the premises and shall have approved the same for occupancy in writing. Application for occupancy permits shall be made on suitable forms provided by the Department of Building Inspection.

SECTION 12.6 REASONABLE CONDITIONS

The planning commission and zoning board of appeals may attach reasonable conditions with the approval of a special use permit, planned unit development, development plan, variance, and other discretionary zoning decisions. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

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

SECTION 12.7 REHEARINGS

- (a) The Planning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. Exceptional circumstances shall mean any of the following:

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- 1) The applicant who brought the matter before the Planning Commission or Zoning board of Appeals made misrepresentations concerning a material issue that was relied upon the Planning Commission or Zoning Board of Appeals in reaching its decision.
 - 2) There has been a material change in circumstances regarding the Planning Commission's or Zoning Board of Appeals' findings of fact which occurred after the public hearing.
 - 3) The township attorney by a written opinion states that in the attorney's professional opinion the decision made by the Planning Commission or Zoning board of Appeals or the procedure used in the matter was clearly erroneous.
- (b) A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning Commission or Zoning Board of Appeals on its own motion, pursuant to the following procedure:
- 1) A request for a rehearing, which is made by an applicant must be made within twenty-one (21) days from the date of approval of the Planning Commission's or Zoning board of Appeals' minutes regarding the decision for which the rehearing is being requested.
 - 2) A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Planning Commission or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.
 - 3) Whenever the Planning Commission or Zoning Board of Appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the applicant's last known address, or may be served personally on the applicant. The notice must be served at least nine (9) days before the time set for the hearing if served by mail, or at least seven (7) days before the time set for the hearing if served by personal service. Service by mail shall be complete upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the Planning Commission or Zoning Board of Appeals holds a hearing at which it considers whether to grant a rehearing.
- (c) If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing on the merits shall not be held until all notice requirements for the type of decisions being reheard have been satisfied.

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SECTION 12.8 AMENDMENTS

Amendments or supplements to this Zoning Ordinance may be made from time to time in the manner provided by law.

- (a) The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the Zoning Map may be amended, supplemented or changed by ordinance of the Township Board.
- (b) Proposals for amendments, supplements, or changes may be initiated by the Township Board on its own motion, by the Planning Commission or by petition of one (1) or more owners of property to be affected by the proposed amendment.
- (c) The procedure to be followed for initiating and processing an amendment shall be as follows:
 - 1) Each petition by one (1) or more persons for an amendment shall be submitted by application to the Zoning Administrator on a standard form provided and shall be accompanied by the fee prescribed in Section 12.9. No part of such fee shall be returnable to a petitioner if a public hearing is publicly noticed.
 - 2) The Zoning Administrator shall notify, in writing, the Township Board and Chairperson of the Planning Commission at the same time or before, he transmits the amendment request to the Planning Commission.
 - 3) The Planning Commission shall consider each proposal for amendment in terms of its judgement on particular factors related to the individual proposal and in terms of the most likely effect on the community's physical development. The Planning Commission may recommend any additions or modifications to the original amendment proposal.
 - 4) After deliberation on any proposed amendment to the Zoning Ordinance test, the Township Planning Commission shall conduct at least one (1) Public Hearing. The notice for the Public Hearing shall comply with all of the following:
 - (a) The content of the notice shall include all of the following information:
 - (1) A description of the nature of the proposed Zoning Ordinance amendment.

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- (2) The time, date, and place the proposed Zoning Ordinance will be considered.
 - (3) The places and times at which the proposed Zoning Ordinance amendments may be examined.
 - (4) The address where and the deadline when written comments will be received concerning the proposed Zoning Ordinance amendment.
 - (b) The notice shall be published in a newspaper of general circulation within the Township not less than 15 days before the scheduled public hearing.
 - (c) The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operation within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of Public Hearing.
 - (d) After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the Planning Commission may adjourn from time to time a duly called Public Hearing by passing a motion specifying the time, date, and place of the continued Public Hearing.
- 5) Following such hearing, the Planning Commission shall submit the proposed amendment to the Charlevoix County Planning Commission for its comments and recommendation. The approval of the County Planning Commission shall be conclusively presumed unless the Commission shall, within thirty (30) days of its receipt, have notified the Township Clerk of its disapproval.
 - 6) The Township Planning Commission shall then transmit the proposed amendment to the Township Board with its recommendation. If the Township Board shall deem any changes, additions, or departures advisable, or if it should need any additional information, it shall refer the same to the Planning Commission for a report thereon within a time specified by the Township Board. After receiving the report, the Township Board shall grant a hearing on the proposed amendment to any property owner who, by certified mail, addressed to the Clerk of the Township Board, requests to be so heard and shall request the Planning Commission to attend any such hearing. Thereafter, at any regular meeting

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or at any special meeting called therefore, the Township Board may adopt or reject the proposed amendment.

- 7) After deliberation on any proposed amendment of the Zoning Ordinance rezoning property, the Township Planning Commission shall conduct at least one (1) Public Hearing. The notice for the Public Hearing shall comply with all of the following applicable provisions:
 - (b) For a proposed Zoning Ordinance amendment rezoning an individual property or 10 or fewer adjacent properties, the notice shall comply with all of the following:
 - (1) The content of the notice shall include all of the following information:
 - (i) A description of the nature of the proposed Zoning Ordinance amendment.
 - (ii) A description of the property of properties proposed for rezoning. The notice shall include a listing of all existing street addresses within the property or properties. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property or properties. If there are no street addresses, other means of identification may be used, such as using tax identification numbers or including a map showing the location of the property or properties.
 - (iii) The time, date, and place the proposed Zoning Ordinance will be considered.
 - (iv) The places and times at which the proposed Zoning Ordinance amendment may be examined.
 - (v) The address where and the deadline when written comments will be received concerning the proposed Zoning Ordinance amendment.
 - (2) The notice shall be published in a newspaper of general circulation within the Township no less than 15 days before the scheduled Public Hearing.
 - (3) The notice shall be sent by first-class mail or personal delivery to the owners of the property or properties

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proposed for rezoning not less than 15 days before the scheduled Public Hearing.

- (4) The notice shall also be sent first-class mail or personal delivery to all persons to whom real property is accessed within 300 feet of the property of properties proposed for rezoning and to the occupants of all structures within 300 feet of the property or properties proposed for rezoning not less than 15 days before the scheduled Public Hearing, regardless of whether the property or occupant is located in the Township. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection.
 - (5) The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of Public Hearing.
- (b) For the proposed Zoning Ordinance amendment rezoning eleven (11) or more adjacent properties, the notice shall comply with all of the following:
- (1) The content of the notice shall include all of the following information:
 - (i) A description of the nature of the proposed Zoning Ordinance amendment.
 - (ii) The time, date, and place the proposed Zoning Ordinance amendment will be considered.
 - (iii) The place and times at which the proposed Zoning Ordinance amendment may be examined.
 - (iv) The address where and the deadline when written comments can be sent concerning the proposed Zoning Ordinance amendment.
 - (2) The notice shall be published in a newspaper of general circulation within the Township not less than 15 days before the scheduled Public Hearing.

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- (3) The notice shall be sent by first-class mail or personal delivery to the owners of the property or properties proposed for rezoning not less than 15 days before the scheduled Public Hearing.
 - (4) The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of Public Hearing.
- 8) No application for a rezoning which has been denied by the Planning Commission shall be resubmitted within a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence by the Planning Commission to be valid.
- (d) The Township shall have the power to revoke or cancel any change of zone affected for any failure or neglect to comply with any provisions of this Ordinance, or in case any false statement or misrepresentation is made in any petition, application, specification, plan or sketch submitted or filed pertaining to rezoning proceedings, or for failure to carry out any provisions of such application, petition, specification, plan or sketch or conditions or provisions on which such amendment was granted.

SECTION 12.9 FEE SCHEDULE AND ESCROW ACCOUNT FOR ZONING FEES

- (a) **Fees.** To assist in defraying the costs of investigating, reviewing, and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in costs to the Township, the Township Board may from time to time adopt by resolution a fee schedule establishing basic zoning fees related to the following:
- 1) Zoning permits.
 - 2) Special Use permits.
 - 3) Appeals to or requests for interpretations by the Zoning Board of Appeals. Appeals and requests for interpretations initiated by the Township shall not be subject to a zoning fee.
 - 4) Classification of unlisted property uses.
 - 5) Requests for variances from the Zoning Board of Appeals.

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- 6) Requests for rezoning of property by individual property owners. Rezoning of property initiated by the Township shall not be subject to a zoning fee.
- 7) Development plan reviews.
- 8) Temporary dwelling permits issued by the Zoning Administrator.
- 9) Any other discretionary decisions by the Planning Commission or Zoning Board of Appeals.

The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spent by the members of the Planning Commission and/or Zoning Board of Appeals. The basic zoning fees are non-refundable, even when an application or appeal is withdrawn by the applicant.

- (b) **Additional Fees.** If the Planning Commission or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Planning Commission or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the Township Clerk such additional zoning fees in an amount determined by the Planning Commission or Zoning Board of Appeals equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Planning Commission or Zoning Board of Appeals to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

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SECTION 12.10 PERFORMANCE GUARANTEES

In connection with the construction of improvements through development plan approval, special land use approval, or a PUD project the Planning Commission may require the applicant to furnish the township with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter or credit, or surety bond acceptable to the township in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean by way of example, but are not limited to, roads, parking lots, and water and sewer systems which are located within the development or which the applicant has agreed to construct even though located outside the development. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Planning Commission that are located within the development. For the purposes of this section, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the township clerk at or before the time the township issues the permit authorizing the development, or if the development has been approved in phases, then the performance guarantee shall be deposited with the township clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the public and site improvements in accordance with the plans approved by the Planning Commission. Any cash deposit of certified funds shall be refunded for the development or each phase of a multiphase development in the following manner:

- (a) One-third of the cash deposit after completion of one-third of the public and site improvements;
- (b) Two-thirds of the cash deposit after completion of two-thirds of the public and site improvements; and
- (c) The balance at the completion of the public and site improvements. Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the public improvements. If a development is to be completed in phases, then the Planning Commission may require the applicant to furnish a performance guarantee as provided in this section for each phase of the development. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the township as a third-party beneficiary of the bond, then the Planning Commission may accept that bond as meeting all or a portion of the performance guarantee required by this section.

