

# **HAMILTON TOWNSHIP ZONING ORDINANCE**

**Adopted**

**November 7, 2013**

**Hamilton Township  
Clare County, Michigan**

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**Hamilton Township  
County of Clare, State of Michigan**

**ZONING ORDINANCE**

**An Ordinance enacted by Hamilton Township under Public Act 110 of 2006, as amended, the Michigan Zoning Enabling Act, to regulate the use and development of land and provide for the establishment of districts within which specified land use and development may occur including restrictions and requirements for structures, buildings, yards, and development densities, and to establish a permitting system to ensure reasonable review and authorization of land uses and development including the issuance of permits, appeals of decisions, and penalties for violations.**

**THE HAMILTON TOWNSHIP BOARD ORDAINS:**

**Article 1  
TITLE and PURPOSE**

**Section 1.1 Title**

This Ordinance shall be known and cited as the Hamilton Township Zoning Ordinance.

**Section 1.2 Purpose**

It is the purpose of this Zoning Ordinance to regulate the use of land and structures to meet the needs of the state's citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land in accordance with the land's character and adaptability, to ensure that the use of land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities, to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements, to promote public health, safety, and welfare including the conservation of property values and natural resources including wooded areas, wetlands, and water resources, to implement the goals, objectives and policies of the Hamilton Township Master Plan adopted pursuant to the Planning Enabling Act, Public Act 33 of 2008, as amended, and to advance all other purposes as authorized by the Michigan Zoning Enabling Act.

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**End of Article 1**

## Article 2 DEFINITIONS

### **Section 2.1 Construction of Language**

For the purpose of this Ordinance, certain rules of construction apply to the text as follows:

- A.** Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
- B.** The word "person" includes a corporation, association, partnership, trust, firm, or similar activity as well as an individual.
- C.** The word "building" includes the word "structure" and both include any part thereof.
- D.** The word "lot" includes the word "plot", "tract", or "parcel".
- E.** The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
- F.** The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended to be used or occupied," "arranged to be used or occupied," "maintained to be used or occupied," or "designed to be used or occupied."
- G.** The words "this Ordinance" means the text of this Ordinance as well as all maps, tables, graphics, and schedules, as included or attached as enacted or subsequently amended.
- H.** Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either...or," the conjunction shall be interpreted as follows:
  - 1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
  - 2. "Or" indicates the connected items, conditions, provisions or events may apply singly or in any combination.
  - 3. "Either/or" indicates that the connected items, conditions, provisions, or events shall apply singly, but not in combination.
- I.** The "Township" is the Township of Hamilton in the County of Clare, State of Michigan. The "Township Board", "Zoning Board of Appeals" and "Planning Commission" are, respectively, the Board of Trustees, Zoning Board of Appeals, and Planning Commission of the Township.
- J.** Any word or term not interpreted or defined by this Ordinance shall be used with a meaning of common or standard utilization. A dictionary may be consulted.
- K.** Where a specific agency, department, law, or rule is referred to in this Ordinance, such reference shall include any successor agency, department, law or rule.

### **Section 2.2 Definitions**

**Abutting:** The sharing of a lot line between the subject lot and another lot, easement or other feature.

**Adjacent:** To abut or be nearby.

**Accessory Building or Structure:** A building or structure customarily incidental and subordinate to the principal building, and located on the same lot as the principal building except where this Ordinance expressly permits otherwise.

**Accessory Use:** A use customarily incidental and subordinate to the principal use of the lot, and located on the same lot as the principal use except where this Ordinance expressly permits otherwise.

**Adult Entertainment Business:** Refer to Article 8, Section 8.2 for definitions pertaining to adult entertainment businesses.

**Adult Foster Care Facility:** An establishment licensed under Public Act 218 of 1979, as amended, that provides to adults, for compensation, supervision, personal care, and protection in addition to room and board, for 24 hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks, including facilities for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care. A foster care facility does not include a home for the aged licensed under Article 17 of Public Act 368 of 1978, as amended, nor a nursing home licensed under Public Act 139 of 1956, as amended.

- a. **Family Home:** An adult foster care facility consisting of a private residence with the approved capacity to receive six (6) or fewer adults, the licensee for which shall be a member of the household and an



Occupant of the residence.

b. **Group Home:** An adult foster care facility with the approved capacity to receive seven (7) but no more than twenty (20) adults.

**Agriculture:** The cultivating or use of land, including associated buildings and machinery, for the commercial production of farm products including but not limited to pasturage, floriculture, dairying, horticulture, forestry, field crop and fruit farming, and livestock and poultry husbandry. "Agriculture" shall not be interpreted to include kennels, commercial stables, and similar activities that do not comprise the commercial production of farm products.

**Arcade:** Any business where more than fifty percent (50%) of the floor area is devoted to the use of machines which may be operated or used as a game, contest or for amusement of any description, not including devises used solely for playing music or establishments otherwise defined as adult entertainment businesses.

**Assisted Living Facilities:** Any facility licensed by the State of Michigan that provides residential services to adults in addition to any other services essential for sustaining the activities of daily living, and not otherwise constituting an adult foster care facility as defined in this Ordinance. Such additional services may include, but need not be limited to, the provision of meals including congregate meals, transportation services, entertainment, occasional nursing care, and day trips.

**Basement:** That portion of a building which is partly or wholly below the ground elevation, but so located that the vertical distance from the average outdoor abutting ground elevation along the entire perimeter of the walls surrounding the floor is greater than the vertical distance from such average elevation to the ceiling. A basement shall not be counted as a story. The "average outdoor abutting ground elevation along the entire perimeter of the walls surrounding the floor" shall be determined by averaging ground elevations at twenty (20) foot intervals along the perimeter walls. A basement shall not be counted as a story. *(See Figure 2-1 at end of this Article)*

**Bed and Breakfast:** A structure which was constructed for single family residential purposes but which may be used for the purpose of renting bedrooms on a nightly basis, including the provision of bathing and lavatory facilities and a breakfast meal for overnight guests only, and occupied by the owner.

**Berm:** A mound of earth graded and shaped in such a fashion as to be used for visual and/or audible screening purposes.

**Billboard:** See Article 10 for definitions pertaining to billboards and other signs.

**Building:** Any structure having a roof supported by columns, walls, or any other supports, which is used for housing, sheltering, storing, or enclosing persons, animals, or personal property, or carrying on business or other activities. This definition includes but is not limited to dwellings, garages, and greenhouses.

**Building Code:** Codes adopted by the Township pursuant to the Michigan Construction Code and fully independent of the Zoning Ordinance, that establish minimum standards for construction such as, but not limited to, standards pertaining to foundations, footings, framing, roof loads, plumbing systems, electrical systems and fire protection.

**Building Height:** The vertical distance measured from the average finished ground elevation along the front of the building where it abuts the front yard to the highest point of the roof surface, except as follows: to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs. The "average finished ground elevation" shall be determined by averaging ground elevations at ten (10) foot intervals along all perimeter walls oriented to the front yard.

**Building Inspector:** An individual or entity retained by the Township to administer the Michigan Construction Code.

**Building Permit:** Written authority by the building inspector confirming that proposed construction is in compliance with the Michigan Construction Code.

**Campground:** A facility where sites are offered for use by the public, either free of charge or for a fee, for the establishment of temporary living quarters. Temporary living quarters means a tent, recreational vehicle, or any portable temporary housing designed to be carried or towed by a vehicle and placed for temporary living quarters. "Campground" shall not be construed to include any facility or portion of a facility where such temporary housing sites are purchased by users or not owned by the facility owner, including but not necessarily limited to condominium ownership.

**Cemetery:** Property, including crematories, mausoleums, and/or columbarium's, used or intended to be used solely for the perpetual interment of deceased human beings or customary household pets.

**Certificate of Occupancy:** A document issued by the building inspector certifying that the described property and/or construction on such property complies with the provisions of the Building Code and may be legally occupied.

**Church:** 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 purpose. "Church" shall not be construed to mean an undertaker's chapel or funeral home.

**Club:** An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, agriculture or similar activities, but not operated for profit nor open to the general public, and does not provide merchandise, vending, or services customarily offered on a commercial basis except incidentally for the membership and purpose of such club.

**Condominium:** A project consisting of two (2) or more condominium units established and approved in conformance with the Condominium Act (Public Act 59 of 1978, as amended).

**Condominium Master Deed:** The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project.

**Condominium, Site:** A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision, wherein in the condominium units function largely as lots within a platted subdivision.

**Condominium Subdivision Plan:** The drawings attached to the master deed for a condominium project which describe the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium project, as well as the nature, location and size of common elements. A site condominium may not necessarily have vertical or volumetric limits.

**Condominium Unit:** That portion of a condominium designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use. A condominium unit may consist of either vacant land as in the case of a site condominium, or space which either encloses or is enclosed by a building. A condominium unit in a site condominium shall be equivalent to the term "lot" for the purposes of determining compliance of the site condominium with the provisions of this ordinance pertaining to minimum lot size, minimum lot width, setbacks, maximum lot coverage, and similar standards pertaining to lots.

**Convalescent Home:** A facility that houses persons who receive a wide range of health and support services including the provision of meals and nursing care (also referred to as a nursing home).

**Day Care Center:** A facility, other than a private residence, receiving 1 or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Day care center includes a facility which provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Day care center does not include a Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization or a facility operated by a religious organization where children are cared for comparatively short periods of time while persons responsible for the children are attending religious services.

**Day Care, Family Home:** A private home in which the operator permanently resides as a member of the household in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.

**Day Care, Group Home:** A private home in which the operator permanently resides as a member of the household in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to more than six unrelated minor children for more than 4 weeks during a calendar year.

**District:** See Section 4.1.

**Drive-In / Drive-Through Establishment:** A business establishment which by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles.

**Driveway:** A means of access for vehicles from a public road or approved private road or alley, across a lot, to a parking or loading area, garage, dwelling or other structure or area on the same lot, that is located and constructed in accordance with the requirements of this Ordinance and any requirements of the Clare County Road Commission and Michigan Department of Transportation, and which is intended to principally serve the occupants of the lot. A driveway shall not be construed as a public or private road as defined in this Ordinance.

**Dwelling, Multiple Family:** A building containing three (3) or more dwelling units for three or more families living independently of each other.

**Dwelling, Single Family:** A detached building or portion thereof designed and used exclusively by one family for living, cooking and sleeping purposes, which meets the standards of Sec. 21.6.

**Dwelling, Two Family (Duplex):** A building containing two separate dwelling units.

**Dwelling Unit:** One or more rooms with bathroom and principal kitchen facilities designed as a self-contained unit for occupancy by one family for living, cooking, sleeping and ingress/egress purposes. In cases of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit and shall comply with the provisions of this Ordinance pertaining to dwellings.

**Easement:** A legally recorded grant of one or more of the property rights of a property owner to the public or another person or entity.

**Erected:** Anything built, constructed, reconstructed, moved upon, or any physical operations upon a lot required for such activities. Excavations, fill, grading, drainage, and the like, shall be considered a part of "erection."

**Essential Services:** The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water transmission or distribution systems, collections, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare, but not including communication or other towers, buildings, substations, the storage of or shelters for service equipment, maintenance depots, and similar above ground facilities.

**Excavation:** Any breaking of ground, except common household gardening, farming and ground care.

**Extraction Operation:** The removal of any earthen material, including top soil, sand, gravel, stone or any other earthen material, for the purpose of sale or use or disposition on another parcel, including mining, moving, crushing, sorting, washing, and other activities directly relating to the extraction operation. Extraction operations shall not be construed to apply to extraction activities that are necessitated by and part of the construction of a building, parking lot, or other construction project on the same lot and for which all necessary permits have been granted.

**Family:**

- a. An individual or group of two (2) or more persons related by blood, marriage, or adoption, including foster children and servants, together with not more than two additional persons not related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit; or
- b. A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period. This definition shall not apply in instances of group care centers, or state licensed residential facilities as established under P.A. 395 of 1976, as amended.

**Fence:** An accessory structure intended to serve as an obscuring screen, physical barrier, and/or decorative landscape element.

**Filling:** The depositing or dumping of any matter into or onto the ground.

**Floor Area, Gross:** The sum of all horizontal areas of all floors of a building or buildings, measured from the interior faces of exterior walls.

**Floor Area, Dwelling:** The sum of the floor area of each story of a dwelling unit, measured from the interior faces of the exterior walls but excluding floor area associated with a basement, unfinished attic, attached garages, breezeways, and enclosed and unenclosed porches.

**Floor Area, Usable:** For the purposes of computing parking requirements, usable floor area shall be considered as that area to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, stairways, and elevator shafts, or for restrooms and janitorial service rooms, shall be excluded from the computation of usable floor area. Usable floor area shall be measured from the interior faces of the exterior walls and includes the sum of the usable floor area for all floors unless expressly specified otherwise.

**Frontage:** The total continuous length of the front lot line. See definition for "lot lines."



**Garage:** An accessory building or an accessory portion of a principal building designed or used primarily for the storage of non-commercial motor vehicles, boats, motor homes, snowmobiles, and similar vehicles owned and used by the occupants of the building to which it is accessory.

**Home Occupation:** See Section 21.9.

**Hospital:** An institution that is licensed by the State of Michigan to provide in-patient and out-patient medical and surgical services for the sick and injured, and which may include such related facilities as laboratories, medical testing services, staff offices, pharmaceutical services, and other support facilities and services.

**Hotel/Motel:** A building or group of buildings, whether detached or in connecting units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers. The term "hotel" shall include buildings designated as motels, auto courts, tourist cabins and courts, motor courts, motor hotel, and similar appellations which are designed as integrated units of individual rooms under common ownership. A hotel shall not be construed as a multiple family dwelling. A hotel may include support services, including recreation facilities and the serving of meals, where approved for such.

**Junkyard:** Any outdoor area or building used for: 1) the abandonment, storage, keeping, collecting, selling, exchanged or baling of scrapped, worn out, abandoned or discarded materials, which may include but need not be limited to paper, rags, glass, cans, bottles, appliances and construction materials; and/or 2) the abandonment, demolition, dismantling, storage, keeping, collecting, selling, exchanging or salvaging of machinery, automobiles or other vehicles not in normal running condition, or parts thereof. A junkyard may also be referred to as a salvage yard.

**Kennel:** A lot or premises on which four (4) or more dogs, or four (4) or more cats, or four (4) or more similar animals, six (6) months of age or older, are kept for compensation, either permanently or temporarily, for the purposes of breeding, boarding, housing, leasing, sale, or transfer.

**Landscaping Services:** A lot used for offices purposes, along with the storage of supplies and equipment, in association with the provision of landscape services to off-site locations. Landscape services may include lawn mowing and maintenance, snow removal, landscape design and installation, and the sale and delivery of landscape materials such as mulch, plants, seed, fertilizer, gravel, soil, pavers, and similar landscape supplies.

**Livestock:** Cattle, horses, sheep, goats, swine, poultry, and other similar domestic animals or fowl normally kept or raised on a farm.

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

**Lot:** A tract of land occupied, or intended to be occupied, by one or more buildings or uses, together with such yards and open spaces as are required under the provisions of this Ordinance, and which is described as a platted lot or portion thereof or a tract of land described by metes and bounds or a portion of such parcel described by metes and bounds. A lot may or may not be specifically designated as such on public records. Within a site condominium, a condominium unit shall be synonymous with a lot for the purposes of compliance with this Ordinance (*see Figure 2-2 at end of this Article*).

**Lot Area:** The area of the horizontal plane within the lot lines of a lot, exclusive of any public or private road right-of-way or easement abutting any side of the lot, except that such right-of-way or easement may be included within the calculation of the area of a lot in the case where such lot is not part of a platted or site condominium and the area calculation equals ten (10) acres or more.

**Lot, Corner:** Any lot having at least two (2) contiguous sides abutting upon one or more streets, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees. A lot abutting a curved road(s) shall be a corner lot if the arc has a radius less than one hundred and fifty (150) feet. (*see Figure 2-2 at end of this Article*).

**Lot Coverage:** The amount of a lot, stated in terms of percentage, which is covered by all buildings and structures located thereon. Lot coverage shall not be deemed to include fences, walls, decks, patios or swimming pools. In the case of a building, the coverage shall be measured from the building's exterior wall faces.

**Lot Depth:** The distance from the front lot line of the lot to its opposite rear line, measured midway between the side lot lines.

**Lot Lines:** The lines bounding a lot (see *Figure 2-3 at end of this Section*).

- a. **Lot Line, Front:** In the case of a lot not located on a corner, the line separating said lot from the road right-of-way or easement from which it gains access. In the case of a corner lot, the front lot line shall be the shorter of the two (2) lines separating said lot from the adjacent road right-of-ways or easements unless designated otherwise on a recorded plat. In the case of a through lot, the front lot line shall be as designated on the plot plan or site plan, subject to approval of such plan. On a flag lot, the front lot line shall be the interior lot line most parallel to and nearest the road from which access is obtained. In the case of a waterfront lot, the front lot line shall be the ordinary high water mark. See *Figure 2-3 at end of this Article*.
- b. **Lot Line, Rear:** The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot, an imaginary line at least ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line (see *Figure 2-3 at end of Article*).
- c. **Lot Line, Side:** Any lot line other than a front or rear lot line (see *Figure 2-3 at end of Article*).

**Lot, Through:** A lot having frontage on two (2) roads other than a corner lot (see *Figure 2-2*).

**Lot, Waterfront:** A lot having frontage on a lake where such lake exceeds twenty (20) acres in surface area. See definitions of "lot lines" as applied to waterfront lots.

**Lot Width:** The straight line horizontal distance between the side lot lines, extending from the front lot line and continuing over at least seventy percent (70%) of the lot area.

**Manufactured Housing:** A dwelling unit which is designed for long term residential use and is wholly or substantially constructed at an off-site location. Manufactured housing includes mobile homes and modular housing units.

**Manufactured Housing Community:** A parcel or tract of land under the control of a person upon which 3 or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

**Marina:** A constructed facility that extends along and/or into or over a lake or stream, the primary purpose of which is to offer services to the public or private members of the facility for the docking of recreational watercraft, and may also offer accessory services such as the loading and unloading of watercraft into and out of the water, servicing and repair of watercraft, parking for persons using marina facilities, and the sale of boating supplies. The term marina shall not apply to a dock whose principal function is to serve the occupants of a dwelling on the same lot on which the dock is located.

**Master Deed:** The document recorded as part of a condominium subdivision to which are attached as exhibits and incorporated by reference the approved bylaws for the condominium subdivision and the condominium subdivision plan.

**Master Plan:** The officially adopted policies of the Township addressing community growth, development, land use, and preservation, prepared pursuant to Public Act 33 of 2008, as amended, the Planning Enabling Act, and consisting of maps, charts and written material.

**Medical Clinic:** An establishment where human patients, not lodged overnight, are admitted for examination and treatment by two (2) or more physicians, dentists, or similar professionals. A medical clinic may incorporate customary laboratories and pharmacies incidental to or necessary for its operation or to the service of its patients, but may not include facilities for overnight patient care or major surgery.

**Mini Storage:** A building or group of buildings in a controlled access or fenced area that contains individual compartmentalized and controlled access stalls or lockers for the storage of customer's goods or wares which are generally not used on a daily basis.

**Mobile Home:** A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. The term "mobile home" shall not include pick-up campers, travel trailers, motor homes, modular homes, recreational vehicles, converted buses, tent trailers, or other transportable structures designed for temporary use.

**Motor Home:** A self-propelled, licensed vehicle prefabricated on its own chassis, intended for recreational activities and temporary occupancy.

**Nonconforming Building or Structure:** A building or structure (or portion thereof) lawfully existing at the time of adoption of this Ordinance or a subsequent amendment thereto, that does not conform to the provisions of this Ordinance relative to height, bulk, area, placement, yards or similar features for the District in which it is located.

**Nonconforming Lot:** A lot lawfully existing at the effective date of this Ordinance, or affecting amendment, and which fails to meet the area and/or dimensional requirements of the District in which it is located.

**Nonconforming Use:** A use of a building or structure, or of a parcel or tract of land, lawfully existing at the time

of adoption of this Ordinance or subsequent amendment thereto, that does not conform to the regulations of the District in which it is located.

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

**Owner:** The owner of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, leasee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property, or his or her duly authorized agent.

**Parcel:** A lot described by metes and bounds or described in a recorded plat.

**Parking Space:** An area of definite length and width as designated in this Ordinance for parking an automobile or other vehicle, and which is fully accessible for such purposes.

**Plat:** A map of a subdivision of land recorded with the Register of Deeds pursuant to the Land Division Act of 1996, as amended, or a prior statute.

**Plot Plan:** A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance. A plot plan generally contains less comprehensive and detailed information about improvements proposed on the site than does a site plan, and is required for such uses as single family dwellings and two family dwellings. Plot plan approval is generally delegated to the Zoning Administrator.

**Principal Building:** The main building on a lot in which the principal use exists or is served by.

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

**Private Landing Strip:** A cleared and level area used by the owner or lessee of the premises for the operation and maintenance of personal aircraft only, and recognized by a state authorized body.

**Prohibited Use:** A use of land which is not permitted within a particular zoning district.

**Public Facility:** Land and associated structures and buildings used to carry out a governmental function(s) or provide a governmental service(s), such as a use or service owned or managed by a city, village, township, county, state, or public school board, and including commissions or other arms of such entities. Examples of such facilities include, but are not necessarily limited to, municipal parks and cemeteries, museums, police and fire protection facilities, courts of justice, and government offices.

**Public Utility:** Any person, firm, or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state, or municipal regulations to the public; water, gas, steam, electricity, sewage disposal, communication, transportation or water.

**Recreational Vehicle:** A vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.

**Recycling Center:** A facility where material is separated and processed prior to shipment for use in the manufacturing of new products. A recycling center is distinct from a junkyard or a salvage yard. A facility that functions as an accessory use that enables the general public to drop off products such as bottles, cans, plastics, and newspapers, without the payment of a fee of any kind and which is commonly referred to as a "transfer station," for subsequent transport to another off-site facility, shall not be construed as a "recycling center."

**Restaurant, Class 1:** A restaurant whose principal method of operation includes one or more of the following characteristics:

- a. Customers, normally provided with an individual menu, are served their food and beverage by a restaurant employee, at the same table or counter at which food and beverage are consumed, within a building.
- b. A cafeteria-type operation where food and beverage are consumed within a building.
- c. Customers are served by a delivery service by the restaurant to the customer at another location.
- d. Customers are served from a counter for consumption by the customer off-site, commonly referred to "take out."

**Restaurant, Class 2:** A restaurant whose principal method of operation includes one or both of the following characteristics:

- a. customers are served from a drive-through window in motor vehicles, commonly referred to as a "drive-through."

- b. customers are served by a delivery service from the restaurant building to the customer in the customer's vehicle other than by a drive-through window, for consumption in the vehicle on the restaurant property, commonly referred to as a "drive-in."

**Restoration:** The reconstruction or replication of an existing building's original architectural features.

**Retreat Center:** A facility used for professional, educational, or religious conclaves, meetings, conferences, or seminars and which may provide meals, housing and recreation for participants during the period of the retreat or program only, and provided all kitchen facilities are limited to a single centrally located building and not within individual sleeping quarters. This term shall not apply to facilities utilized by the general public for meals or overnight accommodations.

**Right-of-Way:** A public or private road, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. A right-of-way is delineated by legally established lines or boundaries.

**Right-of-Way Line:** The legal line of demarcation between a right-of-way and abutting land.

**Road:** A thoroughfare that affords the principal means of access to abutting property. The term "road" also includes the term "street."

**Road, Private:** A private way or means of approach for use and operation of vehicular traffic that is not dedicated for general public use, is owned by persons, an association, or other legal entity, and the maintenance for which is the responsibility of the owners, and meets the requirements of this Ordinance to provide access to three (3) or more abutting lots.

**Road, Public:** Any public thoroughfare dedicated and maintained for the use and operation of vehicular traffic by the Clare County Road Commission or State of Michigan.

**Roadside stand:** A structure for the display or sale of agricultural products grown on the farm on which the display or sale is located.

**Sawmill:** A facility of a permanent nature where harvested trees are cut, split, shaved, stripped, chipped or otherwise processed to produce wood products including the processing of harvested trees that may be transported to the sawmill facility, but excluding a temporary sawmill and the harvesting of trees for use on the same lot by the owner or resident of that lot.

**Service Station:** A place used primarily for the retail sale and dispensing of fuel or lubricants together with the fixed equipment from which the fuel is dispensed directly into motor vehicles, and where minor automobile repairs may occur such as engine tune-ups and servicing of brakes, air conditioning, and exhaust systems; oil change or lubrication; wheel alignment or balancing; or similar servicing or repairs that do not normally require any significant disassembly or storing the automobiles on the premises overnight. A service station may also include floor area devoted to the sale of convenience items such as beverages, food products, and magazines, and similar convenience items.

**Setback:** The minimum distance by which any specified building, structure, or use must be separated from a lot line or other specified feature.

**Shooting Range:** An outdoor or indoor facility designed for and devoted to the shooting of firearms or archery equipment, including what are commonly referred to as a gun club, hunt club, sportsman club, rifle range, pistol range, trap/skeet range, sporting clay range, and archery range.

**Sign:** See Article 10 for sign definitions.

**Site Plan:** A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance. A site plan contains more comprehensive and detailed information about improvements proposed on the site than does a plot plan because of the more complex nature of land uses required to receive site plan approval, such as business, industrial, and multiple family developments.

**Special Land Use:** Uses and structures which are generally accepted as reasonably compatible with the primary uses and structures permitted in a District, but could present potential injurious effects upon the primary uses and structures within the District or are otherwise unique in character, and therefore require special consideration in relation to the welfare of adjacent properties and to the Township as a whole. All such uses are subject to a public hearing.

**Stable, Commercial:** A structure and/or land use where horses are kept and does not meet the definition requirements of a private stable, including the breeding, rearing, training, caring for, and/or boarding, for remuneration. A commercial stable may provide riding lessons, horse shows, training exhibitions, or any other horse-based activity typically characterized by the gathering of spectators or observers.

**Stable, Private:** An accessory structure and/or land use where horses are kept for private use and such structure or animals are not available for hire or lease.

**Stop Work Order:** An administrative order which is either posted on the property or mailed to the property owner which directs a person not to continue, or not to allow the continuation of an activity which is in violation of this Ordinance.

**Story:** That portion of a building included between the upper surface of any floor and the upper surface of the floor or ceiling next above. See definition of “Basement.” (See *Figure 2-1 at end of this Article*)

**Street:** See “Road.”

**Structure:** Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having such location on the ground including but not limited to all buildings, independently supported decks, satellite dishes and free-standing signs; excepting anything lawfully in a public right-of-way including but not limited to utility poles, sewage pumping stations, utility manholes, fire hydrants, electric transformers, telephone boxes, and related public facilities and utilities defined as “essential services.”

**Swimming Pool:** A constructed basin or structure for swimming and aquatic recreation, except that basins or water containment devices that hold less than three hundred (300) gallons of water and are generally portable upon their emptying shall not be considered a swimming pool.

**Tavern:** An establishment, or portion thereof, serving alcoholic beverages for principal consumption on the premises.

**Township Engineer:** The licensed staff engineer of the Township or a licensed engineer the Township may hire from time to time as needed.

**Truck Terminal:** A building or area in which freight brought by truck is assembled or stored for further routing or reshipment, or in which trailers are parked or stored during the interim between hauling runs, and may include accessory repair and maintenance services and other support facilities and services such as restroom and shower facilities.

**Use:** The purpose for which land or a building is arranged, designed or intended, or for which land or a building may be occupied.

**Variance:** A variance is a modification of the literal provisions of the Zoning Ordinance where such variance will not be contrary to the public interest and will mitigate an otherwise practical difficulty, and the issuance of which is based upon standards in this Ordinance (See Article 16).

**Vehicle/Car Wash:** A building, or portion thereof, designed and used for the washing of two (2) or more vehicles irrespective of whether the washing process is automated or performed manually.

**Veterinary Clinic:** An establishment which is licensed by the Michigan Department of Community Health to provide for the care, diagnosis, and treatment of sick or injured animals, including those in need of medical or surgical attention. A veterinary clinic may include fully enclosed pens or cages for the overnight boarding of animals receiving medical treatment and such related facilities as laboratories and offices.

**Vehicle Repair Shop:** Buildings and premises for the purpose of engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service such as body, frame and fender repair, and painting.

**Wireless Communication Towers:** All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, and cellular telephone towers. Not included in the definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities, towers for personal communications only, and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

a. Class 1: A tower proposed to be newly established and not otherwise meeting the definition of a Class 2 tower.

b. Class 2: An antennae or communication tower to be affixed to an existing structure, such as existing building, tower, water tank, utility pole, and the like, where the proposed combined existing structure and communication tower is either less than a total height of twenty (20) feet or does not extend the height of the existing structure by more than fifteen (15) feet or fifteen percent (15%), but not to exceed a total height of one hundred fifty (150) feet.

**Yard:** An open space, on the same lot with a principal building, unoccupied and unobstructed from the ground upward by a building or structure, except as otherwise permitted in this Ordinance and as defined herein (see *Figure 2-3 at end of this Article*).

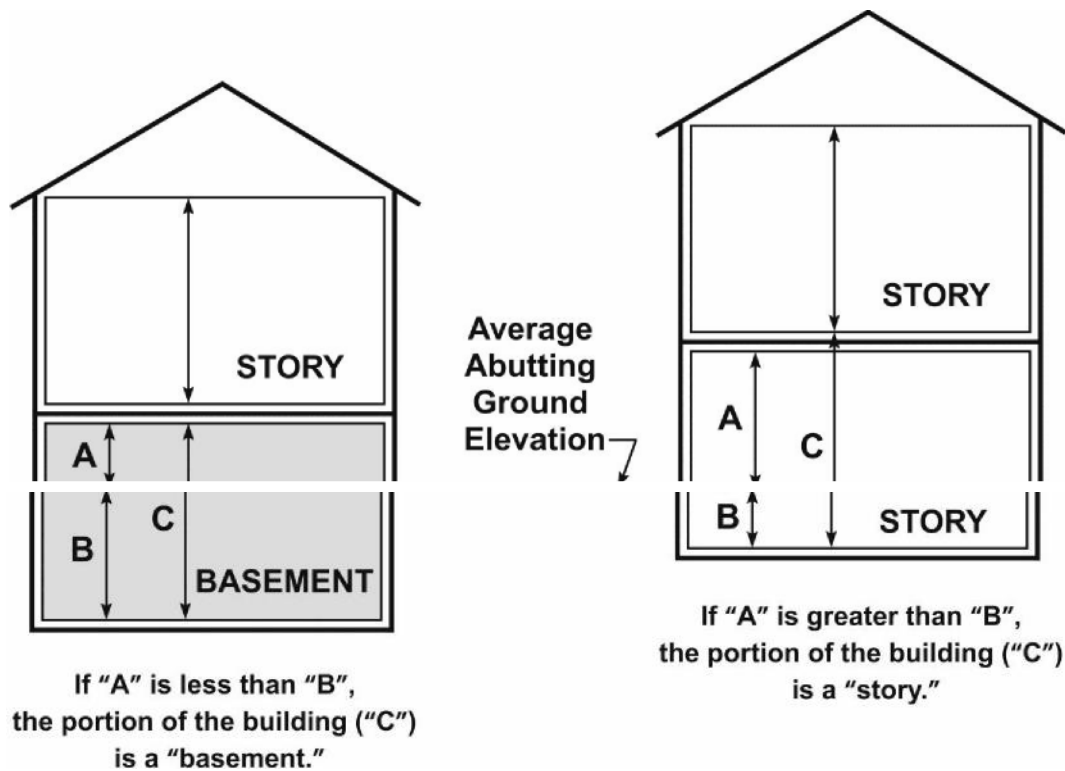
- a. **Front Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the principal building or other feature as may be specified. In the case of a waterfront lot, the front yard shall be the yard abutting the water. See definition for "lot lines" as applied to corner lots, through lots and waterfront lots. There shall be maintained a front yard on each street side of a corner lot.
- b. **Rear Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the principal building or other feature as may be specified. In the case of corner lots, there shall only be one rear yard which shall be determined by the owner at the time of plot plan approval. In the case of a waterfront lot, the rear yard shall be the yard abutting the road from which the lot gets access. See definition for "lot lines" as applied to corner lots, through lots and waterfront lots.
- c. **Side Yard:** An open space between the principal building or use and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the principal building or other feature as may be specified.