SECTION 12.11 ENFORCEMENT

- (a) Any land, dwellings, buildings, or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of this Ordinance or

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in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.

- (b) Any person, partnership, corporation, or association who creates or maintains a nuisance per se as defined in subsection 12.11 (a) above or who violates or fails to comply with this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a Municipal Civil Infraction. Every day that such violation continues shall constitute a separate and distinct offense under the provisions of this Ordinance.

Nothing in this section shall exempt the offender from compliance with the provisions of this Ordinance.

- (c) The Township Zoning Administrator is hereby designated as the authorized township official to issue civil infraction citations directing alleged violators of this Ordinance to appear in court.
- (d) In addition to enforcing this Ordinance as a municipal civil infraction, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

SECTION 12.12 INTERPRETATION AND CONFLICT

In interpreting and applying the provisions of this Ordinance, they shall be held to be minimum requirements adopted for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties provided, however, that where this Ordinance imposes a greater restriction upon the use of a building or land than existing easements, covenants or other agreements, the provisions of this Ordinance shall govern or control. Whenever the requirements of this Ordinance differ from the requirements of other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the highest standards shall govern.

SECTION 12.13 SAVINGS CLAUSE

The repeal of the prior zoning ordinances, pursuant to Section 12.16 shall not affect any rights acquired, fines, penalties, forfeitures or liabilities incurred there under or actions involving any of the provisions of said ordinances. Said ordinances repealed are hereby continued in force and effect after the passage, approval and publication of this Ordinance for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefore.

SECTION 12.14 VALIDITY

Should any section, clause or provision of this Ordinance be declared by the court to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

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SECTION 12.15 EFFECTIVE DATE

This Ordinance shall become effective as follows:

Made, passed and adopted by the Township Board of Peaine Township, Charlevoix County, State of Michigan, the 16th day of April, 2004.

Colleen M. Martin
Peaine Township Clerk

SECTION 12.16 REPEALER

The Zoning Ordinance dated March 18, 1974 (Peaine Township), and March 20, 1974 (St. James Township), as amended, is hereby repealed at such time as this Ordinance is effective.

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ARTICLE XIII

Reserved for future use.

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ARTICLE XIV DEVELOPMENT PLAN REVIEW

SECTION 14.1 Purpose

To minimize impacts from various uses that are allowed to locate within Peaine & St. James Townships, certain types of uses and uses in certain zoning districts are subjected to a more rigorous review to ensure the health, safety and welfare of the residents of the Townships.

SECTION 14.2 Application For Development Plan Review

- (a) An application package for a Development Plan Review shall be submitted to the Township Zoning Administrator. This application package shall contain seven (7) copies of the application and seven (7) copies of the plan map.
 - 1) An application shall contain the following information:
 - (a) The applicant's name, address and telephone number in full.
 - (b) Proof of property ownership.
 - (c) A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf.
 - (d) The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land) and the signature of the owner(s).
 - (e) The address, parcel number and legal description of the property being developed.
 - (f) Name and address of the developer (if different from the applicant).
 - (g) Name and address of all registered professionals involved with the proposed project including the engineers, architects, and surveyors. Plans shall contain the seal of a minimum of one (1) of the registered professionals responsible for the preparation of the same.
 - (h) Project description, including the total number of structures, units, bedrooms, offices, total floor areas, parking spaces,

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carports or garages, projections of employment levels for commercial and/or industrial uses, amount of recreation and open space, type of recreation facilities to be provided and related information as pertinent or otherwise required by this Ordinance.

- (i) Total acreage of the project.
 - (j) Project's proposed beginning and completion schedule (by phase if the entire project is to be divided into phases).
 - (k) The proposed Master Deed is to be included as a portion of the application package if the development is proposed to be a condominium or site condominium project.
 - (l) Any Development Plan submitted to the Planning Commission by the Zoning Administrator shall include all Township, County, State and/or Federal permits as may be required by said agencies including any appropriate plans and specifications required by said agencies.
- 2) Seven (7) copies of the Development Plan maps shall be submitted with the application package, one of which shall be capable of being reproduced. The development plan maps shall consist of accurate drawings at a scale of 1"=100' or less, showing the site and all land within 150' of the site. If multiple sheets are used, each shall be labeled and the preparer identified. Each set of development plan maps shall depict the following.
- (a) Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines, monument locations as the locations as well as the location of current land uses, zoning classifications and existing structures on and use of the subject parcel and adjoining parcels.
 - (b) Location and type of significant existing vegetation to be retained as well as those proposed to be removed.
 - (c) Location of existing and proposed buildings and intended uses thereof, as well as the length, width and height of each building.
 - (d) Proposed location of accessory structures, buildings and uses, including but not limited to all satellite dishes, antennas, flag poles, light poles, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable.

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- (e) Location of all existing public and private easements including road and utility rights-of-way on or abutting the property.
- (f) Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes serving the development. Details of entryway and sign locations should be separately depicted with an elevation view. Proposed street names shall be included.
- (g) Location, design and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including type of material proposed to be used for surfacing), fire lanes and all lighting thereof.
- (h) Location, size and characteristics of all loading and unloading areas if applicable.
- (i) Location and design of sidewalks, walkways, bicycle paths and areas for public use, if proposed, are to be included.
- (j) Location of water supply lines and/or wells, including fire hydrants and shutoff valves, and the location and design of storm sewers, retention or detention ponds, waste water lines, clean out locations, connection points and treatment systems, including septic systems, if applicable.
- (k) Location of all other utilities on the property including, but not limited to, natural gas, electric, cable TV and telephone.
- (l) Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable.
- (m) Location, size and specification of all signs.
- (n) Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.
- (o) Location and type of fencing, walls and other screening devices.
- (p) Location and specifications for all proposed perimeter and internal landscaping and other buffering features. For each new landscaping material, the type and size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated, as well as its general size and specific location.

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- (q) Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
- (r) Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials or hazardous materials as well as any containment structures or clear zones required by government authorities.
- (s) North arrow, scale and date of original submittal and last revision.
- (t) For facilities or uses where hazardous substances as defined by Resource Conservation and Recovery Act are stored, used or generated, the following information will be provided:
 - (1) Location and size of interior and exterior areas and structures to be used for storage, use, loading/unloading, recycling, or disposal of hazardous substances.
 - (2) Location of all underground and above ground storage tanks for uses as fuel storage, waste oil storage tanks, chemical storage, hazardous waste storage, collection of contaminated storm water, all similar uses.
 - (3) Location of exterior drains, dry wells, catch basins, retention/detention areas and other facilities designed to collect, store or transport storm water. The point of discharge for all drains.
 - (4) Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of the cleanup.
 - (5) Copies of all Federal/State/County permits required.
- (u) Other information deemed necessary by the Planning Commission to allow the Commission to determine whether the development will be harmonious with the community and to ensure the health, safety and welfare of the community is protected including but not limited to the following:
 - (1) The location and type of existing soils.
 - (2) Elevations of buildings, signs and other structures and typical elevation views of proposed structures.

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- (b) The applicant shall submit the required fees to the Zoning Administrator as set forth in the Section 12.9 of this Ordinance.
- (c) The Zoning Administrator shall review the contents of the application package and shall forward said material to the Planning Commission upon determination that the application package is complete with all requirements of this ordinance being met.
- (d) The Planning Commission upon request of the applicant may waive certain requirements of the plan listed above provided the Planning Commission shall document on the record specific reasons why specific requirements are being waived.

SECTION 14.3 Development Plan Review and Approval

- (a) The applicant or agent of the applicant must be present at any meeting at which the development plan is being considered. Should the applicant (or agent of) not be present for two (2) consecutive meetings at which the development plan is an agenda item, the development plan may be rejected by the Township Planning Commission and may be required to be resubmitted at a later date as a new application.
- (b) Only one (1) development plan shall be considered by the Planning Commission for a parcel of property at one time. The applicant may withdraw an application and apply with a new development plan. In this instance, the first development plan shall no longer be considered and a notation shall be made on the development plan that it has been withdrawn by the applicant.
- (c) The Planning Commission shall review and approve, review and approve with conditions, or review and deny all development plans submitted under this ordinance. Each development plan shall comply with Section 14.5 of this ordinance. Prior to any final decision, the Planning Commission shall seek the recommendation of other Federal, State, County or other local groups or agencies, when the Planning Commission feels it is applicable.
- (d) Development Plan approval shall be by the Planning Commission. The Planning Commission shall indicate in writing that all requirements of the Ordinance including those of other reviewing agencies have been met including any conditions that may be necessary. Where the applicant is dependent upon the granting of any variances by the Zoning Board of Appeals, said favorable action by the Zoning Board of Appeals is necessary before final development plan can be granted. An approved development plan shall include a note referencing the case number and date of all variances granted.
- (e) All development plans shall be acted upon by the Planning Commission in the order in which they are received by the Zoning Administrator. All development shall be acted upon within a reasonable period of time after

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receipt by the Planning Commission of a complete application and development plan meeting the requirements above. Any development plan submitted to the Planning Commission by the Zoning Administrator shall include evidence that all Township, County, State and/or Federal permits as may be required by said agencies and present appropriate plans and specifications as may be required by said agencies have been applied for.

- (f) Upon development plan approval by the Planning Commission, a Zoning Permit shall be issued.

SECTION 14.4 Agency Review

- (a) The Planning Commission may require the applicant to submit one (1) copy of the application for development plan review, along with any applicable maps and changes by the Planning Commission, to the following agencies
 - 1) Charlevoix Charlevoix Erosion and Sedimentation Control Officer.
 - 2) Charlevoix County Road Commission
 - 3) Charlevoix County Drain Commissioner.
 - 4) Northwest Michigan Community Health Agency.
 - 5) Charlevoix County Building Department.
 - 6) Charlevoix County Planning Department.
 - 7) Beaver Island Fire Department Chief.
 - 8) Michigan Department of Environmental Quality.
 - 9) Army Corps of Engineers.
 - 10) All other agencies with jurisdiction in regard to a particular project.
- (b) When a development plan is reviewed and approved or disapproved by the Planning Commission and all steps completed, five (5) copies of the development plan will be marked with said action and distributed to the following:

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- 1) One copy returned to the applicant signed by the Chairperson of the Planning Commission including any conditions of approval.
- 2) One copy forwarded to the Planning Commission secretary for filing.
- 3) One copy forwarded to the Zoning Administrator.
- 4) One copy forwarded to the Beaver Island District Library.
- 5) One copy forwarded to the Beaver Island Fire Department and EMS.

SECTION 14.5 Standards for Development Plan Approval.

- (a) Each development plan shall conform to all applicable provisions of the Zoning Ordinance and the standards listed below.
 - 1) All elements of the development plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings.
 - 2) The landscape shall be preserved in its natural state, insofar as practical, as determined by the Township Planning Commission, by minimizing tree and soil removal, and by topographical modifications which result in maximum harmony with adjacent areas.
 - 3) Special attention shall be given to proper development drainage so that removal of storm waters will not affect neighboring properties. Run-off from such developments may be required to be diverted to detention and settling basins before being discharged off site.
 - 4) All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.
 - 5) Every structure or dwelling unit shall have access to a street, walkway or other area dedicated to common use.
 - 6) All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened by a vertical screen consisting of structural or plant materials no less than

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five (5) feet in height. Plant materials shall be a minimum of five (5) feet in height at the time of planting.

- 7) Exterior lighting shall be arranged so that it is deflected away from neighboring properties and so that it does not impede the vision of traffic along adjacent streets nor add to the visual light pollution of neighboring properties.
- 8) All road approaches abutting paved public roads shall be surfaced with bituminous asphalt, concrete or similar materials.
- 9) The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets. Streets, which are part of an existing or planned pattern which serve adjacent development shall be of a width appropriate to handle the traffic volumes they will carry.
- 10) All proposed streets shall be shown on the development plan and include a Civil Engineer's signature and seal with a statement that the engineer is responsible for the design, and will oversee the construction and development of the road system.
- 11) Public streets to be deed to the Charlevoix County Road Commission shall meet their requirements.
- 12) Private roads, serving five (5) or more lots or parcels, shall at a minimum meet the following standards:
 - (a) Shall contain a sixty-six (66) foot right-of-way.
 - (b) Shall contain a grade that does not exceed ten (10%) percent.
 - (c) All dead end roads shall contain a cul-de-sac at the end with a minimum ninety (90) foot radius.
 - (d) The traveled portion of the road shall be a minimum of eighteen (18) feet in width with a two (2) foot shoulder on each side.

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- 13) All common drives or private roads, more than six hundred (600) feet in length servicing or to serve five (5) or more lots, shall have a road maintenance agreement and deed restrictions which provides for the perpetual private (non-public) maintenance of such drives and roads to a necessary and reasonable standard to serve the several interests involved. The documents shall contain the following provisions:
 - (a) A method of financing road maintenance and upkeep in order to keep the road in a reasonably good and usable condition.
 - (b) A workable method of apportioning the costs of maintenance, upkeep, and improvements.
 - (c) Contain provisions that the owners of any and all property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress, egress and use of the road. Normal ingress, egress and use shall include use by family, guests, invitees, tradesmen and other bound to and returning from any of the properties having a right to use the road. Provisions shall be included to allow ingress and egress by emergency and other public vehicles for whatever public services are necessary.
 - (d) A notice that if repairs and maintenance are not made, the Township may bring the drive or road up to safe design standards and assess owners of the lots served by the common drive or private road for the improvements, plus an administrative fee of up to 25% for out-of-pocket costs.
 - (e) A notice that no public funds of Peaine or St. James Townships are to be used to build, repair or maintain the common drive or private road.
- (b) For all proposed natural resource extraction, mining, or relocation operations, for and within a specific development, the following requirements shall be established:
 - 1) A performance guarantee shall be required for all proposed projects. This fee shall be of an amount sufficient to cover the costs, to the Township, of completing the earth moving and landscaping to the conditions detailed in the approved development plan.
 - 2) Sufficient native topsoil shall be left on the site as a ready resource to be used in reclamation work following excavation/extraction activity, unless an alternative or replacement plan is approved.

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- 3) Fences, berms, walls and other visual screening devices of sufficient height and construction shall be required to screen operations and stockpiles from views on public roads or waterways. Maximum slope grades may be specified.
- 4) The operation of mechanical equipment of any kind may be limited by the day and/or hour if the development is in a location that directly impacts homes and/or residential zoned lands, by creating an operating nuisance.
- 5) All structures, equipment and machinery shall be considered temporary and shall be removed from the development upon completion of the mineral extraction, mining or relocation.
- 6) Air pollution, noise and vibration factors shall be controlled within the limits governed by State and/or Federal regulations applicable to the facility.
- 7) If necessary to protect the area, access routes serving the development may be specified for the purpose of limiting the exposure of residential areas to earth moving vehicles.
- 8) The location of earth stockpiles, machinery, equipment and buildings, may be required to be approved by permit but only in terms to protect adjoining properties. Topography, vegetation, screening devices and physical isolation from residential properties shall be considered in locating development facilities and earth stockpiles.
- 9) The final grading and land reclamation plan for each permitted excavation may be required to be in general accordance with the character of uses and natural features on adjoining lands to the extent practical. All reclamation, grading and seeding practices shall be done per USDA Soil Conservation Services standards and specifications.
- 10) Specific development reclamation requirements may vary depending on the location of the development in terms of its exposure to view, physical isolation, influence on residential areas, sensitivity to the natural environment and/or reuse potential. The Planning Commission shall state specific reasons for such allowed variances.
- 11) Time limits may be established in the approval of a development plan to ensure the removal of the resource and restoration of the property in a timely fashion.

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- 12) Processing may be limited to only the materials extracted from the site.
- (c) For private recreational facilities or uses that have inland lake frontage, the following limitations shall be established:
- 1) Vehicle parking is permitted only as necessary for reasonable access to the location.
 - 2) If a private lake front park or playground is being developed as part of a subdivision, plat, condominium or other form of development, a minimum of one hundred (100) feet of shoreline and twenty thousand (20,000) square feet of land shall be required for five (5) or fewer non-lake lots. For each additional lot, an additional ten (10) feet of frontage and two thousand (2,000) square feet of land are shall be required.
 - 3) Boat docks shall not exceed one (1) per one hundred (100) feet of lot width. No dock shall be located in a manner that will impede the use of the lake by adjoining properties.
 - 4) No more than three (3) motor powered crafts shall be moored per one hundred (100) feet of lot width.
 - 5) Only one (1) raft shall be allowed per one hundred (100) feet of lot width.
- (d) Developments where hazardous substances are stored, used or generated the following standards shall apply:
- 1) Said developments shall be designed in such a manner to prevent spills and (unless permitted by state or federal statute) discharges to the air, surface or the ground, ground water, lakes, streams, rivers or wetlands.
 - 2) Secondary containment for the above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
 - 3) General purpose floor drains shall only be allowed if they are connected to a public sewer system providing primary, secondary and tertiary treatment, or an on-development closed holding tank (not a septic system), or regulated through a National Pollution Discharge Elimination Permit.

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- (e) Any of the following may be required by the Planning Commission if they deem that the scope, location, or nature of the project warrants:
- 1) A written narrative stating anticipated impacts upon existing infrastructure (including schools, existing utility services and traffic capacities of streets), community facilities, and on the natural environment of the sight and adjoining lands.
 - 2) Existing topographic elevations at two (2) foot intervals, proposed grades and direction of drainage flows.
 - 3) Location and elevation of existing water courses and water bodies, including county drains and man-made surface drainageways, floodplains and wetlands regulated under the following state statutes as amended: Public Acts 245 of 1929, 346 of 1972 and 203 of 1979; and federal codes as amended: Section 10 of the River and Harbor Act of 1899 and Section 404 of the Clean Water act of 1972.
 - 4) Identification of any significant amenities or unique natural features.

SECTION 14.6 Conditional Approvals

The Planning Commission may impose reasonable conditions in connection with the approval of a development plan pursuant to Section 12.6 of this Ordinance.

SECTION 14.7 Conformity to Approved Development Plan Required

Following final approval of a development plan by the Township, the applicant shall construct the development improvements in complete conformity with the approved, original or amended plan. Failure to do so shall be deemed a violation of this Ordinance.

SECTION 14.8 Performance Guarantee

The Township Planning Commission may require a performance guarantee by the applicant to ensure completion of improvements pursuant to Section 12.10 of this Ordinance.

SECTION 14.9 Amendments to Approved Development Plans

- (a) Amendments to an approved development plan may be made by the Planning Commission provided that such changes conform to the Zoning Ordinance. Minor changes to an approved plan may be made by the Planning Commission after construction has commenced, provided no such change results in any of the following:

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- 1) A change in the use or character of the development.
- 2) An increase in overall coverage of structures.
- 3) An increase in the intensity of use.
- 4) A reduction in open space.
- 5) A reduction in off-street parking and loading.
- 6) A reduction in pavement widths or utility pipe sizes.
- 7) An increase in traffic on public streets or an increase in the burden on public utilities or services.
- 8) Relocation of building entrances or exits, or shortening of building canopies.
- 9) Changing to a more restricted use provided there is no addition in the amount of off-street parking as originally provided.
- 10) Changing the angle of parking provided there is no reduction in the amount of required off-street parking.
- 11) Moving of ingress and egress drives a distance of not more than one hundred (100) feet if required by the appropriate State, County or other local road authority with jurisdiction.
- 12) Substituting landscaping materials or species provided a nurseryman, landscape architect, engineer or architect certifies the substituted species is similar in nature and will accomplish the same or an increased screening effect.
- 13) Change type and design of exterior lighting fixtures provided the Planning Commission deems that there will be no change in the intensity of light at the property boundary.
- 14) Increase perimeter yards.
- 15) Changing the location of an exterior building wall or location not more than ten (10) feet because of a natural impediment or hazard such as bedrock or muck soils, provided that in so doing, no setback requirement

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of the Ordinance is violated and no significant reduction in safety or in the amount of open space is thereby affected.