**Zoning Administrator:** The authorized individual charged with the responsibility of administering this Ordinance and appointed by the Township Board of Trustees.

**Zoning District:** See Section 4.1

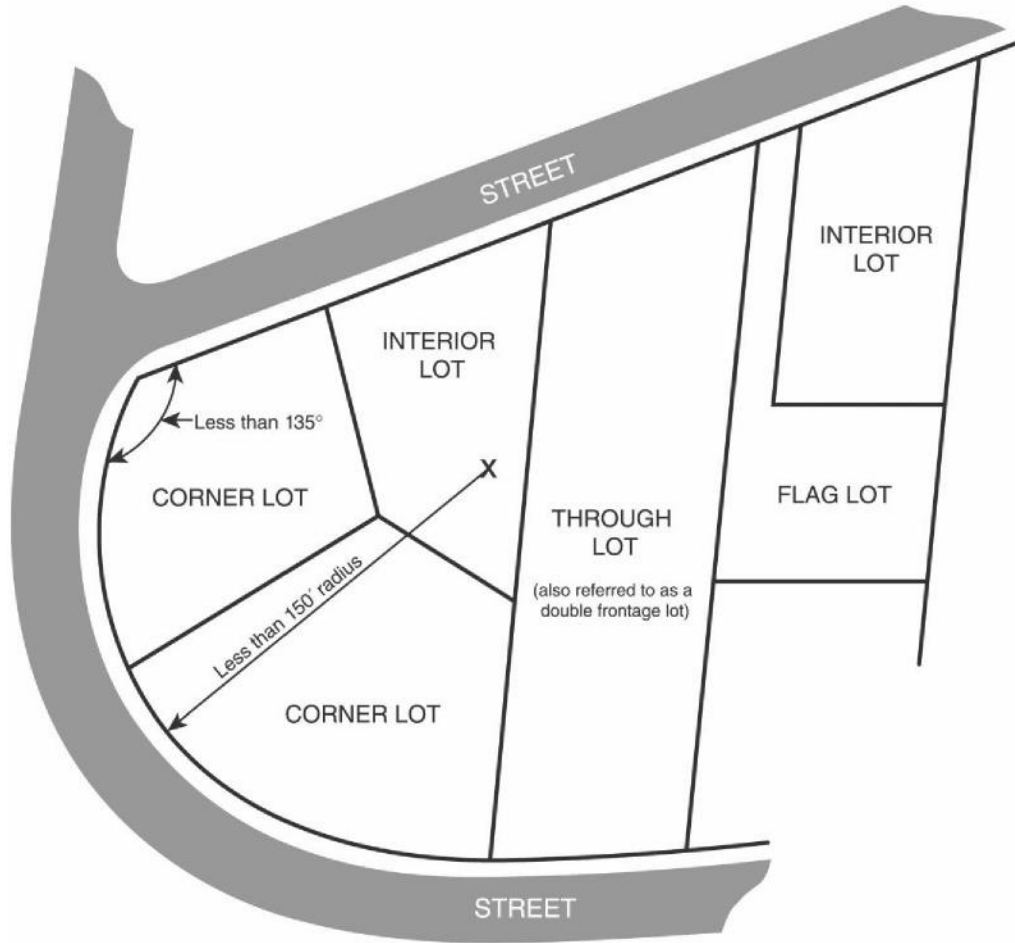
**Zoning Permit:** A permit signifying compliance with the provisions of this Ordinance and issued by the Zoning Administrator upon approval of the proposed land use or development plan by the designated approving body.

**Figure 2-1  
BASEMENT and STORY**

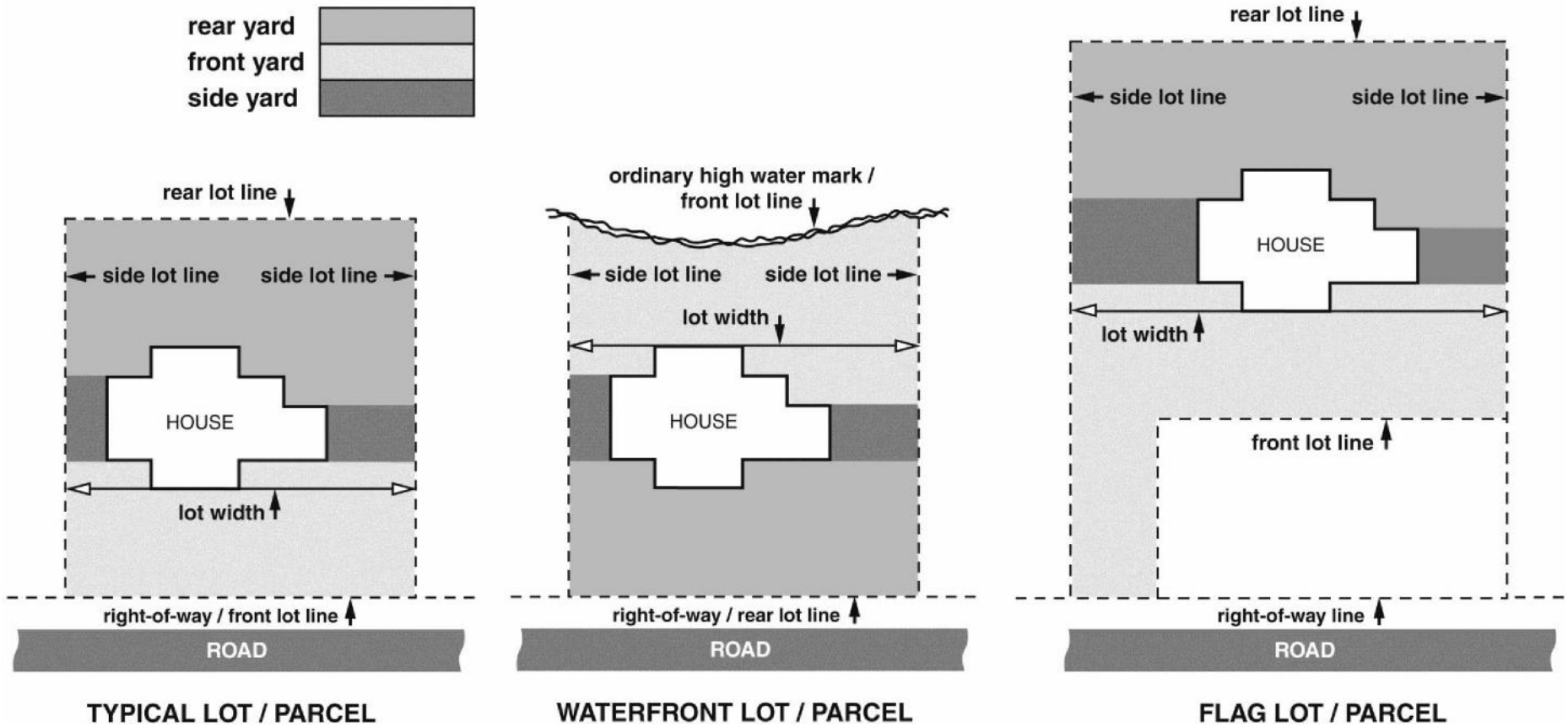


*(See definition of "Basement" for determining Average Abutting Ground Elevation)*

**Figure 2-2  
LOT TYPES**



**Figure 2-3  
LOT LINES and YARDS**



**End of Article 2**



## Article 3 GENERAL ADMINISTRATION, ENFORCEMENT, and PENALTIES

### **Section 3.1 Purpose**

It is the purpose of this Article to provide for the administration and enforcement of this Ordinance, including the creation of a review and permit process. The primary permit process shall require the issuance of a Zoning Permit which shall indicate that the uses and plans for which the permit is requested comply with this Ordinance. Upon the issuance of a Zoning Permit, the applicant may establish the use for which the permit has been issued, including the erection of a building or structure, provided a Building Permit has been obtained from the Building Inspector demonstrating conformance to the requirements of the Construction Code.

### **Section 3.2 Zoning Permit Required**

**A. When Zoning Permit Required:** Except as provided in subsection (C) below, none of the following shall occur or otherwise initiated until the Zoning Administrator has issued a Zoning Permit that shall signify the proposed activity conforms to the requirements of this Ordinance and, where required by state law, the Building Inspector certifies proposed structures and buildings comply with the Construction Code through the issuance of a Building Permit:

1. The initiation of any grading or excavation.
2. The erection, enlargement, alteration, movement or demolition of any wall, structure or building regardless of the construction material.
3. The use of any land or building or change in the use of any land or building, as delineated in the Permitted Uses tables of Article 4, including the conversion of an abandoned building to an active use.

**B. Zoning Permit Form / Approval:** A Zoning Permit shall be on a form established for such purpose and the completed form shall identify the specific use authorized, the drawings that graphically portray the proposed alterations and improvements to the property, and any conditions made part of such permit. No Zoning Permit or Building Permit shall be issued for any structure, building or use of land where the use, construction, addition, or alteration would be in violation of this Ordinance. See Section 3.4 regarding application review procedures.

**C. Zoning Permit Exemption:** A Zoning Permit shall not be required for the following, but the following shall be subject to the standards and other requirements of this Ordinance:

1. The alteration of any wall of any building, when such building is greater than one-hundred (100) square feet in area, provided no change is made to the location of an exterior wall and such alterations are in compliance with all requirements and standards of this Ordinance. A Building Permit may be necessary for such an alteration pursuant to the Construction Code.
2. Fences for farm operations.

**D. Zoning Permit Required Prior to Issuance of Building Permit:** No building permit shall be issued prior to the issuance of a zoning permit.

### **Section 3.3 Responsibility for Administration**

**A. General Administration:** The administration and enforcement of this Ordinance shall be the responsibility of the Township Board, Planning Commission, Zoning Board of Appeals, and such personnel as designated by the Township Board in accordance with P.A. 110 of 2006, as amended, and this Ordinance. The Township Board shall appoint a Zoning Administrator who shall act as an officer in the administration and enforcement of this Ordinance. The Zoning Administrator may simultaneously serve as the Building Inspector.

**B. Duties of the Zoning Administrator:** Under no circumstances is the Zoning Administrator permitted to make changes in this Ordinance, nor to vary the terms of this Ordinance while carrying out the duties prescribed herein. The Zoning Administrator shall perform the duties specified in this Ordinance including, at a minimum:

1. Review Applications: Undertake and/or assist in the review of Zoning Permit applications and other applications made under this Ordinance, including applications for plot plans, site plans, special land use approvals, and variances.
2. Issue Zoning Permits: Issue Zoning Permits and other approvals when all provisions of this Ordinance have been met and the necessary approval has been granted by the proper body or official.
3. File of Applications: Maintain files of all applications submitted under this Ordinance, actions on such applications, and any performance guarantees associated with permits.

4. Inspections and Violations: Assist in the investigation and resolution of violations of this Ordinance including inspections to investigate, monitor and ensure conformance with this Ordinance. The Zoning administrator is authorized to issue notice of violations pursuant to Section 3.10.
5. Record of Complaints: The Zoning Administrator shall keep a record of any complaint of a violation of this Ordinance and of the action taken consequent to each complaint.
6. Reports: The Zoning Administrator shall report to and attend meetings of the Planning Commission, Zoning Board of Appeals, and Township Board, to report on activities pertaining to the issuance of permits, complaints of violation, actions taken on such complaints, and other Ordinance administrative and enforcement matters as may arise.

### **Section 3.4 Zoning Permit Application and Review Procedures**

**A. General Application and Review Procedures:** An application for a Zoning Permit shall be available from the Zoning Administrator. Upon approval of the application, which is to include, at a minimum, the application form and all required supporting data and documents including a plot plan or site plan, a Zoning Permit shall be issued. Whenever the Zoning Administrator determines an application for a single-family or two-family dwelling and accessory uses and structures thereto is in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue the Zoning Permit. Zoning Permit applications for uses, buildings and structures not associated with a single-family or two-family dwelling shall be issued by the Zoning Administrator only after the Township Board directs the Zoning Administrator to do so unless provided otherwise by this Ordinance.

1. Plot Plan / Site Plan: An application for a Zoning Permit shall include the submittal of a plot plan or site plan. An application for a single family or two-family dwelling and accessory structures thereto, shall include the submittal of a plot plan according to subsection (B) below. A site plan shall be required for all other uses, structures and buildings and shall be prepared according to Article 15 (Site Plan Review) unless provided otherwise by this Ordinance.
2. Special Land Uses: In addition to meeting the site plan requirements of Article 15, a Zoning Permit application for a use classified as a "special land use" according to the Permitted Uses tables of Article 4 shall be processed according to the provisions of Article 16 (Special Land Uses), which requires Township Board action after receipt of a Planning Commission recommendation.
3. Variances: Where the approval of a variance by the Zoning Board of Appeals pursuant to Article 17 is necessary for the approval of a proposed plot plan or site plan, no such plot plan or site plan shall be acted upon by the Planning Commission or Township Board, nor shall such project be issued a Zoning Permit, until action on such variance request has first been taken by the Zoning Board of Appeals.
4. Incomplete Applications: If Zoning Permit application materials are not administratively complete when received by the body that is to take action on the application, the body may deny such application or otherwise delay action on the application until it is made complete in a readily comprehensible manner.
5. Performance Guarantees: A performance guarantee may be required as a condition to the issuance of a permit in order to ensure conformance with the requirements of this Ordinance (see Section 3.6).
6. Permit Refusal in Writing: In any case where a Zoning Permit or other approval requested under this Ordinance is refused, the reasons shall be provided to the applicant in writing. Such notification may include a copy of the meeting minutes and motion containing such reasons.

### **B. Single Family and Two-Family Dwellings/Plot Plan Approval**

1. Application Required: Application for a Zoning Permit for a single family or two-family dwelling, including alterations and accessory structures and buildings thereto, shall be submitted to the Zoning Administrator on a form for that purpose. See Section 3.2(C) for exceptions. Three (3) copies of all application materials shall be submitted and shall consist of:
  - a. The completed application form, and all permit applications, approvals and supporting documents associated with required county, state or federal permits including County Health Department wastewater disposal and potable water system permits, County Soil Erosion Control permits, and County Road Commission driveway permits.
  - b. An accurate, readable, drawing of scale not less than 1" = 100', constituting a plot plan, identifying:
    - 1) Name, address and telephone number of the applicant (and owner if different).
    - 2) A scaled property line survey showing property dimensions, bearings, lot area, legal description, and an arrow pointing north. The Zoning Administrator may waive the required scaled property line survey in the case where, due to the size of the parcel, proposed location of the building, or other pertinent aspect of the application, the Zoning Administrator finds that such scaled property line survey is not necessary to ensure compliance with this Ordinance. The Zoning Administrator may require a property line survey prepared by a Michigan-licensed

Article 3: General Administration, Enforcement, and Penalties

surveyor, and the delineation of existing structures on the property as part of such survey, in the case where a more detailed or official delineation of property lines and structures is necessary to ensure compliance with this Ordinance.