SECTION 14.10 Final Development Plan Approval

Upon completion of the installation of required improvements as shown on the approved development plan, the property owner shall submit to the Zoning Administrator eight (8) copies of the development plan as originally submitted or modified, certified by the engineer or surveyor, at least one week prior to the anticipated occupancy of any building. The Zoning Administrator shall circulate these plans among the appropriate departments for review to ensure conformity with the approved development plan and other township requirements. Once each department has approved the, original or modified, final plans, the Zoning Administrator shall notify the Charlevoix County Building Department that an occupancy permit may be issued. This is provided that the development plan has been complied with.

SECTION 14.11 Revocation of Development Plan Approval

- (a) A development plan approval may be revoked by the Township Planning Commission at any time in the development process if the development plan application or plans contained erroneous information that was supplied by the applicant.
- (b) A development plan approval may be revoked by the Township prior to the commencement of the project if a twenty-four (24) months time period has elapsed from the approval date and any of the following conditions can be demonstrated by the Planning Commission:
 - 1) Zoning regulations applicable to the area or project have been changed and the previously approved development plan does not comply with them.
 - 2) Changes in state law, county or township ordinances affecting the previous approval have occurred.
 - 3) Pollution, impairment or destruction of the environment or to another legally protected public interest would occur if the project were to be constructed as approved.
- (c) Revocation of an approved development plan shall be communicated in writing by certified mail to the applicant. The County Building Department shall be notified to withhold or revoke any building or occupancy permit until a new development plan is approved.
- (d) Any subsequent submittal of a revoked development plan shall be processed as a new request with new fees.

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ARTICLE XV TOWER ZONING REGULATIONS

SECTION 15.1 PURPOSE

The regulations set forth herein shall apply to and govern towers in all permitted zoning districts. No tower shall be erected, moved or structurally altered unless it conforms with the standards specified in the following sections and all necessary permits, including a zoning permit are obtained.

SECTION 15.2 SCOPE OF CONCERNS

Any Transmission Tower Application shall go before the Planning Commission to consider at a minimum, but not limited to, the items listed in Section 15.2 a) thru f). The notification requirements shall be the same as for a Special Use Permit if the tower use is authorized as a Special Land Use. Otherwise, the owners and occupants of land within 300 feet of the lot on which the proposed tower will be located shall be notified of the tower application.

- (a) To minimize adverse visual effects of towers through careful design, siting, and vegetation screening;
- (b) To avoid potential damage to adjacent properties, structures and towers from tower failure and falling ice through engineering and careful siting of towers;
- (c) To maximize use of any existing, as well as new, towers to reduce the number of towers needed;
- (d) To require fencing of tower bases and any guy anchor points for the purpose of public safety and to reduce the possibility of vandalism;
- (e) To limit radiation so that it will not adversely affect human health, and;
- (f) To limit tower height.

SECTION 15.3 APPLICABILITY

A transmission tower and accessory facilities permitted under Article XV are permitted for the following uses if they comply with the standards and regulations of sections 15.4, 15.5 and 15.6:

- a) FM radio, Two-way radio, Common carriers, Cellular telephones, and Fixed point microwave:
 - 1) A source of nonionizing radiation may be attached to any approved tower or structure in the "A", "I", "C-1" and "C-2" zoning districts if the Planning Commission finds the source complies with Sections 15.4, 15.5 and 15.6.

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- 2) A maximum height limit of one hundred ninety-nine (199') feet, or that is permitted under FAA regulations on towers and antennas listed in 15.02 a).
- b) An antenna and supporting structure for the following uses are permitted in any zoning district, if they comply with applicable regulation of the district in which located and do not exceed one hundred (100') feet in height.
- 1) UHF and VHF television reception
 - 2) Ham radio
 - 3) FM radio reception
 - 4) Citizen band radio
 - 5) A telecommunications device
 - 6) A sole-source emitter with less than one kilowatt average output,

Commercial communication tower for the benefit of the public in district "H", "R-1" and "R-2".
- c) Towers of various other uses including, but not limited to, wind powered generation units are permitted in the "A" Agriculture zone. Such permitted towers, including all attached equipment, shall not exceed one hundred (100) feet in height and shall meet the following approval standards. All towers must comply with the following:
- 1) Contain on-site all ice-fall or debris from tower failure.
 - 2) Accessory structures and guy anchors shall comply, at a minimum, with the yard setbacks of the zoning district in which located.
 - 3) Each site shall be visited and reviewed by the Township Planning Commission to judge if the proposed tower and antenna location provides the least visual effect possible to adjoining property owners and to the public.
 - 4) Towers or antennas shall not be artificially lighted unless required by the FAA or the Michigan Aeronautics Commission (MAC).
- d) If the height required for the tower to serve its intended function decreases from the installed height, due to technological advancement, additional tower installations at other locations, or other factors, the tower shall be lowered to such decreased minimum height at the owner's expense.

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- e) The Planning Commission may allow tower height to exceed the listed maximums, under special circumstances, after a Site Plan Review, if all of the following conditions are met:
- 1) The need for the increased height is the result of a stand of trees, existing land forms, or structures that would substantially hinder the reception/transmission of an antenna on a tower.
 - 2) The increased height is the minimum necessary to achieve a reasonable level of antenna reception/transmission on the tower. A reasonable level of antenna reception/transmission is not equivalent to maximizing the antenna reception/transmission. The Planning Commission shall not grant the increased height if the reasonable level of antenna reception/transmission is not met due to the use of inefficient equipment that does not utilize current commercial technologies.
 - 3) The increased height will not result in increased intensity on lighting of the tower due to FAA requirements.

SECTION 15.4 APPROVAL STANDARDS

For the preservation of public health, safety and general welfare the following approval standards, supported by written documentation, are to be met:

- (a) Proof that existing or approved towers or antennas cannot accommodate the equipment planned for the purposed tower or antenna.
 - 1) Planned equipment cannot be accommodated on an existing or approved tower if:
 - (a) Planned equipment would exceed the structural capacity of existing and accommodate planned or equivalent equipment at a reasonable cost as determined by the Planning Commission;
 - (b) Planned equipment will cause RF interference with other existing or planned equipment for that tower, and the interference cannot be prevented at a reasonable cost as determined by the Planning Commission;
 - (c) Existing or approved towers do not have space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or approved by the Township Planning Commission;
 - (d) Addition of the planned equipment on an existing or approved tower would result in NIER levels in excess of those permitted under Section 15.6;

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- (e) Other reasons that make it impracticable, as determined by the Planning Commission, to place the equipment planned by the applicant on existing and approved towers.
- 2) The site of existing and approved towers cannot practically accommodate the proposed tower or antenna due to a lack of land available for the proposed tower, support structure, antenna or accessory uses on or adjoining the site as determined by the Planning Commission.
- 3) Shared use of existing or proposed towers or tower sites shall be required, unless the applicant demonstrated that no existing tower or tower site can accommodate the applicant's proposed antenna.
- (b) Towers antennas and structures shall be set back from parcel lot lines, public property or streets sufficient to:
 - 1) Contain on-site all ice-fall or debris from tower failure;
 - 2) Protect the general public from NIER in excess of that allowed in Section 15.6;
 - 3) Preserve the privacy of adjoining property and streets. The site is of sufficient site to comply with the standard if:
 - (a) Accessory structures and guy anchors comply, at a minimum, with the yard setbacks of the district in which located;
 - (b) The tower base is set back from all property lines and public roads by a minimum distance of one hundred and ten (110%) percent of the total tower and antenna height. In some locations a tower and antenna will be allowed with less than one hundred and ten percent (110%) setback if the proposed tower carries a certification of engineering for that site, indicating that the tower collapses upon itself;
 - (c) The tower is set back from other on-site and off-site towers and supporting structures far enough so that one tower will not strike another tower or its supporting structure in the event that a tower or support structure falls.
 - (d) The tower can structurally accommodate the maximum number of foreseeable uses technically practicable.

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- 4) Have the least adverse visual effect on the area through compliance with the standards set forth by the following:
- (a) Each site shall be visited and reviewed by the Township Planning Commission to judge if the proposed tower and antenna location provides the least visual effect possible to adjoining property owners and to the public;
 - (b) The tower, and its highest antenna, does not exceed one hundred ninety-nine (199') feet in height and has a galvanized finish or is painted silver above the top of surrounding vegetation and is painted green below the top of surrounding vegetation at the completion of the project.
 - (c) Towers or antennas shall not be artificially lighted unless required by FAA or the Michigan Aeronautics Commission. Towers required to have lights shall use red lights as opposed to white strobe lights, unless white lights are specifically required by the Michigan Aeronautics Commission (MAC) or the Federal Aviation Administration (FAA).
 - (d) Existing on-site vegetation shall be preserved to the maximum extent.
 - (e) The site perimeter shall be landscaped, as specified in (A) thru (D) below, within one year of application approval:
 - (1) For all towers at least one row of evergreen trees four (4) feet in height, capable of forming a continuous barrier, shall be planted spaced not more than five (5) feet apart and not more than fifteen (15) feet from the site boundary;
 - (2) The above barrier may be broken to accommodate an access drive. In this case the barrier shall have an overlapping section to screen the sight so as to provide the appearance of an unbroken barrier;
 - (3) Vegetation, which dies shall be replaced with the original size and type within one year.
 - (4) Topography, walls, fences and features, other than those mentioned above, may be used if the Township Planning Commission finds that they achieve the same degree of screening as the evergreen barrier.
- (c) Tower bases and guy anchor points shall be fenced with a six (6) foot high chain link fence;

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- (d) Accessory buildings shall be permanent structures and may not be travel or construction trailers;
- (e) Accessory facilities may not include offices, long term vehicle storage, other outdoor storage, or broadcast studios or other uses that are not necessary to send or receive transmissions;
- (f) The proposed use shall comply with the applicable policies of the Beaver Island Master Plan;
- (g) The proposed use shall be consistent with applicable Federal and State of Michigan regulations, based on the applicant's provision of the information required in Section 15.5 (c).