- 3) The location and footprint of existing and proposed buildings and structures and heights thereof, and the number of sleeping rooms therein. See definition for “building height” in Article 2.
  - 4) Distances of buildings and structures from lot lines and water bodies including lakes and streams.
  - 5) Identification of proposed use(s) of structures and land, and the configuration of the driveway and parking areas, including dimensions.
  - 6) Existing and proposed public and private right-of-ways and easements.
  - 7) Existing and proposed location of septic drain field and potable water well, and other existing and proposed utility locations.
  - 8) In the case of a corner lot, the designated side and rear yard.
  - 9) Estimated construction cost.
  - 10) Any other information deemed necessary by the Zoning Administrator to determine Ordinance compliance and provide for the enforcement of this Ordinance.
2. Application Review: The Zoning Administrator shall review a Zoning Permit application and determine its conformity with the provisions of this Ordinance.
  3. Action on Application: After conducting a review, the Zoning Administrator shall deny, approve, or conditionally approve the application as it pertains to requirements and standards contained in this Ordinance. The applicant shall be notified in writing of the Zoning Administrator’s action on the application including any conditions associated with an approval. The decision by the Zoning Administrator shall be made within fifteen (15) days of the receipt of a complete application including copies of all required county, state and federal applications and permits. A plot plan shall be approved if it contains the information required by, and is in compliance with this Ordinance. A decision by the Zoning Administrator may be appealed within thirty (30) days of the decision. See Article 17, Zoning Board of Appeals, regarding the appeal of a decision of the Zoning Administrator.
  4. Approved Plot Plans: At least two (2) copies of an approved application, with any conditions contained within, shall be maintained as part of the Township records. A third copy shall be returned to the applicant. Each copy of the approved plans shall be signed and dated with the date of approval by the Zoning Administrator. If any variances from the Zoning Ordinance have been obtained from the Zoning Board of Appeals, the minutes concerning the variances, duly signed, shall also be filed with the Township records as a part of the application and delivered to the applicant.
  5. Plot Plan Changes: The Zoning Administrator shall review and act on proposed changes to an approved plot plan in the same manner as described by this subsection (B).

### **C. Permit Withholding, Revocation and Expiration**

1. Withholding Permit: A designated approving body, including in the case of a variance approval by the Zoning Board of Appeals, may withhold approval of an application pending verification that an applicant has received required county, state or federal permits. Similarly, such body may condition its approval of the requested application on the receipt of such permits.
2. Revocation: A body which grants approval of a permit or application under this Ordinance may revoke or cancel such approval in the case of failure or neglect to comply with this Ordinance, or in the case of any false statement or misrepresentation in the application. The Zoning Administrator may issue a stop work order to halt all construction activities and/or use of the premises pending a revocation decision.
3. Expiration of Permit:
  - a. A Zoning Permit, including the approved plot plan or site plan upon which the permit is based, shall expire after one (1) year from the date of granting such permit unless the development proposed or activity authorized shall have passed its first building inspection by the Building Inspector.
    - 1) Where a Zoning Permit does not provide for an immediate building or structure, such as in the case of a platted subdivision or site condominium, such permit shall become null and void after one (1) year from the date of granting such permit unless the clearing, preliminary grading, and survey staking of roads and drives shall have been completed within such time. Such permit shall become null and void after two (2) years from the date of granting such permit unless utilities and access ways, including roads, have been completed.
  - b. The body that approved a Zoning Permit may waive or extend the period of time in which the permit is to expire, for multiple periods with each period not to exceed one (1) year, if it is satisfied that the owner or developer is maintaining a good faith intention to proceed with construction and even though the permit and plot/site plan may not comply with the most current standards of this Ordinance due to amendments since the issuance of the permit. Before taking action, the Township

Board may defer the matter to the Planning Commission and/or Zoning Administrator for a recommended course of action.

- 1) In the case where a Zoning Permit is to expire more than three (3) years following the initial issuance of the permit, no extension shall be granted unless the body that approved the permit finds that surrounding conditions and land uses, and the most current standards of this Ordinance, continue to support the adequacy of the plot/site plan, and the owner or developer is maintaining a good faith intention to proceed with construction.
- 2) In the case of a multi-phased project, the expiration of a Zoning Permit for a specific phase shall similarly result in the expiration of all Zoning Permits previously granted for subsequent phases.
- c. Should a Zoning Permit expire, such use, building and/or activity shall not be initiated or continued except upon reapplication, subject to the provisions of all ordinances in effect at the time of reapplication. Upon expiration of the permit, failure to terminate the use for which the permit was issued is declared to be a nuisance per se and a violation of this Ordinance.
- d. Where there is a delay of more than sixty (60) days between the date a site plan is approved and the Zoning Permit is issued for such project, the time lines specified in this subsection (3) shall be computed from the date of the site plan approval.

### **Section 3.5 Building Permit / Permit of Occupancy Required**

**A. Building Permit:** No grading, excavation, or construction shall be initiated prior to the issuance of a Zoning Permit and, where required by state law, the Building Inspector certifies proposed structures and buildings comply with the Construction Code through the issuance of a Building Permit.

**B. Occupancy Permit:** No structure or use shall be occupied, in whole or in part, without first receiving a permit for occupancy from the Building Inspector pursuant to the Construction Code.

### **Section 3.6 Performance Guarantee**

**A. Authority, Purpose, and Timing:** To ensure compliance with this Ordinance and any conditions imposed under this Ordinance, the designated approving body for an application shall require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the Township and covering the estimated cost of improvements, be deposited with the Township Clerk where such improvements are anticipated to exceed \$200,000 in construction costs, to insure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the Zoning Permit authorizing the activity or project. The Township shall not require the deposit of the performance guarantee until it is prepared to issue the Zoning Permit.

1. Exemptions: This Section 3.6 shall not apply to single family and two-family dwellings or improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited under the Land Division Act, Public Act 288 of 1967, as amended.

**B. Improvements Covered:** Improvements that shall be covered by the performance guarantee include those features of a project that are considered necessary by the body or official granting approval to protect the natural resources or the health, safety and welfare of residents of the Township and future users or inhabitants of the proposed project area including roadways, lighting, utilities, sidewalks, screening and drainage.

**C. Return of Performance Guarantee:** For the return of a performance guarantee or portion thereof, the applicant shall send written notice to the Zoning Administrator of completion of said improvements. The Zoning Administrator shall inspect the improvements and transmit a recommendation to the Township Board with a statement of the reasons for any recommended denial of the return of the performance guarantee or portion thereof. The Township Board shall approve, partially approve or deny the return of the performance guarantee request and shall notify the applicant in writing of the action of the Township Board within forty-five (45) days after receipt of the notice from the applicant of the completion of such improvements. Where approval or partial approval is granted, the Township Clerk shall release the approved payment to the applicant. The portion of the performance guarantee to be returned shall be proportional to the work completed.

1. Lack of Full Completion: Should installation of improvements fail to meet full completion based on the approved permit application, the Township may complete the necessary improvements itself or by contract to an independent contractor, and assess all costs of completing the improvements against the performance guarantee. Any balance remaining shall be returned to the applicant.

### **Section 3.7 Timely Action on Applications**

**A. General Intent:** All approvals applied for under this Ordinance shall be acted upon in a timely manner. However, in no case shall the matter of a timely decision undermine the intent of this Ordinance that all requested approvals undergo the necessary and adequate review to ensure all requirements and standards have been met and the public health, safety and welfare is preserved.

**B. Specific Guidelines:** The following time provisions shall apply unless specifically provided otherwise by this Ordinance or special circumstances arise such as delays associated with the acquisition of county, state or federal permits or the submittal of an incomplete application. The prescribed review periods under (2) and (4) below require that an application must be received by the Zoning Administrator at least thirty (30) days prior to the meeting when the reviewing body would normally begin deliberation on such application and, if submitted within a lesser time, the reviewing body may delay initiating deliberations until its next regularly scheduled meeting or special meeting called for the purpose of deliberating said application.

1. Applications Requiring Zoning Administrator Action: A complete application for a Zoning Permit for a single-family or two-family dwelling or an accessory structure or use thereto shall be acted upon by the Zoning Administrator within fifteen (15) days of the submittal of the complete application.
2. Applications Requiring Planning Commission Action: Action on an application by the Planning Commission, as in the case of a site plan or when making a recommendation to the Township Board regarding a special land use application or an amendment petition, shall occur within ninety (90) days of receipt of a complete application. Where a public hearing is required to be held, this time frame shall be extended by thirty (30) days.
3. Applications Requiring Township Board Action: Where this Ordinance requires the Township Board to act on an application, as in the case of a site plan or special land use application, the Township Board shall take action on the application within ninety (90) days of the receipt of a complete application. Where the Township Board must delay action until receipt of a recommendation from the Planning Commission, the Township Board shall take action on the application within ninety (90) days of the receipt of such recommendation.
4. Applications Requiring Zoning Board of Appeals Action: Where the Zoning Board of Appeals is required by this Ordinance to act upon a request for a variance, ordinance interpretation, administrative appeal, or other request as provided by this Ordinance, the Zoning Board of Appeals shall take action on the request within ninety (90) days of the receipt of a complete application.
5. Public Hearing Notices: See Section 3.11.

### **Section 3.8 Application Fees**

**A. Application Fees Required:** Fees for the administration and review of development proposals, rezoning requests, actions before the Zoning Board of Appeals, inspections and the issuance of permits required under this Ordinance shall be deposited with the Township Clerk in advance of processing any application. The amount of such fees shall be established by the Township Board by resolution and may be revised from time to time. Such fees shall be limited to covering actual costs incurred by the Township and may include but are not limited to costs associated with conducting meetings and inspections, public notices, postage, photocopying, staff time, and mileage.

**B. Professional Review and Fee:** For any application for a Zoning Permit, variance, or other approval under this Ordinance, the Township Board or the reviewing body may also require the payment of a professional review fee when professional input is desired before a decision is made, due to the character or complexity of the proposal or concern over the potential impacts of the project. The applicant is entitled to a refund of any unused professional review fee and if actual professional review costs exceed the amount of the fee, the applicant shall pay the balance due prior to final action on such application. No professional review shall be required for an application for a single-family or two-family dwelling.

### **Section 3.9 Site Inspections**

The Zoning Administrator shall have the authority to make inspections of premises, upon request at reasonable times, for the purposes of verifying information on an application, monitoring conformance with the regulations and standards of this Ordinance, and for any other purpose associated with responsibilities of the Zoning Administrator granted by this Ordinance. No person shall molest the Zoning Administrator in the discharge of his/her duties. The Zoning Administrator shall seek a search warrant any time a property owner refuses access to a property in order to make an inspection.

### **Section 3.10 Violations, Penalties and Remedies**

**A. Violations are a Nuisance Per Se:** Any use of land which is commenced or conducted, or any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained, or changed, in violation of any provision of this Ordinance is hereby declared to be a nuisance per se. Any person who disobeys, omits, neglects or refuses to comply with any provision of this Ordinance or any permit or other approval granted hereunder, or any lawful order or determination of the Township Board, Planning Commission, Zoning Board of Appeals, Building Inspector, Zoning Administrator, Zoning Enforcement Officer or any authorized deputy sheriff, issued pursuant to this Ordinance, shall be in violation of this Ordinance. Any such violation is hereby declared to be a nuisance per se.

**B. First Violation is a Municipal Civil Infraction.** A violation of this Ordinance, first offense, is a municipal civil infraction. Any property owner or legally responsible party who violates this Ordinance shall, as a first offense, be responsible for a civil infraction, for which the fine shall be \$250.00.

**C. Second Violation (within twenty-four (24) months after municipal civil infraction):** A second or repeat violation (within twenty-four (24) months after a municipal civil infraction) is a misdemeanor. Any property owner or legally responsible party who violates any provision of this Ordinance a second time within twenty-four (24) months of the date a civil infraction ticket is issued (whether the violation of this Ordinance is for the same offense as a civil infraction or for some other offense under this Ordinance) shall upon conviction in a court of competent jurisdiction be guilty of a misdemeanor and be subject to a fine of not more than \$500.00 and/or imprisonment for a period of not more than 93 days, plus court costs and costs of prosecution that may be ordered by the court. For purposes of this Ordinance, each day that a violation occurs shall constitute a separate offense.

**D. Third Violation (within twenty-four (24) months after municipal civil infraction):** Any property owner or legally responsible party who violates any provision of this Ordinance a third time within 24 months of the date of the civil infraction ticket is issued (whether the violation of this Ordinance is for the same offense as a civil infraction or some other offense under this Ordinance) shall upon conviction in a court of competent jurisdiction be guilty of a misdemeanor and be subject to a fine of \$500.00 and/or imprisonment for a period of not more than 93 days, plus court costs and costs of prosecution that may be ordered by the court. For purposes of this Ordinance, each day that a violation occurs shall constitute a separate offense.

**E. Enforcement:** Enforcement of the provisions of this Ordinance shall be the Hamilton Township Zoning Ordinance Enforcement Officer (or such other Hamilton Township Official as may be designated by the Hamilton Township Board), the Hamilton Township Zoning Administrator, the Hamilton Township Attorney, the Clare County Sheriff's Department and/or the Michigan State Police.

**F. Procedures:**

1. **Notice of Violation:** Whenever the Zoning Administrator determines that a violation of this Ordinance or a permit or other approval issued under this Ordinance has occurred or is occurring and if the violation does not constitute an immediate danger to public safety or the property of others if not corrected, the Zoning Administrator shall give written notice to the owner or occupant of the property or the person doing the construction or using the land or structures, notifying him/her of the violation and requesting that the violation be corrected within a specified period not exceeding thirty (30) days. This notice of violation is not a "municipal ordinance violation notice" as defined in MCL 600.8707 and does not direct a person to appear at a municipal ordinance violations bureau in the Township or to pay fines and costs, if any, prescribed by this Article for the violation of this Ordinance. This notice of violation is authorized by this Article and intended to secure compliance with this article, if possible, without imposition of fines or municipal infraction violation costs.

- a. Such notice of violation shall be directed to each owner of, or a party in interest, in whose name the property appears on the last local tax assessment records. All notices shall be served upon the person to whom they are directed personally, or in lieu of personal service, may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the tax records.
- b. The Zoning Administrator may grant one or more written extensions of the correction period, provided that each request for extension is in writing and supported by good cause shown and further provided that the total period allowed for correction shall not exceed six months from the date of the initial request to correct. Such an extension may be authorized only where the Zoning Administrator determines that satisfactory progress has been made in attempting to correct the violation and that the violation does not constitute an immediate danger to public safety or the property of others if not corrected.

2. **Municipal Civil Infraction:** If the owner or party in interest fails to correct the violation within the time period specified by the Zoning Administrator, or where the Zoning Administrator determines that the violation constitutes an immediate danger to public safety or the property of others if not corrected, a citation for a municipal civil infraction shall be issued in accordance with Public Act 12 of 1994, as amended. If the threat to public health and or safety necessitates immediate action, this procedure may be circumscribed and the Township Board may initiate injunctive action in Circuit Court or any such other relief as may be provided by law.

**F. Lien:** If any fines, costs, assessments, damages and/or expenses remain unpaid or unsatisfied after the time permitted for such payment or satisfaction, the Township may impose and record a lien upon the real property involved, to the extent permitted by law, and may enforce the lien to the extent and in the same manner as is provided by law for the enforcement of unpaid ad valorem real property taxes, including the inclusion of the monetary amount of such lien upon the ad valorem property tax roll, and the collection thereof in the same manner as ad valorem real property taxes are collected.

**G. Other Remedies:** In addition to issuance of a municipal civil infraction citation, the Township may also commence and enforce an action in a court of competent jurisdiction seeking injunctive, declaratory or other equitable relief to enforce or interpret any provision of this Ordinance, to require abatement of a violation and to seek such other relief as may be provided by law.

### **Section 3.11 Public Hearing Notices**

**A. Hearing Notice Content:** Unless otherwise required by the Michigan Zoning Enabling Act or this Ordinance where applicable, all mail, personal and newspaper notices for public hearings shall do all of the following:

1. Describe the nature of the request including whether the request is for a text amendment, zoning map amendment (rezoning), special land use, variance, appeal, ordinance interpretation or other purpose.
2. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
3. Indicate the date, time and place of the hearing(s).
4. Indicate when and where written comments will be received concerning the request.

**B. Recipients and Means of Notice:** Unless otherwise required by the Michigan Zoning Enabling Act or this Ordinance where applicable, the following shall receive notice of the hearing, which notice shall include the information specified in (A) above.

1. General public, by publication of the hearing notice in a newspaper of general circulation in the Township.
2. To the owners of property for which approval is being considered, and the applicant if the applicant is different than the property owner, by mail or personal delivery.
3. To all persons to whom real property is assessed within 300 feet of the boundary of the project subject to the request, and to the occupants of all structures within 300 feet of the property, regardless of whether the property or occupant is located in Hamilton Township, by mail or personal delivery. If the name of the occupant is not known, the term "occupant" may be used in making notification.
  - a. Subsection (3) above shall not apply in the case of rezoning requests involving eleven (11) or more adjacent properties, or an ordinance interpretation request or an appeal of an administrative decision that does not involve a specific property.
  - b. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, a single notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
4. 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, by mail, in the case of a text amendment or zoning map amendment.

**C. Timing of Notice and Determination of Notice Given:** Unless otherwise required by the Michigan Zoning Enabling Act or this Ordinance where applicable, all mail, personal and newspaper notices for public hearings shall be made not less than fifteen (15) days before the date the request will be considered, including applications for zoning map amendments (rezoning), text amendments, special land uses, variances, appeals

and ordinance interpretations. The notice under subsection (B) shall be considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service.

**D. Confirmation of Notices Made by Mail or Personal Delivery:** The Township Clerk shall prepare a list of property owners and registrants to whom notice was mailed, as well as anyone to whom personal notice was delivered.



**End of Article 3**

## **Article 4**

# **ZONING DISTRICTS, REGULATIONS, and MAP**

### **Section 4.1 Establishment of Districts**

For the purpose of this Ordinance, the Township is hereby divided into the following zoning districts, which shall be known by the following respective symbols and names, and shall have boundaries as delineated on the Official Zoning Map.

Agricultural Districts

A-1      Agricultural

Residential Districts

RR      Rural Residential District  
R-1      Low Density Residential District  
R-1-A    Low Density Residential District  
R-2      Medium Density Residential District  
R-3      High Density Residential District  
R-MF     Multiple Family Residential District  
R-MHC    Manufactured Housing Community District

Commercial Districts C-1 Local Commercial District

Industrial Districts

I1      Light Industrial District

### **Section 4.2 Zoning District Map**

A. The boundaries of the respective Districts enumerated in Section 4.1 are defined and established as depicted on the Official Zoning Map entitled HAMILTON TOWNSHIP ZONING MAP, which is an integral part of this Ordinance. This map, with all notations and explanatory matter thereon, shall be published as part of this Ordinance as if fully described herein.

B. This Official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk, and bearing the following: *This is to certify that this is the Official Zoning Map of the Hamilton Township Zoning Ordinance adopted on the \_\_\_ day of \_\_\_, 2013.* If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map.

C. The Official Zoning Map shall be located at the official office of the Township and shall be the final authority with regard to the current zoning status of all land in the Township, along with supporting minutes of Township Board meetings regarding zoning district changes, regardless of the existence of copies of the Official Zoning Map which may be made and published from time to time.

### **Section 4.3 Purposes of Zoning Districts**

See Table 4-1.

### **Section 4.4 Interpretation of District Boundaries**

A. Where, due to the scale, lack of details, or illegibility of the Official Zoning Map, there is an uncertainty, contradiction, or conflict as to the intended location of any zoning district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined, upon written application, to the Zoning Board of Appeals. The Zoning Board of Appeals shall apply the following standards in arriving at a decision on such matters:

1. Boundaries indicated as approximately following roads or highway shall be construed as following the center lines of said roads or highways.
2. Boundaries indicated as approximately following section lines, quarter section lines, quarter-quarter section lines, or lot lines shall be construed as following such lines.

3. Boundaries indicated as approximately following Township boundary lines shall be construed as following such boundary lines.
4. Boundaries indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance there from as indicated on the Official Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on the Official Zoning Map.
5. Boundaries following the shoreline of a stream, lake, or other body of water shall be construed to follow such shorelines. In the event of change in the shoreline, the boundary shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerlines of streams, canals, or other water courses shall be construed to follow such centerlines.
6. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two (2) districts, the regulations of the more restrictive district shall govern. The “more restrictive district” shall be the district that places greater restrictions on development based on such factors as the scope of authorized uses, setbacks, lot coverage, and related development standards.

#### **Section 4.5 Permitted Uses in Zoning Districts**

**A. Compliance with Zoning Regulations:** Except as may otherwise be provided in this Ordinance, every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of an existing building or structure, and every enlargement of, or addition to an existing use, building and structure, occurring after the effective date of this Ordinance, shall be subject to all regulations of this Ordinance that are applicable in the Zoning District in which such use, building, or structure shall be located. Whenever any fill is placed in any lake or stream, the land thus created shall automatically and without further governmental action thenceforth acquire and be subject to the same zoning regulations as are applicable for lands to which the same shall attach or be adjacent.

**B. Uses Permitted in Each Zoning District:** Tables 4-2 and 4-3 identify the principal land uses permitted in each of the districts enumerated in Section 4.1. No land use shall be established on a lot except in conformance with Tables 4-2 and 4-3. In order to ensure all possible benefits and protection for the zoning districts in this Ordinance, the Tables delineate whether a land use permitted in a particular District is a “Use Permitted by Right” or a “Special Land Use”.

1. Uses Permitted by Right: Uses permitted by right are the primary uses and structures specified for which the District has been established, and are subject to plot plan or site plan approval except where provided otherwise.
2. Special Land Uses: Special land uses are uses and structures that have been generally accepted as reasonably compatible with the “uses permitted by right” in the District, but could present potential injurious effects upon such primary uses and structures within the District or are otherwise unique in character and therefore require special consideration in relation to the welfare of adjacent properties and to the Township as a whole. All such uses shall be subject to a public hearing and site plan approval. See Article 16, Procedures for Special Land Uses.

**C. Accessory Uses:** Unless otherwise specified in this Ordinance, accessory uses which are clearly incidental to and customarily associated with the principal use of the property are permitted in all Districts and shall conform to all applicable standards of this Ordinance, including Section 21.8 (Accessory Buildings and Structures).

**D. Prohibited Uses:**

1. Use Not Listed is Prohibited: Any use of land not specifically permitted is prohibited, including any use of land not specifically identified in Tables 4-2 and 4-3. The Planning Commission may be petitioned to initiate an amendment to the Ordinance to authorize an otherwise prohibited use and standards that will apply for that use. If the Township Board adopts such an amendment according to Article 18, then an application can be processed to establish that use.
2. Non-Compliance with Local, County, State or Federal Law: No use shall be authorized or permitted that is not in compliance with all local, county, state and federal laws, rules and regulations.

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## **Section 4.6 Site Development Requirements of Zoning Districts**

A. All land uses shall comply with the site development requirements of the District in which it is located, as delineated in Table 4-4, in addition to all other applicable site development provisions of this Ordinance including, but not limited to:

1. Article 8: Standards and Regulations for Specific Land Uses.
2. Article 10: Signs.
3. Article 11: Off-Street Parking and Loading.
4. Article 12: Landscaping and Screening.
5. Article 13: Environmental Standards.
6. Article 14: Access and Private Roads.
7. Article 21: Supplemental Provisions.

C. No part of a setback area, yard, or other open space required about or in connection with any use, building or structure, for the purpose of complying with this Ordinance, shall be included as part of a setback area, yard, or other open space similarly required for any other use, building or structure.

D. No setback area or lot existing at the time of adoption of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established herein, including area and lot width.

E. No portion of one lot shall be used in the creation of another lot unless each lot resulting from each such reduction, division, or sale, shall conform to all of the requirements established herein.

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

## **Section 4.7 Special District Provisions**

### **A. Manufactured Housing Community District (R-MHC)**

1. Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Michigan Mobile Home Commission Act, a preliminary plan shall be submitted to the Township for review by the Planning Commission. The preliminary plan shall include the location, layout, general design, and general description of the project. The preliminary plan shall not include detailed construction plans. In preparing the preliminary plan and when reviewing the plan, the developer and Planning Commission shall generally follow the procedures and requirements in Article 14 of this Ordinance, except where said procedures and requirements are superseded by the requirements in P.A. 96 of 1987, as amended, or the Manufactured Housing Commission Rules. Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Planning Commission shall take action of the preliminary plan within sixty (60) days after the Township receives the preliminary plan.
2. All manufactured housing communities shall be constructed and maintained in accordance with P.A. 96 of 1987, as amended, and the rules and regulations promulgated by the Manufactured Housing Commission pursuant to the authority vested in the Manufactured Housing Commission by such Act. The construction of a manufactured housing community shall not be initiated, nor shall a manufactured housing community be inhabited or operated until all necessary permits have been acquired from the Michigan Department of Labor and Economic Growth and all other agencies pursuant to the Mobile Home Commission Act.

**Table 4-1  
PURPOSES of ZONING DISTRICTS**

Table 4-1 identifies the principal purposes of the Districts of this Ordinance.

<b>DISTRICTS</b>	<b>PURPOSE</b>
<b><i>ALL DISTRICTS (except where provided otherwise)</i></b>	
<b>All Districts</b>	<ol style="list-style-type: none"> <li>1) Protect environmental resources including wetlands, woodlands and water courses.</li> <li>2) Districts are to be located in coordination with the Hamilton Township Master Plan.</li> <li>3) Uses shall minimize negative impacts on surrounding land uses.</li> <li>4) Commercial, industrial and other non-residential uses are to complement the community's character through appropriate architectural design and building scale, building materials, setbacks, signage, landscaping, buffering, open spaces and lighting.</li> <li>5) Uses are to facilitate safe/efficient vehicular and non-motorized travel.</li> <li>6) Uses are to be served by adequate facilities and services including sewage disposal, potable water, fire protection, and roads.</li> <li>7) Additional and more specific purposes of each District are delineated below.</li> </ol>
<b><i>AGRICULTURAL DISTRICTS</i></b>	
<b>A-1 Agricultural</b>	<ol style="list-style-type: none"> <li>1) Provide opportunities for and encourage agriculture.</li> <li>2) Retain land areas that are well suited for production of plants and animals useful to humans due to soil, topographic and other conditions, or which support nearby agricultural operations such as wetlands and woodland stands.</li> <li>3) Provide opportunities for very low density rural residential lifestyles.</li> <li>4) See also the "All Districts" purpose statement above.</li> </ol>
<b><i>RESIDENTIAL DISTRICTS</i></b>	
<b>RR Rural Residential</b>	<ol style="list-style-type: none"> <li>1) Provide opportunities for low density rural residential lifestyles.</li> <li>2) Encourage development patterns that facilitate the preservation of open spaces and natural resources, and the Township's rural character.</li> <li>3) Provide opportunities for agriculture, and conservation and outdoor resource-based uses.</li> <li>4) See also the "All Districts" purpose statement above.</li> </ol>
<b>R-1 Low Density R-1-A Low Density R-2 Medium Density</b>	<ol style="list-style-type: none"> <li>1) Provide opportunities for single and two-family residences of incrementally decreasing lot sizes and increasing density, to accommodate varying suburban/urban lifestyles.</li> <li>2) Meet the varied housing needs of current and future residents.</li> <li>3) Ensure a healthy residential environment including adequate opportunities for open space, light, air circulation, emergency access, and access to necessary public services.</li> <li>4) See also the "All Districts" purpose statement above.</li> </ol>
<b>R-MF Multiple Family</b>	<ol style="list-style-type: none"> <li>1) Provide opportunities for apartment, townhouse and similar multiple family developments to meet the varied housing needs of current and future residents.</li> <li>2) See also the "All Districts" purpose statement above.</li> </ol>
<b>R-MHC Manufactured Housing Community</b>	<ol style="list-style-type: none"> <li>1) Provide opportunities for manufactured housing communities to meet the varied housing needs of current and future residents.</li> <li>2) See also the "All Districts" purpose statement above.</li> </ol>

Table 4-1 Continued on Next Page

Table 4-1 Continued (Purposes of Zoning Districts):

DISTRICTS	PURPOSE
<b>COMMERCIAL DISTRICTS</b>	
<p><b>C-1 Local Commercial</b></p>	<ol style="list-style-type: none"> <li>1) Provide opportunities for businesses that primarily address the local day-to-day retail and service needs of Township residents and visitors, and highway travelers.</li> <li>2) Facilitate safe, convenient, and efficient pedestrian and other non-motorized modes of travel within the development including linkages to neighboring commercial uses.</li> <li>3) Development is of a character that compliments the intended character of the Township through appropriate architectural design and building scale, building materials, setbacks, signage, landscaping, buffering, open spaces and lighting.</li> <li>4) Safe and efficient vehicular and non-motorized circulation.</li> <li>5) See also the "All Districts" purpose statement above.</li> </ol>
<b>INDUSTRIAL DISTRICTS</b>	
<p><b>I-1 Light Industrial</b></p>	<ol style="list-style-type: none"> <li>1) Provide for a variety of manufacturing and other industrial uses that can be generally characterized as being of low intensity, including comparatively small building sizes and the absence of objectionable external affects beyond the District.</li> <li>2) Development is of a character that compliments the intended character of the Township through appropriate architectural design and building scale, building materials, setbacks, signage, landscaping, buffering, open spaces and lighting.</li> <li>3) See also the "All Districts" purpose statement above.</li> </ol>
<b>OTHER DISTRICTS</b>	
<p><b>PUD Planned Unit Development</b></p>	<p>See Section 5.1, Planned Unit Development (PUD) District.</p>

End of Table 4-1

**Table 4-2  
Permitted Principal Uses in Agricultural and Residential Zoning Districts<sup>1</sup>**

**BR = Use Permitted By Right S= Special Land Use<sup>1</sup> ± = Prohibited Use**

PRINCIPAL USES <sup>1</sup>		ZONING DISTRICTS						
		A-1	RR	R-1	R-2	R-3	R-MF	R-MHC
<b>Uses of a Primarily Agricultural, Outdoor Recreation, or Natural Resource Based Character</b>								
1	Agriculture.	BR	BR	-	-	-	-	-
2	Areas set aside for the protection of wildlife and natural resources, wildlife management areas, nature preserves, and game refuges.	BR	BR	-	-	-	-	-
3	Campgrounds.	-	S	-	-	-	-	-
4	Commercial stables.	S	S	-	-	-	-	-
5	Extraction operations.	S	S	S	S	S	S	S
6	Golf courses and country clubs.	S	S	S	S	S	S	-
7	Retreat Centers.	S	S	-	-	-	-	-
8	Shooting ranges, outdoor only.	S	S	-	-	-	-	-
<b>Uses of a Primarily Residential Character</b>								
1	Assisted living facilities.	-	S	S	S	S	S	S
2	State licensed family home and group home day care facilities, family home and group home foster care facilities, and other state licensed residential facilities.	BR	BR	BR	BR	BR	-	-
3	Manufactured housing communities.	-	-	-	-	-	-	BR
4	Multiple family dwellings.	-	-	-	-	-	BR	-
5	Single family dwellings.	BR	BR	BR	BR	BR	-	-
6	Two family dwellings.	BR	BR	BR	BR	BR	-	-
<b>Uses of a Primarily Commercial, Business or Industrial Character</b>								
1	Bed and breakfast.	S	S	S	S	-	-	-
2	Day care center.	-	S	S	-	-	S	S
3	Kennels.	S	S	-	-	-	-	-
4	Oil and gas processing, storage and other operations excluding the extraction of such materials.	S	S	-	-	-	-	-
5	Sale of trees, shrubs, flowers and other plant material.	S	S	-	-	-	-	-
6	Sawmills.	S	S	-	-	-	-	-
7	Veterinarian clinic.	S	S	-	-	-	-	-
8	Wireless communication towers, Class One.	S	S	-	-	-	S	S
9	Wireless communication towers, Class Two.	BR	BR	-	-	-	BR	BR
<b>Other Uses Not Listed Above</b>								
1	Clubs, lodges, and similar social-centered organizations.	S	S	-	-	-	-	-
2	Public facilities owned by Hamilton Township including, but not limited to, township offices, fire stations, police offices and jails, cemeteries, parks, and marinas.	BR	BR	BR	BR	BR	BR	BR
3	Public facilities owned by other than Hamilton Township not otherwise addressed in this Table above.	S	S	S	S	S	S	S
4	Public assembly facilities not otherwise addressed in this Table above including public and private schools, churches, libraries, and museums.	S	S	S	S	S	S	S

**Footnotes:**

1. Irrespective of the particular labeling of a cell in this table, the following are classified as a Special Land Use:
  - a. any use that exceeds a single building of 10,000 sq. ft. in gross floor area or 20,000 sq. ft. in gross floor area among all buildings on the parcel, excluding farm and residential buildings.
  - b. any use that serves alcohol for consumption on the lot of sale.