SECTION 15.5 APPLICATION CONTENTS FOR A NEW TRANSMISSION TOWER

An application for the placement of a new transmission tower or antenna shall include:

- (a) A site plan or plans drawn to scale and identifying the site boundary, tower(s), guy wire anchors, existing and proposed structures, vehicular parking to be added, and uses, structures and land-used designations on the site and abutting parcels;
- (b) A report from a professional engineer containing the following:
 - 1) A description of the tower and the technical, economic and other reasons for the tower design;
 - 2) Proof that the tower complies with applicable structural standards for the requested use including its capacity and the number and type of antennas it is capable of accommodating.
 - 3) Demonstrate that the proposed NIER will comply with Section 15.6.
- (c) The applicant shall request the FAA, FCC and the Michigan Aeronautics Commission to provide a written statement that the proposed tower(s) or antenna complies with applicable regulations administered by that agency or that the tower or antenna is exempt from those regulations.
- (d) Written authorization from the owner of the site stating approval of the placement of the tower, guy anchors and any structure on his or her property.

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SECTION 15.6 NONIONIZING ELECTROMAGNETIC RADIATION STANDARDS

A source of nonionizing electromagnetic radiation (NIER), when combined with existing sources of NIER, shall not expose the general public to ambient radiation exceeding the FCC standards for the type of antenna specified in the tower application. Any antenna replaced or modified shall also meet the current NIER standards specified by the FCC for that antenna.

SECTION 15.7 INOPERABLE OR ABANDONED TOWERS

A fee of twenty (\$20) dollars per foot of tower height shall be paid upon approval of a permit to erect a tower, which has a use that is commercial in nature. This fee shall be held in escrow by the Township Board to be used for the removal and disposal of the tower in the event that the tower's use is discontinued for a period of five (5) years and the last known owner refuses to remove the tower at his or her own expense. This fee shall be returned, with interest, in the event a tower is removed by the owner. If for any reason the tower ceases operation or is abandoned the township may order its removal from the site by the owner of the tower within three months of notification by the Township.

SECTION 15.8 DEFINITIONS PERTAINING TO TOWERS

- (a) **Commercial use** – Signal transmission intended to produce or help enable monetary gain.
- (b) **General Population** – People who are not members of the family or employees of the owner or operator of a source of NIER or the owner or other users of the site of an NIER source.
- (c) **Hand Held Source** – A transmitter normally operated while being held in the hand of the user.
- (d) **Height of Antenna or Tower Above Grade or Ground** – The vertical distance between the highest point of the antenna or tower and the natural grade directly below this point
- (e) **Highest Calculated NIER Level** - The NIER predicted to be highest with all sources of NIER operating.
- (f) **Intermittent** – A radio transmitter that normally operates randomly and for less than fifteen (15) continuous minutes.
- (g) **Portable Source** – Transmitters and associated antennas that are moved from one point to another and operated at each location for less than one month at a time.
- (h) **Sole-Source Emitter** – One or more transmissions only one of which transmits at a given instant.

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- (i) **Source of Nonionizing Electromagnetic Radiation** – A source of NIER emitting between 100 kHz and 300 GHz with an ERP or EIRP of more than one watt.
- (j) **Transmission Tower** – A structure principally intended to support a source of NIER and accessory equipment related to telecommunications.
- (k) **Vehicular Source** – A transmitter regularly used in vehicles normally on the move.

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ARTICLE XVI PLANNED UNIT RESIDENTIAL DEVELOPMENT (PURD) OVERLAY

SECTION 16.1 PURPOSE AND INTENT

The PURD overlay is intended to be employed as a vehicle to arrange housing in clusters and other patterns that permanently preserve large areas of natural open space and the Township's rural character by allowing for variations in density, lot area, lot width and setback. It is the intent of PURD to provide incentives in the form of density bonuses and greater flexibility in the design and arrangement of housing units where extraordinary efforts are made to: preserve large areas of the site in their existing natural, topographic, and wooded state; preserve the Island's rural character; protect the rural character of road corridors; protect scenic views; avoid development on ridgelines; establish continuous open space corridors; and avoid critical dune areas.

SECTION 16.2 QUALIFYING CONDITIONS

In order to qualify for PURD consideration, all of the following conditions shall be demonstrated:

- (a) **Recognizable and Substantial Benefits.** The PURD shall result in recognizable and substantial benefits to the ultimate users of the project and to the Township, where such benefits would otherwise be unlikely to be achieved under the regulations of the underlying zoning district. The following benefits shall accrue from the PURD:
 - 1) The long-term protection and preservation of open space and valuable natural resources, in particular, steep slopes, critical dunes, woodlands, shorelines, lakes, and wetlands.
 - 2) The siting of structures and roads so as to leave substantial areas free from grading and development of any kind, especially where they correlate with steep slopes and critical dunes that are susceptible to soil erosion.
 - 3) The PURD protects the rural roadside character by locating housing within roadway corridors (the area on either side of the road) so it is hidden from the view of motorists, bikers, and pedestrians by existing vegetation, existing topography, or new landscaping.
- (b) **Minimum Site Area.** The minimum site area necessary to be considered for a PURD shall be twenty (20) acres.

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- (c) **Unified Control of Property.** The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completion and operation of the project in conformity with this Ordinance and the conditions of the PURD approval.
- (d) **Utilities.** PURDs shall be serviced by DEQ/Health Department approved on-site or community wastewater and potable water systems.
- (e) **Existing Zoning.** The land where the PURD is proposed to apply shall be zoned “A” Agricultural District.

SECTION 16.3 USES PERMITTED

Uses permitted shall be those permitted by right or by special use permit by the underlying zoning district.

SECTION 16.4 VARIATIONS PERMITTED

- (a) **Base Standards.** The area regulations of the underlying zoning district shall be the base standards from which the Planning Commission may consider variations. Satisfying the Qualifying Conditions of Section 16.2 and the minimum open space requirements of Section 16.5 alone shall not warrant the consideration of density bonuses.
- (b) **Variations Allowed by PURD/Density Bonuses.** To encourage housing patterns that preserve valuable natural open space and the Island’s rural character, the Planning Commission may vary the base standards of the underlying zoning district for any or all of the specific uses and facilities proposed to be part of the PURD. Density bonuses of up to 100 percent may be considered if the Planning Commission finds that at least six (6) of the following additional requirements are satisfied:
 - 1) The PURD preserves at least fifty percent (50%) of the project site area in permanent open space.
 - 2) Where one or more acres of steep slopes exist (slopes in excess of 18%), the PURD avoids the grading and development of all such slopes.
 - 3) The PURD establishes and protects an upland buffer of at least 100 feet consisting of native vegetation adjacent to all lakes, streams, ponds, creeks wetlands, and critical dune areas.
 - 4) The PURD protects and preserves scenic views from public roads to locally prominent and significant features. This may include the establishment of “no build” and “no plant” zones to insure that

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existing public views are not impeded by houses, buffers, vegetative screens, or growing vegetation. Clearing and management may also be required by the Planning Commission to maintain views to prominent features.

- 5) The PURD avoids all construction on ridgelines so that the top elevations of rooftops are constructed below the top elevations of ridgelines.
 - 6) Where they exist, the PURD protects and incorporates sites of historic, archeological or cultural value.
 - 7) The PURD permanently protects significant individual trees and stands of significant woodland and incorporates them into the design of the PURD.
 - 8) Proposed open space extends across the entire length or width of the PURD such that it is contiguous to existing or proposed open space on adjacent properties and establishes or has the potential to establish continuous wildlife and natural environmental corridors.
- (c) **Method of Calculating Allowable Density.** The maximum allowable number of dwelling units shall be determined by dividing the total gross area of the site by the minimum required lot area. For the “A” District, the resulting number may be multiplied by two (2) if the maximum bonus is determined by the Planning Commission to be applicable. The minimum allowable lot size shall be as required by the Michigan Community Health Agency for on-site utilities.

SECTION 16.5 PERMANENT OPEN SPACE REQUIREMENTS

- (a) **Minimum Required Open Space.** A minimum of twenty five percent (25%) of the project site shall be designated as permanent open space.
- (b) **Character of Designated Open Space.** Lands which are used to meet the minimum area requirements for designated open space shall not include: roads and road rights-of-way or easements; required front, side, and rear yards of buildings; hard surfaced recreational facilities such as tennis and basketball courts; or permanently submerged lands including marinas and submerged wetlands. Not more than fifty percent (50%) of the minimum required open space shall include wetlands.
- (c) **Use of Permanent Open Space.** In keeping with the rural character of the Island, permanent open space shall be used for the preservation of natural features, nature conservancies, environmental education facilities, trails, agricultural uses and activities, and recreational uses that service the needs of the

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residents of the PURD including noncommercial equestrian trails and stables and similar low intensity recreational uses. Commercial recreation uses, including golf courses, whether for use by the residents of the PURD and/or the public, shall not be permitted within required or negotiated permanent open space areas.

- (d) **Irrevocable Conveyance Required.** The required open space shall be set aside by the owner/applicant by irrevocable conveyance as shall be agreed upon between the Township and the applicant. Irrevocable conveyance shall include donation of the open space to the Township, another unit of government, or a land conservancy; recorded deed restrictions; protective covenants; and conservation easements; per the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended (MCL 399.251). The irrevocable conveyance shall insure that dedicated open space shall be permanently protected and used as agreed upon between the applicant and the Township. The Township Board shall be granted a legally enforceable interest in the required open space and such interest shall require approval by the Township Board before any change can be made to the character or use of the required open space from that which was agreed to as part of the development plan approval. Where the open space is held in private ownership, such conveyance shall:
- 1) Provide for the privately-owned open space to be maintained by private property owners with an interest in the open space, and provide for the assessment of the private property owners by the Township or the homeowners association for the cost of maintenance of the open space in the event that it is inadequately maintained or becomes a public nuisance and,
 - 2) Provide maintenance standards and a maintenance schedule.

SECTION 16.6 APPLICATION PROCEDURES

An application for a PURD shall be made on forms provided by the Zoning Administrator. The application shall be submitted by the owner of an interest in land for which PURD approval is sought, or by the owner's authorized agent. PURD applications shall be submitted in accordance with the following procedures and requirements, which provide for review and action by the Planning Commission.

- (a) **Optional Pre-Application Conference.** Prior to the submission of a formal PURD application for consideration of a Preliminary Development Plan, the applicant may request a meeting with the Planning Commission Chair, and the Zoning Administrator, together with such consultants and local officials and staff as either the Township or the applicant may deem appropriate. The purposes of the meeting will be to inform Township officials of the applicant's intent, to determine whether the minimum eligibility requirements of the PURD are satisfied, and to provide the applicant with information regarding land

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development policies, procedures, standards, and the ordinance requirements of the Township as they might apply to the proposed project. Statements made in the course of a pre-application conference shall not constitute legally binding commitments on the part of either party. At the pre-application conference (or conferences), the applicant may present a general sketch plan, which provides an overview of the proposed project.

(b) **Preliminary Development Plan: Application, Public Hearing and Action.**

- 1) Application. The applicant shall submit twelve (12) copies of the Preliminary Development Plan, written narrative, support documentation, and the application to the Zoning Administrator. The Preliminary Development Plan shall meet the submittal requirements of Section 16.7 of this Ordinance. The Preliminary Development Plan Application and support materials shall be submitted to the Zoning Administrator at least twenty-one (21) days prior to the date of the public hearing. The Zoning Administrator shall review the materials to determine whether they are complete. When complete, the Zoning Administrator shall forward copies to the Planning Commission.
- 2) Public Hearing. Once the application is deemed by the Zoning Administrator to be complete, the Planning Commission shall conduct at least one Public Hearing on the application. The notices for all Public Hearings before the Planning Commission concerning requests for Planned Unit Residential Developments (PURD's) shall comply with the following:
 - (a) The content of the notice shall include all of the following information:
 - (1) A description of the nature of the proposed Planned Unit Residential Development request.
 - (2) A description of the property on which the proposed Planned Unit Residential Development will be located. The notice shall include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if not such addresses currently exist within the property. If there are not street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
 - (3) The time, date, and place the proposed Planned Unit Residential Development request will be considered.

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- (4) The address where and the deadline when written comments will be received concerning the proposed Planned Unit Residential Development request.
 - (b) The notice shall be published in a newspaper of general circulation within the Township not less than 15 days before the scheduled Public Hearing.
 - (c) The notice shall be sent by first-class mail or personal delivery to the owners of the property on which the proposed Planned Unit Residential Development will be located not less than 15 days before the scheduled Public Hearing.
 - (d) The notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property in which the proposed Planned Unit Residential Development will be located and to the occupants of all structures within 300 feet of the property on which the proposed Planned Unit Residential Development will be located not less than 15 days before the scheduled Public Hearing, regardless of whether the property or occupant is located in the Township. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection.
 - (e) After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the Planning Commission may adjourn from time to time a duly called Public Hearing by passing a motion specifying the time, date, and place of the continued Public Hearing.
- 3) Review and Action. The Planning Commission shall review the Preliminary Development Plan application and public hearing comments, and shall approve, deny, or approve with conditions the Preliminary Development Plan. Approval shall require the affirmative vote of the majority of the total membership of the Commission. The decision shall be incorporated in a statement of conclusions relative to the Preliminary Development Plan. The Commission shall prepare a report stating its conclusions on the Preliminary Development Plan, the basis for its decision, the decision, and any conditions relating to an affirmative decision.
- 4) Approval Standards. The Planning Commission shall not approve a PURD unless it finds that the PURD conforms to the following standards:
 - (a) All elements of the Plan shall be harmoniously and efficiently organized in relation to existing topography and the character of adjoining property.

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- (b) The Plan shall be developed so as not to impede the normal and orderly development or improvement of surrounding property.
- (c) The landscape and natural landforms shall be preserved to the greatest extent possible. Furthermore, there shall be a minimum disruption of steep wooded slopes and the number of dwelling units permitted shall be clustered to substantially occupy areas of least slope.
- (d) The Plan shall fully comply with the requirements and standards of the County Drain Commissioner and the County Soil Erosion Control Officer regarding grading, storm water management, and soil erosion control.
- (e) The design of the PURD shall provide visual and sound privacy for all dwelling units within and surrounding the development, including appropriate perimeter setbacks and screening. Fences, walls, and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of the Plan's occupants.
- (f) The configuration of buildings, driveways, and other improvements shall permit emergency access on all sides of buildings by some practical means satisfactory to the Fire Chief. Every structure or dwelling unit shall have access to an approved street, walkway or other area dedicated to common use.
- (g) Signage, lighting, landscaping and building materials shall reflect an integrated development. Outdoor lighting shall be pursuant to the requirements of Section 4.25 of this Ordinance.
- (h) The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned roads and pedestrian or bicycle pathways in the area.
- (i) The proposed Plan shall comply with the requirements of the Northwest Michigan Community Health Agency and, where applicable, the County Road Commission.
- (j) All utilities serving a PURD, including electric, telephone, and cable television lines, natural gas and propane gas lines shall be placed underground.
- (k) Where density bonuses are requested, the Plan satisfies at least six (6) of the additional requirements listed in Section 16.4 (b).

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- (1) The proposed PURD will not create excessive additional public costs and will not be detrimental to the economic welfare of the Township.
- 5) Conditions. The Planning Commission may attach reasonable conditions to the approval of a Preliminary Development Plan pursuant to Section 12.6 of this Ordinance.
- 6) Record of Approval. The Zoning Administrator shall maintain a complete record of the approved Preliminary Development Plan and the approval process including the application, the written and graphic Preliminary Development Plan, the minutes of the Planning Commission meetings, written correspondence, public notices, mailing lists, and the conditions imposed by the Commission. If subsequently approved, the application, plans, and proceedings of the Final Development Plan shall be incorporated and maintained as part of the record of approval.
- 7) Phasing. Where a project is proposed for construction in phases, it shall be so designed that each phase, when completed, shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to insure protection of natural resources and the health, safety and welfare of the users of the PURD and residents of the surrounding area.
- 8) Extensions. A Final Development Plan application shall be approved and construction commenced for at least one phase of the PURD within two (2) years following Preliminary Development Plan approval or within two (2) years of any other necessary governmental approval required for commencement of the project. Upon written application prior to expiration, the Planning Commission may grant an extension for up to one (1) additional year if there is good reason to believe that the applicant will commence substantial construction toward completion of a phase of the Plan within the approved timeframe. The applicant shall demonstrate to the satisfaction of the Commission, that the project is feasible and marketable prior to receiving an extension.
- 9) Failure to Perform/Revocation. If an application for a Final Development Plan is not commenced within two (2) years following approval of a Preliminary Development Plan, construction has not commenced meaningfully toward completion, and a written extension prior to expiration has not been requested, the Zoning Administrator shall notify the applicant in writing of the expiration and revocation of the

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Preliminary Development Plan. The Planning Commission shall have the authority to revoke the Preliminary Development Plan in accordance with the following procedures:

- (a) Public Hearing. The Planning Commission shall conduct a public hearing in accordance with the notification and permit procedures of this Section.
- (b) Revocation. If, after taking testimony and reviewing the record, the Commission determines that the applicant is unlikely to commence a project in accordance with the approved Preliminary Development Plan, the Commission shall have the authority to revoke the Preliminary Development Plan. In the event the Commission decides to revoke the application, it shall inform the applicant in writing and provide the applicant with the reasons for such revocation.

(c) **Final Development Plan/Development Plan Review**

- 1) Application and Review. An application for a Final Development Plan shall be reviewed by the Planning Commission in accordance with the procedures established for Development Plan Review, Article XIV, of this Ordinance.
- 2) Substantial Compliance Required. The Final Development Plan shall be in substantial compliance with the approved Preliminary Development Plan. Substantial compliance shall mean the following:
 - (a) The number of residential living units has not increased or decreased by more than five percent from that approved in the Preliminary Development Plan;
 - (b) There has been no increase in the number of stories in any building;
 - (c) Open space has not been decreased or reconfigured to change its original design or intended use; and
 - (d) All conditions attached to the Preliminary Development Plan by the Planning Commission have been incorporated into the Final Development Plan.

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- 3) Failure to Comply. If the Final Development Plan is not in substantial compliance with the approved Preliminary Development Plan, the Zoning Administrator shall not forward the Final Development Plan to the Planning Commission for consideration.
- 4) Simultaneous Submittals. Applicants may combine the Preliminary Development Plan and Final Development Plan approvals for review by the Planning Commission by submitting all information required for both stages simultaneously.