**End of Table 4-2**

Article 4: Zoning Districts, Regulations and Map

**Table 4-3**

**Permitted Principal Uses in Commercial and Industrial Zoning Districts<sup>1</sup>**

**BR = Use Permitted By Right S= Special Land Use<sup>1</sup> . = Prohibited Use**

PRINCIPAL USES		ZONING DISTRICTS	
		C-1	I-1
<b>Uses of a Primarily Agricultural, Outdoor Recreation, or Natural Resource Based Character<sup>1</sup></b>			
1	Marinas, boat yards, and boat liveries.	S	-
<b>Uses of a Primarily Residential Character</b>			
1	Dwellings when located on a second or third story above a business.	S	-
<b>Uses of a Primarily Commercial or Business Character<sup>1</sup></b>			
1	Agricultural service establishments.	S	S
2	Adult entertainment businesses.	S	-
3	Any generally recognized retail business that supplies commodities on the premises within a completely enclosed building including, but not limited to, groceries, foods, drugs, packaged liquor, furniture, clothing, dry goods, notions, books, flowers, jewelry and hardware, but excluding sexually oriented businesses.	BR	-
4	Building material sales yard, including retail lumber yards and incidental millwork, and storage facilities for building materials including sand, gravel, stone, lumber, and contractor's	S	BR
5	Commercial outdoor recreation facilities, limited to miniature golf courses, go-cart race tracks, batting cages, and accessory facilities including arcades and food services.	S	-
6	Communication towers, Class One	S	S
7	Communication towers, Class Two	BR	BR
8	Day care center.	S	-
9	Funeral homes and mortuaries, including a dwelling occupied by the facility owner or manager.	S	-
10	Health clubs.	BR	-
11	Hospitals and convalescent homes.	S	-
12	Indoor commercial recreation such as theaters, bowling alleys, skating rinks, indoor shooting ranges, and similar uses.	S	-
13	Medical clinics.	BR	-
14	Landscaping services.	S	-
15	Mini-storage.	S	BR
16	Motels and hotels, including conference centers.	S	-
17	Offices and showrooms of plumbers, electricians, decorators, and similar trades in connection with not more than 25% of the floor area of the building or part of the building occupied by said establishment used for making, assembling, remodeling, repairing, altering, finishing or refinishing its products or merchandise.	BR	-
18	Offices and showrooms of plumbers, electricians, decorators, and similar trades in connection with more than 25% of the floor area of the building or part of the building occupied by said establishment used for making, assembling, remodeling, repairing, altering, finishing or refinishing its products or merchandise.	S	BR
19	Offices which perform services on the premises including but not limited to financial institutions, insurance offices, real estate offices, artist offices and galleries.	BR	-
20	Offices of an executive, administrative, clerical and similar character, in which the principal function of the office does not entail on-site visits by customers.	BR	-
21	Personal service establishments that perform services on the premises within a completely enclosed building, such as, but not limited to, shoe repair, barber and beauty shops, photographic studios, appliance repair, laundry and dry cleaners.	BR	-
22	Professional offices for accountants, doctors, lawyers, insurers, financial and other consultants, architects, and similar office uses.	BR	-
23	Restaurants, Class 1	BR2	-
24	Restaurants, Class 2	S	-

Table 4-3 Continued Next Page. See End of Table for Footnotes.



(Table 4-3 continued)

**BR = Use Permitted by Right S= Special Land Use<sup>1</sup> . = Prohibited Use**

PRINCIPAL USES		ZONING DISTRICTS <sup>1</sup>	
<b>C-1</b>		<b>I-1</b>	
<b>Uses of a Primarily Commercial or Business Character<sup>1</sup> (continued)</b>			
25	Sale of new or used cars, boats, mobile homes, farm machinery, and other vehicles and items intended for tow, and their service and repair of such vehicles and items.	S	-
26	Service station.	S	-
27	Taverns.	S	-
28	Vehicle / car wash facility.	S	-
29	Vehicle repair shop.	S	S
30	Veterinarian clinics.	BR	-
<b>Uses of a Primarily Industrial Character<sup>1</sup></b>			
1	Assembly of electrical appliances, electronic instruments and devices, including the manufacture of small parts such as computer parts.	-	BR
2	Junkyards and salvage yards.	-	S
3	Manufacturing, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bone, cellophane, fur, glass, canvas, cork, felt, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, wood, sheet metal, wax, and wire. "Previously prepared materials" are materials processed, manufactured or created at another location and transported to the parcel in this District for assembly into new products.	-	BR
4	Monument and art stone production and sales.	-	BR
5	Manufacturing, compounding, processing, treatment, fabrication or packaging of such products as: drugs, perfumes, pharmaceuticals, toiletries, bakery goods, candy, ceramics, clothing, jewelry, instruments, optical goods, hardware and cutlery, and food products (except fish, sauerkraut, vinegar, yeast, rendering or refining of fats and oils, and similar food products involving the creation of odors or other offensive impacts).	-	S
6	Plastic molding and extrusion.	-	S
7	Printing and publishing.	BR	BR
8	Production, processing or testing utilized in product prototyping.	-	BR
9	Recycling center.	-	S
10	Sawmills.	-	S
11	Tool and die manufacturing.	-	BR
12	Warehousing, storage and transfer establishments, and truck terminals.	-	S
<b>Other Uses Not Listed Above<sup>1</sup></b>			
1	Public facilities owned by Hamilton Township including, but not limited to, township offices, fire stations, police offices and jails, cemeteries, parks, and marinas.	BR	BR
2	Public facilities owned by other than Hamilton Township not otherwise addressed in this Table above.	S	S
3	Public assembly facilities not otherwise addressed in this Table above including schools, libraries, churches, and museums.	S	-

**Footnotes for Table 4-3**

1. Irrespective of the particular labeling of a cell in this table, the following are classified as a Special Land Use:
  - a. any use that exceeds a single building of 10,000 sq. ft. in gross floor area or 20,000 sq. ft. in gross floor area among all buildings on the parcel, excluding farm and residential buildings.
  - b. any use that serves alcohol for consumption on the lot of sale.
2. Outdoor areas associated with a standard restaurant that are used or intended to be used for eating, drinking, sporting activities and/or other gathering of persons, are permitted by special land use only when such outdoor areas exceed 500 square feet in area or otherwise permit more than twenty (20) persons to occupy such area.

**End of Table 4-3**

**Table 4-4  
SITE DEVELOPMENT REQUIREMENTS<sup>1</sup>**

All principal land uses and buildings shall comply with the site development requirements of Table 4-4 unless otherwise specified by this Ordinance. See Footnote 1.

Zoning District	Minimum Lot Area	Minimum Lot Width and Frontage	Maximum Building Heights	Maximum Lot Coverage	Minimum Yard Setback <sup>11</sup>		
					Front	Side	Rear (each)
<b>A-1 Agricultural</b>	20 acres <sup>2</sup>	400 ft. <sup>3</sup>	35 ft. <sup>4</sup>	5% <sup>2</sup>	50 ft.	50 ft. <sup>6</sup>	50 ft.
<b>RR Rural Residential</b>	10 acres	3	330 ft. <sup>5</sup> 35 ft. <sup>4</sup>		50 ft.	25 ft. <sup>6</sup>	50 ft.
<b>Low Density Residential</b>	25,000 sq. ft.; 38,000 sq. ft. for TFD	3 80 ft.; 100 ft. for TFD	35 ft. <sup>4</sup> 2.5 stories	20%	40 ft. <sup>5</sup>	15 ft. <sup>6</sup>	25 ft.
<b>R-2 Medium Density Residential</b>	12,000 sq. ft.; <sup>10</sup> 18,000 sq. ft. for TFD	65 ft.; <sup>3</sup> 85 ft. for TFD	4 35 ft. 2.5 stories	25%	35 ft. <sup>5</sup>	10 ft. <sup>6</sup>	25 ft.
<b>R-3 High Density Residential</b>	10 9,000 sq. ft. for TFD	5,000 sq. ft.; <sup>3</sup> 50 ft.; 70 ft. for TFD	35 ft. <sup>4</sup> 2.5 stories		25 ft. <sup>5</sup>	3 ft. to 6, <sup>8</sup> 10 ft.	10 ft., except 20' for lakefront lot
<b>R-MHC Manufactured Housing Community</b>	Conformance with Rules and Regulations of the Michigan Manufactured Housing Commission						
<b>R-MF Multiple Family</b>	40,000 sq. ft.	3 150 ft.	40 ft. 4 3.0 stories	35%	50 ft.	25 ft. <sup>6</sup>	50 ft.
<b>C-1 Local Commercial</b>	30,000 sq. ft.	3 150 ft.	40 ft. 4 2.0 stories	50%	60 ft. <sup>7</sup>	10 ft. <sup>6,9</sup>	25 ft.
<b>I-1 Light Industrial</b>	40,000 sq. ft.	3 200 ft.	40 ft. 4	50%	60 ft.	25 ft. <sup>6</sup>	25 ft.

TFD = Two family dwelling

**Footnotes for Table 4-4 . Site Development Requirements**

1. Other Standards and Regulations: All uses shall comply with the site development requirements in Table 4-4, unless specified otherwise by this Ordinance. See also Article 8 - Standards and Regulations for Specific Land Uses, Article 10 - Signs, Article 11 - Off-Street Parking and Loading, Article 12 - Landscaping and Screening, Article 13 - Environmental Protection, Article 14 - Access and Private Roads, Article 21 - Supplemental Provisions (including provisions addressing accessory buildings, fences, setback exceptions, and dwelling floor area), and other Articles as applicable.
2. A-1 District Lot Area: A parcel of no less than one (1) acre in area and 150 feet in width, with a maximum lot coverage of 20%, may be created for each 40 acres contained in the parcel to be divided, as of the effective date of this Ordinance, provided the total number of such parcels shall not exceed 6.
3. Configuration of Lots: All lots shall conform to the following configuration requirements:
  - a. The depth of a lot shall not exceed four (4) times its width.
  - b. The minimum frontage/lot width standard of Table 4-4 shall extend from the front lot line to the required building setback line and continue over at least seventy percent (70%) of the lot area. In addition, in the case of a waterfront lot, the minimum frontage/lot width standard shall apply to both the front and rear lot line.

- c. Lesser frontage and width standards than those of Table 4-4 may be approved where the front lot line abuts a curvilinear road segment, such as a cul-de-sac, where without such reduction, such lots would be unnecessarily excessive in overall width or area, or otherwise result in irregular or impractical configurations. However, such reduction shall not exceed forty percent (40%) and the minimum front yard setback shall be increased to the line at which there is compliance with the Table 4-4 lot width standard.
4. Height Exceptions: The following height exceptions shall apply except where otherwise regulated by this Ordinance:
    - a. Agricultural buildings and structures, such as barns, silos, and elevators, shall not be subject to height limitations.
    - b. Church and religious buildings associated with congregational gatherings provided the building is set back an additional one (1) foot for each one (1) foot of height in excess of the district's height limitation.
    - c. The following height exemptions apply provided no portion of the building or structure exceeding the district's height limitation may be used for human occupancy and the site plan approving body finds the exemption shall not undermine the character, use and enjoyment of nearby properties:
      - 1) Those features that are purely ornamental in purpose such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles and monuments, and similar features, provided such features do not exceed seventy-five (75) feet in height from the ground surface and occupy no more than ten percent (10%) of the structure's gross roof area.
      - 2) Those necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks, elevator and stairwell structures, ventilators, and transmission structures, but not to exceed one hundred (100) feet in height above the ground surface below.
      - 3) Public utility structures.
  5. Front Yard Setbacks: In the case of a waterfront lot, the required front yard setback shall be fifty (50) feet from the ordinary high water mark except that where there exists one (1) or more dwellings on waterfront sites located on one (1) or both sides of such lot, and where such dwellings are within one hundred (100) feet of such lot, the required setback shall be the average setback of such existing dwellings measured from the ordinary high water mark. However, in no case shall such setback be less than fifty (50) feet.
  - 6 Corner Lot Side Yard Setbacks: For a corner lot, the minimum required front yard setback shall apply to both yards abutting a road right-of-way/easement except that in the case of a dwelling, the side yard setback may be reduced the minimum amount necessary to ensure a thirty (30) foot buildable lot width. However, in no case shall such setback be less than ten (10) feet. "Buildable lot width" shall be defined as the dimensional width of the lot less both required side yard setback dimensions. See clear vision area provisions of Section 14.4.
  7. C-1 District Front Yard Setback: The minimum front yard setback in the C-1 District shall be 60 feet except that where there exists two or more principal buildings along the same frontage and within 100 feet of the lot, the front yard setback for such lot shall be equal to the average setback established by such buildings. The site plan approving body may waive or modify this requirement where it finds that such modification or waiving will result in a more advantageous overall form or pattern of development, as depicted in a site plan, taking into consideration such factors as the encouragement of continuous storefronts, beneficial pedestrian circulation and spaces, pedestrian and vehicular safety, visibility, and orderly development.
  8. R-3 District Side Yard Setbacks: Each side yard setback shall be a minimum of ten (10) feet except for lots less than sixty (60) feet in width, in which case each side yard setback shall be a minimum of ten percent (10%) of the lot width dimension but in no case shall such setback be less than three (3) feet.
  9. C-1 District Side Yard Setback: The required ten (10) foot side yard setback in the C-1 District shall not apply in the case of shared-wall construction with an adjacent building. The required 10' side yard setback shall be increased to 15' where the side lot line abuts an Agricultural or Residential District.
  10. R-2 and R-3 District Lot Area, Frontage and Width: Minimum lot area, width and frontage in the R-2 and R3 Districts for lots recorded with the County Register of Deeds after the effective date of this Ordinance, where sanitary sewer is not provided, shall be 25,000 sq. ft. lot area and an 80 ft. lot width/frontage, except that in the case of two-family dwellings, there shall be a minimum 38,000 sq. ft. lot area and 100 ft. lot width/frontage.
  11. Oil/Gas Operations: All minimum setbacks shall be increased to two-hundred fifty (250) feet for structures associated with oil and gas processing, storage and similar operations excluding the extraction of such materials.

**End of Article 4**



## **Article 5 PLANNED UNIT DEVELOPMENT (PUD) DISTRICT**

### **Section 5.1 Purpose**

The provisions of this Article provide enabling authority and standards for the submission, review and approval of applications for planned unit developments (PUDs), pursuant to the Michigan Zoning Enabling Act. It is the intent of the Article to authorize the use of PUD regulations to permit flexibility in the regulation of land development to encourage beneficial innovation in land use and variety in design, layout, and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; and encourage useful open space, and provide better housing, employment, and shopping opportunities. The provisions of this Article are not intended as a device for ignoring this Ordinance or the planning upon which it is based. To that end, the provisions of this Article are intended to result in land use development substantially consistent with the planned development pattern for the Township according to the Master Plan, with modifications and departures from Ordinance requirements made in accordance with standards provided in this Article to insure appropriate, fair, and consistent decision making.

### **Section 5.2 PUD Is a Separate District**

A PUD is permitted as a separate zoning district only when determined to be in compliance with the provisions of this Article. The approval of a PUD shall require an amendment of the Zoning Map constituting a part of this Ordinance so as to designate the property "PUD" and the PUD shall be subject to the approved PUD application.