SECTION 16.7 SUBMITTAL REQUIREMENTS

- (a) **Submittal Requirements for a Preliminary Development Plan.** The Preliminary Development Plan shall include the following information:
 - 1) Existing Conditions. The mapping and description of existing conditions including:
 - (a) A legal description and the ownership of the property.
 - (b) The number of acres broken down into buildable areas, unbuildable areas (i.e. ponds, lakes, streams, wetlands) and areas of public road right-of-way.
 - (c) Mapping and descriptions of existing conditions including site topography, slope conditions by slope category, drainage patterns, unbuildable areas, floodplains, woodlands and other vegetated areas, existing land use and structures, existing zoning and such other information as may be relevant to the review of the plan.
 - (d) Mapping and written descriptions of existing conditions surrounding and within two hundred (200) feet of the site including existing land use, historical and archaeological features, structures, roads, existing zoning, utilities, topography, and natural features that may have a relationship with the subject property.
 - (e) The description and mapping of soils conditions and their suitability to satisfy DEQ/Health Department requirements for waste water treatment.
 - 2) Preliminary Development Plan. A Preliminary Development Plan graphic or graphics for the entire site plus a written narrative illustrating:
 - (a) The location, number, density and height of residential units, the location and number of parking spaces, the location and

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dimensions of driveways, and the location and dimensions of other structures.

- (b) A narrative description of how the PURD satisfies the purpose and intent of the Article and the approval standards of Section 16.6 (b)(4).
- (c) Approximate road and utility types, locations, and sizes.
- (d) Generalized grading and drainage plans showing major cuts and fills and how and where drainage will be accommodated including the sizing and calculation of retention and detention areas.
- (e) The number of acres and the location of areas that are to remain undisturbed and permanently maintained in a natural state and preserved as open space and/or for natural feature, historical and archaeological and wildlife habitat preservation.
- (f) A description of the uses to be made of common open space, its proposed ownership and the instruments to be employed to irrevocably convey and maintain such open space.
- (g) Typical drawings and sketches which illustrate the proposed character of the development and the concepts and relationships of buildings to each other, to roads, to parking and to common open space areas and the proposed architectural style.
- (h) Generalized landscaping plans.
- (i) Generalized plans for signage and lighting including the location, size and character of signs and the type and character of lighting proposed, if any.
- (j) A description of the requested variations from underlying zoning district standards and the rationale for approval of said variations.
- (k) A plan for the timing and phasing of development.
- (l) A statement of the covenants or other restrictions proposed for the regulation and governance of the development.
- (m) A description of other governmental approvals that are required or pending and the status of these approvals.

PEAINE TOWNSHIP ZONING ORDINANCE

- (n) A general summary of the expected impacts of the PURD and the measures proposed to mitigate such impacts including traffic, environmental, and other impacts.
 - (o) The intent and ability to comply with the requirements of Article XIV, Development Plan Review, of this ordinance.
 - (p) Waivers. The Zoning Administrator may waive some of the submittal requirements of this Section if he or she finds that they do not apply.
- (b) **Submittal Requirements For a Final Development Plan.** A Final Development Plan, representing one phase of a PURD, shall include all of the information required by Article XIV, Development Plan Review, of this Ordinance. No grading, excavation, tree removal, filling, or construction of any kind shall be permitted until a Development Plan has been approved and the Zoning Administrator has issued a Zoning Permit. If any PURD phase is to be processed as a condominium subdivision, the proposed Master Deed shall accompany the application.

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ARTICLE XVII SUBDIVISION AND CONDOMINIUM SUBDIVISION REGULATIONS

SECTION 17.1 PURPOSE

The purpose of this Section is to regulate the creation and use of regular subdivisions and condominium subdivision developments within the Township and to promote and protect the health, safety and general welfare of the public. These regulations and controls shall in no way repeal, annul or in any way interfere with the provisions and standards of any other State and Federal laws and regulations.

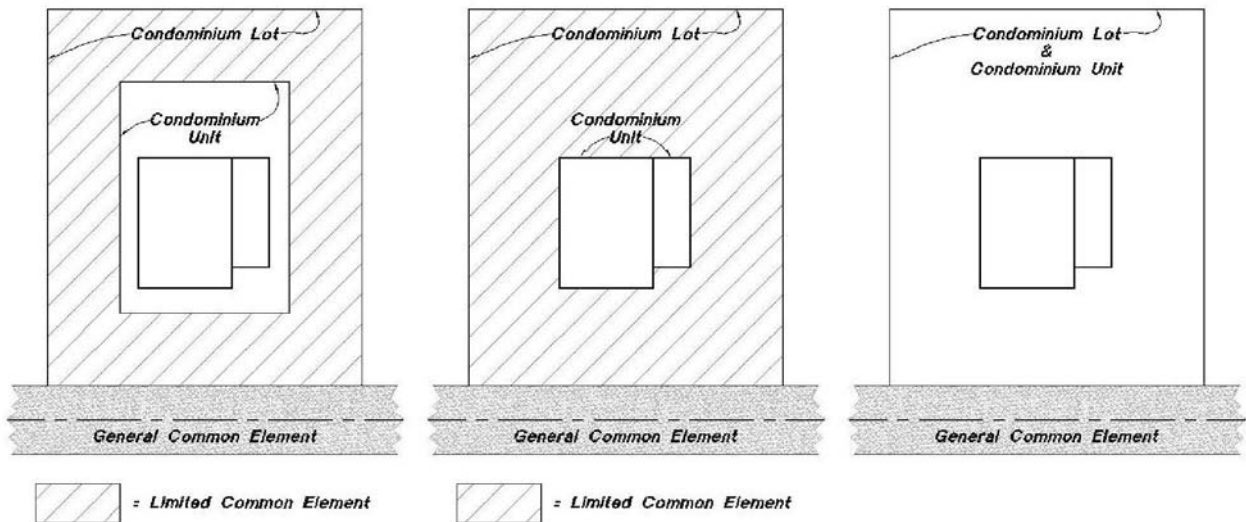
SECTION 17.2 GENERAL REQUIREMENTS

- (a) **Compliance with Federal, State and Local Laws.** All regular subdivisions and condominium subdivisions shall comply with all applicable Federal, State and local laws and ordinances.
- (b) **Zoning Standards.** Subdivision and condominium subdivisions shall comply with all of the zoning standards of this Ordinance.
- (c) **Required Review and Approval.** Prior to the recording of a subdivision under the Land Division Act of 1967 as amended, or a master deed, required by Section 72 of the Condominium Act, the project shall undergo Development Plan Review and approval by the Planning Commission in accordance with Article XIV of this Ordinance. Approval under this Ordinance shall be required as a condition to the right to construct, expand or convert a regular subdivision or a condominium subdivision in the Township.
- (d) **Compliance of Condominium Lot.** For the purposes of these regulations, each lot in a regular subdivision and each lot in a condominium subdivision shall be considered as a single lot and shall comply with all of the regulations of the Zoning District in which it is located. In a regular subdivision and a condominium subdivision containing single-family detached dwelling units, not more than one (1) dwelling unit shall be located on a lot and no dwelling unit shall be located on a lot with any other principal structure or use. Required yards shall be measured from the boundaries of a regular subdivision or condominium lot.
- (e) **Easements for Utilities.** Road rights-of-way shall be dedicated to the public or an association. The rights-of-way shall be for roadway purposes and for maintaining, repairing, altering, replacing, and/or removing pipelines, wires, poles, mains, conduits, and other installations of a similar nature, hereinafter collectively called “public infrastructure,” for the purpose of providing public utilities, including electric, communications, water, drainage and

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sewers. Easements for this purpose shall be provided either inside or outside the right-of-way.

Three Scenarios of Condominium Elements In a Single Family Detached Condominium Project



SECTION 17.3 PROCEDURES FOR DEVELOPMENT PLAN REVIEW AND APPROVAL

(a) Required Information.

- 1) All regular subdivisions and condominium subdivisions shall include the information required by the respective Acts and all other information required under the regulations pertaining to the Zoning District in which the subdivision or condominium subdivision is proposed or located.
- 2) In the case of a regular subdivision or a condominium subdivision consisting of single-family detached dwelling units, the location and dimensions of regular subdivision lots and condominium lots and units and required yards shall be shown on the Development Plan.

(b) Development Plan Review.

- 1) An application for Development Plan approval shall be filed for review per the requirements of Article XIV of this Ordinance. All

PEAINE TOWNSHIP ZONING ORDINANCE

procedures and standards of Article XIV shall apply to regular subdivisions and condominium subdivisions.

- 2) For regular subdivisions deed restrictions, if any, shall accompany the application. For condominium subdivisions, the application for Development Plan review shall also include a copy of the proposed Master Deed. Both shall be reviewed and approved by the Planning Commission and thereafter recorded with the County Register of Deeds.
 - 3) For regular subdivisions deed restrictions, if any, and for condominium subdivisions, the Master Deed shall be reviewed with respect to all matters subject to regulation by the Township, including but not limited to: the description, boundaries, use and preservation of common elements; the maintenance of drainage, retention ponds, wetlands and other natural areas; and the maintenance of landscaping in common areas of the project. For a condominium subdivision, the Master Deed shall provide for the means by which any private road right-of-way may be dedicated to the public entity having jurisdiction in the future should the Condominium Association deem such dedication later appropriate.
- (c) **Performance Guarantees.** As a condition of approval of the Development Plan for a regular subdivision or a condominium subdivision, the Planning Commission may require surety by the developer to make improvements shown upon the Development Plan and to insure completion of filing requirements. Performance guarantees shall be pursuant to Section 12.10 of this Ordinance.
- (d) **Manufactured Home Condominium Project.** Manufactured home condominium developments shall conform to the requirements of this Ordinance in accordance with the Condominium Act, and other applicable Local and State laws, ordinances and regulations.
- (e) **Additional Filings Required.** following the recording of the subdivision, and associated deed restrictions, or the Master Deed for a condominium subdivision, and following the construction of improvements, the developer shall file the following information with the Township Clerk:
- 1) One (1) mylar copy and five (5) prints of the as-built subdivision or Condominium Subdivision plans.
 - 2) Two (2) copies of the recorded deed restrictions for a regular subdivision or the Master Deed for a condominium subdivision with all pertinent attachments.

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- 3) Certification from the developer's engineer that improvements have been installed in conformance with the approved construction drawings and monuments.
- 4) Upon fulfillment of all requirements, the developer shall apply to the Township Clerk for release of performance guarantees.