### **Section 5.3 Minimum Eligibility Criteria**

- A. The following minimum eligibility criteria shall be met in order for PUD approval:
1. Recognizable and Substantial Benefit: The PUD shall result in a recognizable and substantial benefit to the ultimate users of the project and to the community. Such benefit must otherwise be unfeasible or unlikely under the regulations of other Districts.
  2. Availability and Capacity of Public Services: The proposed type and intensity of use shall not result in an unreasonable burden on the availability and use of existing public services, facilities, and utilities.
  3. Compatibility with the Master Plan: The proposed development shall be in accordance with the goals and policies of the Hamilton Township Master Plan.
  4. Compatibility with the PUD Intent: The proposed development shall be consistent with the intent and spirit of Section 5.1.
  5. Economic Impact: The proposed development shall not impede the continued use or development of surrounding properties for uses permitted on such properties.
  6. 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 completing the project in conformity with this Ordinance and the specifications of the PUD approval.

### **Section 5.4 Use and Design Standards**

**A. Permitted Uses and Mix of Uses:** Any land use authorized in this Ordinance is permitted in a PUD as a principal or accessory use provided that public health, safety, and welfare are not impaired and the essential character of the proposed PUD meets the general intent of the Master Plan. Where the Master Plan provides for primarily residential development patterns, commercial and other nonresidential uses may be permitted as part of a PUD which also contains a residential component, provided that the residential component will be predominant. The determination of the predominance of the residential component shall take into account the following: the extent to which the non-residential use serves residents in the PUD compared to others who will travel to the site; the amount of traffic generated by the non-residential use compared to the residential component; the operational hours of the non-residential use; the proportional land area allocated to the non-residential use; and building floor area allocated to the non-residential use.

**B. General Site Development Standards and Waivers:** The site development standards for all proposed individual land uses and facilities in a PUD shall conform to this Ordinance, including such standards pertaining to lot area and dimensions, density, lot coverage, setbacks, parking, loading, landscaping and screening, road widths, and similar requirements, except that the Township Board may waive such standards where such modifications will result in a higher quality of development than would be possible without the modifications.

1. Unless a waiver is granted, standards pertaining to lot area and dimensions, density, lot coverage, and setbacks shall comply with those standards of the District which most closely characterizes the dominant character of the PUD development as determined by the Township Board.
2. Unless a waiver is granted, mixed uses shall comply with the regulations applicable for each individual use, including the standards contained in Article 8, Standards for Specific Land Uses. If regulations are inconsistent with each other, the regulations applicable to the most dominant use shall apply.
3. The waiving of development standards may be authorized only upon a finding by the Township Board that there are adequate features or planning mechanisms designed into the project to achieve the objectives intended to be accomplished with respect to each of the standards from which a departure is sought.

## Section 5.5 Approval Standards

**A.** Each application and site plan for a PUD shall conform to all applicable provisions of this Ordinance and the following:

1. Site Plan Approval Standards, Section 15.4.
2. General Approval Standards for Special Land Uses, Section 16.6.

## Section 5.6 Procedure for Review and Approval

**A. Optional Preapplication Conference:** Prior to the submission of a preliminary site plan for PUD approval, the applicant may request a meeting with the Chairperson of the Planning Commission and the Township Supervisor, together with such consultants and local officials and staff as either the Township or the applicant deem appropriate. The purpose of the meeting is to inform township officials of the general theme for the proposed development and to provide the potential applicant with information regarding land development policies, procedures, standards and requirements of the Township pertaining to the proposed development. Statements made in the course of a preapplication conference shall not be legally binding commitments. At the preapplication conference (or conferences), the applicant may present a general sketch plan of the proposed PUD which provides an overview of the proposed project.

### **B. Concept Plan: Application, Public Hearing, and Action:**

1. The applicant shall submit to the Zoning Administrator twenty (20) copies of a concept plan and an application form supplied by the Zoning Administrator. The Zoning Administrator shall forward copies to the Planning Commission. The concept plan shall comply with the requirements of Section 15.3(A) and include a detailed text description of the proposed development and all Ordinance standards that the applicant is seeking a waiver for.
2. The Planning Commission shall review the concept plan and shall be entitled to make reasonable inquiries of and receive answers from the applicant. Following review of the concept plan submittal, the Planning Commission shall act on the concept plan as if it were an application for rezoning, and in doing so, shall follow the provisions of Article 18.
3. Following the public hearing and any fact finding and additional studies, the Planning Commission shall prepare written findings regarding the concept plan's conformance with the applicable requirements of this Article and Ordinance, including the approval standards of Sections 15.4 and 16.6. The Planning Commission shall recommend to the Township Board to approve, deny, or approve with conditions the concept plan. The Planning Commission shall prepare and transmit a report to the Township Board stating its conclusions and recommendation, the basis for its decision, and any recommended conditions relating to an affirmative decision. The report shall document the extent to which the Planning Commission supports the waivers being requested by the applicant and any concerns regarding the same.
4. The Township Board shall take final action to approve, deny, or approve with conditions the concept plan. In reviewing the concept plan, the Township Board shall consider the applicable requirements of this Article and Ordinance, including Sections 15.4 and 16.6. The Township Board shall prepare and transmit a report to the applicant stating its conclusions and decision, the basis for its decision, and any conditions relating to an affirmative decision. The effect of Township Board approval of the concept plan shall be:
  - a. to authorize the fundamental PUD character and layout embodied in the concept plan, including any

- conditions applied to the approval, prior to the preparation of a final site plan.
- b. to authorize a change on the Zoning Map to classify the subject property as PUD.

**C. Final Plan and Permit Issuance**

1. Within eighteen (18) months following receipt of preliminary plan approval, the applicant shall submit to the Zoning Administrator twenty (20) copies of a final plan, or phase one of a final plan, including a final site plan conforming with Section 15.3 and including a detailed text description of the proposed development and all Ordinance standards subject to a proposed waiver. If the final plan has not been submitted within such period, the preliminary plan approval shall become null and void unless the Township Board extends the time for submission of the final plan upon a showing by the applicant that no material change of circumstances has occurred having bearing on the original action of the Township Board, found upon inspection by the Township Board to be valid.
2. The Zoning Administrator shall record the date of the receipt of the final site plan and transmit copies to the Planning Commission and other agencies or individuals selected to review such plans including but not necessarily limited to Township departments and staff, consultants, County Drain Commissioner, and County Road Commission.
3. The Planning Commission shall review the final plan and shall be entitled to make reasonable inquiries of and receive answers from the applicant. The Planning Commission shall prepare and transmit a report to the Township Board stating its conclusions and recommendation, the basis for its recommendation, and any conditions relating to an affirmative decision. The Planning Commission shall recommend to the Township Board to approve, deny, or approve with conditions the final plan. The Township Board shall take final action to approve, deny, or approve with conditions the final plan. In reviewing the final plan, the Township Board shall consider the applicable requirements of this Article and Ordinance, including Sections 15.4 and 16.6. The Township Board shall prepare and transmit a report to the applicant stating its conclusions and decision, the basis for its decision, and any conditions relating to an affirmative decision.
4. If and when the final site plan is approved, all improvements and use of the property shall be in conformity with the final site plan and any conditions imposed. The applicant shall record an affidavit with the Register of Deeds containing the legal description of the entire project, specifying the date of approval, and declaring that all future improvements shall be carried out in accordance with the approved PUD unless a site plan revision is approved by the Township Board upon request or approval of the applicant or applicant's transferee and/or assignees. Upon receipt of the recorded documents, the Zoning Administrator shall issue a permit for that portion of the PUD project receiving final site plan approval.
  - a. An approved site plan shall become null and void three (3) years from the date of its approval unless the project for which site plan approval has been granted has been completed within such time period. The Township Board may extend such approval time for multiple periods of no greater than six (6) months per period. No extension shall be granted unless the Township Board finds that surrounding conditions and land uses, and the most current standards of this Ordinance, continue to support the adequacy of the site plan. Where new standards or regulations have been made part of this Ordinance since the date of the site plan approval, the Township Board may waive compliance with such new standards and regulations for the remaining portion of the project to be completed upon a finding that conformance to the new standards would unreasonably burden the completion of the project and continued compliance with the standards on which the site plan was originally approved will not undermine the public health, safety and welfare including the project's impact on surrounding land uses.

**Section 5.7 Phasing**

**A.** In developments which are to be predominantly residential in character but include nonresidential components, the Township Board may require a phasing plan to ensure that a specified number or percentage of the proposed residential units are constructed prior to or concurrently with nonresidential components, and such phasing plan may include other requirements to ensure appropriate phasing.

**End of Article 5**



**Article 6**

**Reserved for Future Use**

**End of Article 6**

## **Article 7**

# **NONCONFORMING LOTS, USES and STRUCTURES**

### **Section 7.1 Purpose**

It is recognized that there exists lots, structures and uses within the Districts of this Ordinance and subsequent amendments, which were lawful before this Ordinance was passed or amended, which would be prohibited, regulated or restricted under the terms of this Ordinance or subsequent amendment. It is the purpose of this Article to permit legal nonconforming lots, structures and uses to continue until they are removed or discontinued, and to provide for their maintenance and repair but not their expansion, enlargement, extension or other alteration which in any way increases its nonconformity, except as otherwise provided by this Article.

### **Section 7.2 Nonconforming Lots**

**A.** Notwithstanding limitations imposed by other provisions of this Ordinance, any use and customary accessory structures may be erected on any single lot of record in existence on or before the date of adoption or amendment of this Ordinance, where such use is an authorized use permitted by right in said District according to Tables 4-2 and 4-3 of Article 4, even though such lot fails to meet the requirements for area, width, and/or frontage that are applicable in the District. However, the following provisions shall apply:

1. All yard dimensions, setbacks and other requirements not involving area, width, and/or frontage, shall conform to the regulations for the District in which such lot is located unless a variance is obtained through approval of the Zoning Board of Appeals according to Article 17.
2. If two or more lots or combinations of lots and portions of lots, share continuous frontage and share a common side lot line or portion thereof, and are in single ownership of record at the time of passage or amendment of this Ordinance as recorded in the County Register of Deeds, and if all or part of the lots do not meet the requirements established for area, width, and/or frontage, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance. No portion of said parcel shall be used or divided in a manner that diminishes compliance with the area, width and frontage requirements of this Ordinance.

### **Section 7.3 Nonconforming Uses**

**A.** Where, on the date of adoption or amendment of this Ordinance, a lawful use exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No nonconforming use shall be enlarged or increased in area or bulk or in the number of structures and buildings, or moved or extended to occupy a greater area of land, than as existed on the date of adoption or amendment of this Ordinance except as follows:
  - a. A nonconforming use may be extended throughout any portion of a building in which it is located where such portion was manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance.
  - b. A single-family dwelling constituting a nonconforming use may be expanded, increased or enlarged in floor area and cubic content but not to exceed a fifty percent (50%) increase beyond its floor area and cubic content as existing on the date of adoption of this Ordinance or amendment thereto.
2. A change of tenancy or ownership of a nonconforming use is allowed provided there is no increase in the degree of nonconformance of the nonconforming use.
3. Any nonconforming use of land or structure, or combination thereof, which is superseded by a permitted use, shall thereafter conform to the regulations for the District in which such use is located, and a nonconforming use may not thereafter be resumed or otherwise established.
4. If a nonconforming use of any building, structure, land or premises or part thereof ceases for any reason for a period of more than one hundred and eighty (180) consecutive days, or where the use is destroyed to an extent of more than 50% of its replacement value, exclusive of foundations, the subsequent use of the property shall thereafter conform to the regulations and provisions of this Ordinance for the respective District. Conditions that shall be considered in determining the cessation of a nonconforming use shall include, but need not be limited to, disconnection of utilities, the property has fallen into a state of disrepair, and the removal of equipment necessary for such use.



5. No nonconforming use may be changed to another nonconforming use except upon approval of the Zoning Board of Appeals, upon finding that such change in use will be more conforming to the intent of the district in which it is located than the existing nonconforming use. In making such a determination, the Zoning Board of Appeals shall consider the anticipated change in intensity of use including vehicular and pedestrian traffic, hours of operation, and other aspects of the proposed use.
6. Where nonconforming status applies to a structure and use in combination, removal or destruction of the structure to an extent of more than fifty percent (50%) of its replacement value, exclusive of foundations, shall eliminate the nonconforming status of the land and all subsequent uses and structures on the land shall conform to the respective District regulations.

#### **Section 7.4 Nonconforming Structures**

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

1. No nonconforming structure may be enlarged or altered so as to increase its nonconformity such as in the case of a building's height or the cubic content of the portion of the building encroaching into a required setback.
2. Should a nonconforming structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement value, exclusive of foundations, it shall not be reconstructed except in conformity with the provisions of this Ordinance, including the site development standards for the respective District. In identifying the extent of destruction and the cost to replace the damaged structure, the Zoning Administrator may seek a written opinion from a qualified building appraiser and the opinion shall include the basis for the opinion. The limitations of this subsection (2) shall not apply when all of the following conditions are met:
  - a. The replacement structure is to be erected on the same foundation as the previous structure.
  - b. The erection of the replacement structure is initiated within one (1) year of the previous structure's destruction, and the replacement structure is completed to an extent equal to fifty percent (50%) or more of its construction cost within eighteen (18) months of such destruction.
  - c. The replacement structure is no more nonconforming than the previous structure.
3. Should such structure be moved for any reason for any distance, it shall thereafter conform to the regulations for the District in which it is located after it is moved.
4. A nonconforming structure may undergo ordinary repairs and maintenance, including the repair and refurbishing of wall exteriors, fixtures, wiring or plumbing, in any period of twelve (12) consecutive months, provided there is compliance with subsections (a) – (c) below. Nothing in this Section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by the Building Inspector.
  - a. The nonconformity existing at the time of Ordinance adoption or amendment shall not be increased, including the cubic content of any nonconforming portion of such structure.
  - b. No structural alterations shall be undertaken, as in the case of load-bearing walls.
  - c. The cost of such repairs shall not exceed twenty-five percent (25%) of the structure's replacement cost, exclusive of foundations.

#### **Section 7.5 District Changes**

Whenever the boundaries of a District shall be changed so as to transfer an area from one District to another District, the provisions of this Article shall also apply to any existing lots, uses and structures that become nonconforming as a result of the boundary change.

#### **Section 7.6 Illegal Nonconformities**

Nonconforming lots, uses and structures existing on the effective date of this Ordinance or amendment thereto, that were established without the lawfully required procedures and approvals at such time of establishment, shall be declared illegal nonconformities and are not entitled to the status and rights accorded legally established nonconformities by this Article.

#### **End of Article 7**

## Article 8 STANDARDS and REGULATIONS for SPECIFIC LAND USES

### Section 8.1 Purpose and Applicability

**A. Purpose:** The purpose of this Article is to establish standards and regulations in association with certain land uses to ensure such uses minimize negative impacts upon adjacent land uses and the Township as a whole, and encourage orderly development in coordination with surrounding conditions and in the development site itself. Where deemed beneficial to provide greater clarification of the purpose or character of use regulations addressed by this Article, such Sections are accompanied by a further defined “purpose” statement.

**B. Applicability:**

1. Unless otherwise specified, each use addressed in this Article shall be subject to all setback, lot area and other standards of the District in which the use is located.
2. Where this Article establishes a standard more stringent than that required elsewhere in this Ordinance, including Table 4-4 of Article 4, the standard of this Article shall apply.
3. Any requirements of this Article regarding application submittal data, plans, and drawings shall be in addition to the data requirements of Article 14, Site Plan Review.
4. Compliance with the standards in this Article does not relieve the owner or operator of a permitted use from complying with additional standards in other applicable Township ordinances.

### Section 8.2 Adult Entertainment Uses

**A. Purpose:** There is convincing documented evidence that adult entertainment uses, because of their very nature, can facilitate and support undesirable and detrimental patterns of activity in their vicinity. These impacts are incompatible with activities and uses in residential areas, near educational, recreational, and religious facilities, and among local businesses and their immediate neighborhood. Such impacts can be exacerbated when such businesses locate in close proximity to each other or near establishments serving alcoholic beverages. Impacts contribute to blight and downgrading the quality of life in the adjacent area. The Township desires to prevent adverse affects and thereby protect the health, safety, and welfare of the citizenry, preserve the property values and character of surrounding neighborhoods and deter the spread of blight. It is not the intent of this Ordinance, including this Section, to suppress any activity protected by the First Amendment of the United States Constitution or the Michigan Constitution, but to enact content neutral provisions that address the adverse effects of sexually oriented businesses. It is the purpose of this Section to regulate adult entertainment uses and related activities to promote the health, safety, and general welfare of the Township. It is not the intent of this Section to condone or legitimize the distribution of sexually oriented materials.