PEAINE TOWNSHIP CODIFIED ZONING ORDINANCE

ADOPTING ORDINANCE
ORDINANCE NO. 01-2017

Effective Date: 11-20-17

AN ORDINANCE ADOPTING AND ENACTING THE CODIFIED ZONING ORDINANCE FOR PEAINE TOWNSHIP, MICHIGAN; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

PEAINE TOWNSHIP ORDAINS:

Section 1. Short title.

This ordinance shall be known as the "Codified Zoning Ordinance adopting ordinance" and may be so cited.

Section 2. Adoption of Code of Ordinances.

The Code entitled "Peaine Township Codified Zoning Ordinance," consisting of Articles I through XVII, is adopted.

Section 3. Repealer.

All ordinances of a general and permanent nature enacted on or before 11-8, 2017, and not included in the Code or recognized and continued in force by reference therein, are repealed. This repeal shall not be construed to affect a right or liability accrued or incurred under any

Section 4. Prior ordinances not revived.

The adoption of the Codified Zoning Ordinance shall not be construed to revive any ordinance or part thereof that has been repealed or replaced by a subsequent ordinance.

Section 5. Code additions or amendments.

This Code shall be amended by ordinance adopted as required by law. The effective date of such ordinance shall be the effective date set forth in the ordinance. The title of each amendatory ordinance, adapted to the particular circumstances and purposes of the amendment, shall be substantially as follows:

To amend any section:

AN ORDINANCE TO AMEND SECTION _____ OF THE PEAINE TOWNSHIP CODIFIED ZONING ORDINANCE.

To insert a new section, chapter, article, division or subdivision:

AN ORDINANCE TO AMEND THE PEAINE TOWNSHIP CODIFIED ZONING ORDINANCE BY ADDING A NEW SECTION _____ (NEW SECTIONS, OR A NEW CHAPTER, ARTICLE, DIVISION OR SUBDIVISION, as the case may be) WHICH NEW SECTION (SECTIONS, CHAPTER, ARTICLE, DIVISION OR SUBDIVISION) SHALL BE DESIGNATED AS ARTICLE _____ SECTION _____ (SECTIONS _____ AND _____ or proper designation if a chapter, article, division or subdivision is added) OF CHAPTER _____ OF SAID CODE.

To repeal a section, chapter, article, division or subdivision:

AN ORDINANCE TO REPEAL SECTION _____ (SECTIONS _____ AND _____) (as the case may be), ARTICLE _____, OF THE PEAINE TOWNSHIP CODIFIED ZONING ORDINANCE.

Subsequent amendments to the Zoning Ordinance as set forth above shall be included in the Code upon adoption of an annual Ordinance Approving the Editing and Inclusion of Certain Ordinances as Part of the Peaine Township Codified Zoning Ordinance.

Reference to the Code shall include the additions, amendments and repealers properly enacted as set forth above.

Section 6. Later ordinances.

Ordinances adopted after the effective date of this Ordinance that amend or refer to ordinances or provisions that have been codified in the Code adopted herein shall be construed as if they amend or refer to like provisions of the Code. References to specific section numbers of any prior code in ordinances adopted prior to this ordinance's effective date, where the section number has changed as a result of recodification shall be construed as if the reference is to the new section number in the this Code.

Section 7. Savings clause.

The alteration of any ordinance, or change of section number of any ordinance by this ordinance does not relinquish any penalty, forfeiture, or liability, whether criminal or civil in nature, and such ordinance shall be treated as still remaining in force as necessary for the purpose of instituting or sustaining any proper action or prosecution for the enforcement of the penalty, forfeiture, or liability.

Section 8. Severability.

If any word, phrase, portion or section of the code or application of any portion or section of the code to a specific person, property, or situation is found to be invalid by a court or tribunal, that invalidity shall not affect the remaining portions or applications of the code which can be given effect without the invalid portion or application as long as the remaining portions are not determined to be inoperable and, to this end, this code and its provisions are declared to be severable.

Section 9. Effective Date.

This ordinance shall become effective seven (7) days following the date of publication of this Ordinance in the manner provided by law.

YEAS: Welke, Kubic, Kohls, C. Martin, E. Martin

NAYS: None

STATE OF MICHIGAN)
)
COUNTY OF CHARLEVOIX)

We, the undersigned, the duly qualified and acting Supervisor and Clerk of Peaine Township, Charlevoix County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and complete copy of an Ordinance adopted at a regular meeting of the Township Board on the 8th day of November, 2017, and that such Ordinance was duly published in the Petoskey News Review on the 13th day of November, 2017.

William Kohls
William Kohls, Township Supervisor

Carla Martin
Carla Martin, Township Clerk

TO: RESIDENTS AND PROPERTY OWNERS OF THE TOWNSHIP OF PEAINE, CHARLEVOIX COUNTY, MICHIGAN AND OTHER INTERESTED PERSONS.

PLEASE TAKE NOTICE that on the 8th day of November, 2017, at a regular meeting of the Township Board for Peaine Township, Charlevoix County, Michigan, the Township Board adopted the following Codified Zoning Ordinance adopting ordinance to read in its entirety as follows:

AN ORDINANCE ADOPTING AND ENACTING THE CODIFIED ZONING ORDINANCE FOR PEAINE TOWNSHIP, MICHIGAN; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

PEAINE TOWNSHIP ORDAINS:

Section 1. Short title. This ordinance shall be known as the "Codified Zoning Ordinance adopting ordinance" and may be so cited.

Section 2. Adoption of Code of Ordinances. The Code entitled "Peaine Township Codified Zoning Ordinance," consisting of Articles I through XVII, is adopted.

Section 3. Repealer. All ordinances of a general and permanent nature enacted on or before November 8, 2017, and not included in the Code or recognized and continued in force by reference therein, are repealed. This repeal shall not be construed to affect a right or liability accrued or incurred under any

Section 4. Prior ordinances not revived. The adoption of the Codified Zoning Ordinance shall not be construed to revive any ordinance or part thereof that has been repealed or replaced by a subsequent ordinance.

Section 5. Code additions or amendments. This Code shall be amended by ordinance adopted as required by law. The effective date of such ordinance shall be the effective date set forth in the ordinance. The title of each amendatory ordinance, adapted to the particular circumstances and purposes of the amendment, shall be substantially as follows: To amend any section: AN ORDINANCE TO AMEND SECTION _____ OF THE PEAINE TOWNSHIP CODIFIED ZONING ORDINANCE. To insert a new section chapter, article, division or subdivision: AN ORDINANCE TO AMEND THE PEAINE TOWNSHIP CODIFIED ZONING ORDINANCE BY ADDING A NEW SECTION _____ (NEW SECTIONS, OR A NEW CHAPTER, ARTICLE, DIVISION OR SUBDIVISION, as the case may be) WHICH NEW SECTION (SECTIONS, CHAPTER, ARTICLE, DIVISION OR SUBDIVISION) SHALL BE DESIGNATED AS ARTICLE _____ SECTION _____ (SECTIONS _____ AND _____

or proper designation if a chapter, article, division or subdivision is added) OF CHAPTER _____ OF SAID CODE. To repeal a section, chapter, article, division or subdivision: AN ORDINANCE TO REPEAL SECTION _____ (SECTIONS _____ AND _____) (as the case may be), ARTICLE _____ OF THE PEAINE TOWNSHIP CODIFIED ZONING ORDINANCE. Subsequent amendments to the Zoning Ordinance as set forth above shall be included in the Code upon adoption of an annual Ordinance Approving the Editing and Inclusion of Certain Ordinances as Part of the Peaine Township Codified Zoning Ordinance. Reference to the Code shall include the additions, amendments and repealers properly enacted as set forth above.

Section 6. Later ordinances. Ordinances adopted after the effective date of this Ordinance that amend or refer to ordinances or provisions that have been codified in the Code adopted herein shall be construed as if they amend or refer to like provisions of the Code. References to specific section numbers of any prior code in ordinances adopted prior to this ordinance's effective date, where the section number has changed as a result of re-codification shall be construed as if the reference is to the new section number in this Code.

Section 7. Savings clause. The alteration of any ordinance, or change of section number of any ordinance by this ordinance does not relinquish any penalty, forfeiture, or liability, whether criminal or civil in nature, and such ordinance shall be treated as still remaining in force as necessary for the purpose of instituting or sustaining any proper action or prosecution for the enforcement of the penalty, forfeiture, or liability.

Section 8. Severability. If any word, phrase, portion or section of the code or application of any portion or section of the code to a specific person, property, or situation is found to be invalid by a court or tribunal, that invalidity shall not affect the remaining portions or applications of the code which can be given effect without the invalid portion or application as long as the remaining portions are not determined to be inoperable and, to this end, this code and its provisions are declared to be severable.

PLEASE TAKE FURTHER NOTICE that this Ordinance will be effective 7 days following this notice of adoption and a copy of this Ordinance and a copy of the Codified Zoning Ordinance may be purchased or inspected at the office of the Township Clerk during office hours Tuesdays from 1:00pm until 4:00pm or by appointment at the following address:


Carla Martin
Peaine Township Clerk
36825 King's Hwy
Beaver Island, MI 49782

(L-11/13)

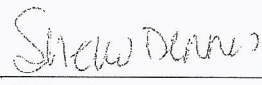
Proof of Publication

STATE OF MICHIGAN)
COUNTY OF CHARLEVOIX)

Hilary August
BEING DULY SWORN, DEPOSES AND SAYS
THAT she is the Principal clerk of the Petoskey
News Review, a newspaper printed and published in
the County of Emmet, in said state; that the annexed
printed notice was published in said newspaper on:
November 13, 2017
signed:


Hilary August

Subscribed and sworn to before me this
13th day of November, 2017

signed: 
Shelli Dennis
Notary Public in Emmet County, acting in
Charlevoix County, Michigan
My commission expires May 23, 2023.