**B. Definitions:** For the purposes of this Section, the following terms, phrases and definitions shall apply:

1. Adult Bookstore: A commercial establishment that, as a principal business purpose, offers for sale or rental or for any form of consideration any one or more of the items set forth in subsection (a) or (b):
  - a. Books, magazines, periodicals or other printed matter or photographs, films, motion picture video or other video reproductions, slides, or other visual representations or media, that depict or describe specified anatomical areas or specified sexual activity.
  - b. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

The sale of such materials shall be deemed to constitute a “principal business purpose” of an establishment if it comprises ten percent (10%) or more of sales volume or occupies ten percent (10%) or more of the display area, or visible inventory, within the establishment.

2. Adult Live Entertainment Center: A nightclub, bar, restaurant, or similar commercial establishment that features one (1) or more of the following:
  - a. Persons who appear in the state of nudity.
  - b. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.
  - c. Films, motion pictures, video reproductions, slides, and other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
3. Adult Motel: A hotel or motel or similar commercial establishment that provides or permits one (1) or more of the following:
  - a. Accommodations to the public for any form of consideration and provides patrons with closed-circuit television (as distinguished from commercial cable services) transmissions, films, motion pictures,



- videos, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- b. Sleeping rooms for rent for a period of time that is less than twelve (12) hours.
  - c. The sub-renting of a sleeping room for a period of time that is less than twelve (12) hours by the tenant or occupant of the room.
4. Adult Motion Picture Theater: A commercial establishment that shows films, motion pictures, videos, slides, or other photographic reproductions or visual media, that depicts or describes specified anatomical areas or specified sexual activities, including commercial establishments that offer individual viewing booths. This phrase shall not apply to a motel or hotel, as defined in this Ordinance, which offers for a fee the viewing of movies within a customer's room including movies that depict specified anatomical areas or specified sexual activity.
  5. Adult or Sexual Paraphernalia Store: An establishment having, as part of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal.
  6. Adult Theater: A theater, concert hall auditorium, or similar commercial establishment that 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 specified sexual activities.
  7. Escort: A person who, for any form of consideration and regardless of who pays that consideration, agrees to act or offers to act as a companion or date for another person, or who agrees or offers to privately model lingerie or to privately perform a strip tease for another person.
  8. 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.
  9. Manager's Station: A designated area from which a premises is managed or supervised.
  10. Massage Parlor: Any establishment having a fixed place of business where massages are administered for a fee or other consideration including but not limited to massage parlors, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing homes, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, face, neck, or shoulders. This definition shall not be construed to include a nonprofit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area, nor practices of massage therapists who meet two (2) or more of the following criteria:
    - a. Proof of graduation from a school of massage licensed by the State of Michigan.
    - b. Official transcripts verifying completion of at least three hundred (300) hours of massage training from an American community college or university; plus three (3) references from professional massage therapists who are members of a massage association referred to in this section.
    - c. Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or other recognized massage association with equivalent professional membership standards.
    - d. A current occupational license from another state.
  11. Nude Model Studio: Any place where a person who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include the following:
    - a. An educational institution funded, chartered, or recognized by the State of Michigan.
    - b. Any modeling session for a local, nonprofit organization that is not open to the public or to any persons other than members of the organization, that is for the purpose of instruction in the artistic depiction in two (2) dimensional or three (3) dimensional media of the human form, during which no specified sexual activities occur and during which the model remains in a fixed pose.
  12. Open Dance Hall: An establishment where open dancing by patrons is available during at least four (4) days per week with or without partners furnished by the establishment.
  13. Public Nudity or State of Nudity: Knowingly or intentionally displaying in a public place, or in any other place for payment or promise of payment by any person, including, but not limited to payment or 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 and areola. Public nudity does not include any of the following:
    - a. A woman's breast feeding of an infant irrespective of whether the nipple is covered during or incidental to the feeding.
    - b. Any display of any part of the anatomy occurring as part of the regular curriculum of an educational institution that is funded, chartered, or recognized by the State of Michigan.



14. Sexual Encounter Center: A business or commercial enterprise, except that which is part of the practice of and under the supervision and control of a physician, psychologist or psychiatrist licensed to practice in Michigan, that, as one of its principal business purposes, offers for any form of consideration one (1) or more of the following:
  - a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex.
  - b. Activities between male and female and/or persons of the same sex when one (1) or more of the persons are in a state of nudity.
15. Sexually Oriented Business: A business or commercial enterprise engaging in or consisting of an adult bookstore, adult live entertainment center, adult motel, adult motion picture theater, adult smoking or sexual paraphernalia store, adult theater, escort, escort agency, massage parlor, nude model studio, open dance hall, or sexual encounter center.
16. Specified Anatomical Areas: Any of the following:
  - a. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast at or below the top of the areola.
  - b. Human male genitals in a discernibly turgid state even if completely and opaquely covered.
17. Specified Sexual Activities: Any of the following:
  - a. The fondling or any other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
  - b. Sex acts, actual or simulated, including intercourse, oral copulation or sodomy;
  - c. Masturbation, actual or simulated.
  - d. Human genitals in a state of sexual stimulation or arousal.
  - e. Excretory functions as part of or in connection with any of the activities set forth in (a) - (d) above.

**C. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage.

**D. Additional Standards:**

1. No exterior portion of the sexually oriented business, including signage, shall have any words, lettering, photographs, silhouettes, drawings, or pictorial representations of a sexual or explicit manner except to the extent otherwise permitted by the provisions of this ordinance.
2. All doors providing access into or from the interior of an adult entertainment shall be doors that serve the adult entertainment use only and provide direct access to the outdoors such as in the case of a parking lot or other common outdoor area. No adult entertainment use shall be accessed from an indoor common area such as in the case of an enclosed mall or similar access arrangement. These limitations shall not prohibit an adult entertainment use from being part of a building devoted to multiple tenants or uses provided direct access to the adult entertainment use is from the outdoors only and such access serves the adult entertainment use only.
3. Separation Requirements
  - a. No sexually oriented business shall be located within seven hundred fifty (750) feet of any of the following:
    - 1) A church, synagogue or regular place of worship.
    - 2) A public or private elementary or secondary school.
    - 3) A Residential District.
    - 4) A dwelling irrespective of the District.
    - 5) A public park.
    - 6) A licensed day-care center or preschool.
  - b. No sexually oriented business shall be located within one thousand (1,000) feet of any other sexually oriented business.
  - c. For the purposes of subsection (3)(a) and (b) above, measurement shall be made as a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a sexually oriented business is conducted to the nearest property line of the premises of a public park, church, synagogue, regular place of worship, public or private elementary or secondary school or preschool, or licensed day care center, or to the nearest boundary of a Residential District or dwelling. However, the distance between any two (2) sexually oriented business uses shall be made from the closest exterior wall of the structure in which each business is located and in no case shall a sexually oriented business be located in the same building, structure, or portion thereof, containing another sexually oriented business.
  - d. A sexually oriented business lawfully operating as a conforming use shall not be rendered a non-conforming use by the subsequent location of a use within the separation requirements of subsection (3) (a) and (c) above.

4. Signs of a minimum 24" by 36" size shall be posted on both the exterior and interior walls of the entrances of the business, in a location that is clearly visible to those entering and exiting the business. In addition, such signs shall be posted in at least two (2) conspicuous places, easily viewed by persons occupying the premises. Such signs shall have lettering that is at least two (2) inches in height, with the following printed statements:
  - a. Persons under the age of eighteen (18) years are not permitted to enter the premises.
  - b. 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.
5. No merchandise or activities of the establishment shall be visible from any point outside the establishment.
6. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, at an illumination of not less than one (1) foot candle measured at floor level.
7. A sexually oriented business that offers live entertainment shall provide all of the following:
  - a. A dressing room for performers with direct access between said dressing area and the performance area or stage, so that the performer may enter the performance area without entering the area from which patrons view the performance. The dressing area for performers shall be separate and not freely accessible from areas of the business accessible to patrons, and such dressing area shall contain hot and cold running water and toilet facilities.
  - c. All performances shall occur on a stage elevated at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest employee or patron.
  - d. At least one (1) employee shall be on duty and situated in a manager's station at all times that any patron is present inside the premises.
  - e. The interior of the premises shall be configured in such a manner that there is an unobstructed view from the manger's stations of every area of the premises to which any patron is permitted access for any purpose excluding rest rooms. Said unobstructed view from manager's stations shall remain unobstructed by any doors, walls, merchandise or display racks, or other materials at all times. No patron shall be permitted to access any area of the premises which has been designated on the approved site plan as an area in which patrons shall not be permitted.
  - f. Rest rooms shall not contain any video reproduction equipment.

**E. Additional Application Requirements:** In addition to complying with the submittal requirements of Article 15, Site Plan Review, and Article 16, Special Land Uses, application for an adult entertainment use shall include the following additional information:

1. A diagram of the premises specifying the location of manager's stations. A manager's station shall not exceed thirty-six (36) square feet of floor area.
2. The location of all overhead lighting fixtures and illumination levels (in foot candles) at floor level throughout the premises.
3. Any portion of the premises in which patrons are not permitted.

### **Section 8.3 Bed and Breakfast**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage.

**B Additional Standards:**

1. No bed and breakfast use shall be permitted within a subdivision plat or site condominium or on any property where there exists another bed and breakfast within one thousand (1,000) feet, measured as a straight line distance between the structures.
2. The exterior appearance of the structure shall not be altered from its single family dwelling character.
3. There shall be no employees on the premises except those residing in the dwelling.
4. Meals may be served to overnight guests only. No separate or additional kitchen facilities shall be provided for the guests.
5. The number of bedrooms available for use by guests shall not exceed six (6) and all rooms utilized for sleeping shall be part of the dwelling.
6. No receptions, private parties or activities, for which a fee is paid, shall be permitted except as may be expressly authorized in association with the special land use approval of a bed and breakfast.
7. Lavatories and bathing facilities shall be available to all persons using the premises, at a minimum rate of one (1) bathroom for each one (1) bedroom available for rent.
8. All parking for guests shall be in the rear yard except where the approving body finds adequate measures have been provided to minimize impacts on neighboring properties.

9. The sale or offer for sale of goods is permitted provided such sales area does not exceed one hundred fifty (150) square feet in floor area.

## Section 8.4 Private Campgrounds

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage, except as follows:

1. All campsites, common use and recreation areas, restrooms, and principal and accessory buildings shall be setback a minimum distance of seventy-five (75) feet from all lot lines and one hundred (100) feet from a residence existing at the time a Zoning Permit is issued for the campground.

### **B Additional Standards:**

1. No more than one (1) permanent dwelling shall be allowed in a campground, which shall only be occupied by the owner, manager or an employee.
2. A common use area shall be provided at a rate of five hundred (500) square feet per campsite, except that a minimum of ten thousand (10,000) square feet shall be provided.
3. A convenience store may be permitted to operate within a campground as an accessory and subordinate use to the campground where the campground exceeds more than 40 campsites, the approving body determines where such store is to be located will significantly discourage use of the store by non-campers, and such use is expressly authorized as part of an approved campground application.
4. Each campsite shall be clearly identified by stakes or markers.
5. Each campsite shall have a picnic table and if fires are permitted, a designated place for such fires.

## Section 8.5 Commercial Stables

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage, except as follows:

1. A commercial stable shall not be established on any parcel less than ten (10) acres in area and six hundred sixty (660) feet in width.
2. Buildings and structures housing animals, and manure storage areas, shall be set back a minimum distance of fifty (50) feet from lot lines.
3. No public viewing areas, such as bleachers or designated assembly and viewing areas in association with special events such as shows, exhibitions, and contests, shall be permitted within one hundred (100) feet of a lot line.

### **B Additional Standards:**

1. A vegetative strip of at least fifty (50) feet wide shall be maintained around all surface waters.
2. The facility shall be constructed and maintained so that manure, dust, and drainage shall not create a nuisance or hazard to adjoining property or uses.
3. At no time shall the density of horses exceed one (1) horse for the first five (5) acres, and one (1) horse for each additional acre, comprising the parcel.

## Section 8.6 Convalescent and Nursing Homes

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage.

### **B. Special Performance Standards:**

1. The lot shall have frontage on at least one (1) paved road classified by the Clare County Road Commission as a primary road according to PA 51 of 1951, and take its access from such road including off-street parking areas for guests and patients.
2. There shall be provided easily accessible and usable outdoor areas for walking, sitting, and general relaxation, in an amount of ten percent (10%) or more of the site area or one hundred (100) square feet per patient bed according to design capacity, whichever is greater, but in no case shall less than ten thousand (10,000) square feet be provided. No single designated outdoor area shall be less than 1,000 square feet in area.

### Section 8.7 Day Care Centers

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage.

**B Additional Standards:**

1. Day care center buildings authorized in Agricultural or Residential Districts shall be of an overall residential character including exterior construction materials and general architecture. The property, including landscape and structural elements, shall be maintained in a manner that is consistent with the character of the area.
2. No approval shall be granted prior to the applicant's receipt of a license from the Michigan Office of Child and Adult Licensing.

### Section 8.8 Day Care Facility, Group Home

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage.

**B Additional Standards:**

1. A group home day care facility shall not be located closer than fifteen-hundred (1,500) feet to any of the following facilities as measured along a road, street, or place maintained by this state or a local unit of government and generally open to the public as a matter of right for the purpose of vehicular traffic, not including an alley:
  - a. Another group home day care facility licensed by the State of Michigan.
  - b. An adult foster care group home licensed by the State of Michigan.
  - c. A facility offering substance abuse treatment and rehabilitation services to seven (7) or more people which is licensed by the State of Michigan.
  - d. A community correction center, resident home, halfway house or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.
2. All outdoor play areas shall be enclosed with fencing, a minimum of four (4) feet high and shall comply with all administrative rules of PA 116 of 1973, as amended.
3. The property, including landscape and structural elements, shall be maintained in a manner that is consistent with the character of the surrounding area. No play equipment shall be located in the front yard.
4. At least one (1) off-street parking space shall be provided for each non-family employee of the group day care home in addition to the parking normally required for the dwelling. A driveway may be used for this purpose. An off-street drop-off area is to be provided with the capability to accommodate at least two (2) automobiles in addition to the parking required for non-family employees of the dwelling and the parking normally required for the residence.
5. Hours of operation shall not exceed sixteen (16) hours in a twenty-four (24) hour period.
6. No approval shall be granted prior to the applicant's receipt of a license from the Michigan Office of Child and Adult Licensing.

### Section 8.9 Extraction Operations

**A. Additional Materials to be Submitted:** In addition to the information required by Article 15 for site plan review, the following information shall be provided:

1. Location of all buildings within two hundred (200) feet of any activity proposed for the site.
2. Detailed proposal as to method of operation, what type of machinery or equipment will be used, estimated period of time that such operation will cover, and all haul roads and truck entrance locations to be used.
3. Detailed description of the material to be extracted, the anticipated average amount of material to be extracted each year, the total estimated area to be devoted to extraction, the estimated extraction area during the first year and each subsequent year, the location of each principal phase, number of acres included in each phase, and the estimated length of time to complete extraction of each phase..
4. Proposed plans for fencing.
5. Depth to and directional flow of groundwater, and analysis data documenting the extent to which the extraction operation may undermine surface and ground water conditions of nearby properties such as in the case of lowering water levels of surface water bodies and ground water resources from which wells rely upon.
6. Proposed side slopes and depths for all portions of the extracted area, including interim and final

slopes.

7. Detailed storm water management plans that delineate how runoff is to be removed from extraction areas including the delineation of proposed interim and finished grading and revegetation, directional flow of swales and other drainage courses, settling ponds and retention/detention ponds, points of discharge of runoff, the avoidance of stagnant ponding, and measures to minimize erosion and sedimentation of existing on-site and off-site water bodies.
8. The proposed location of any buildings, storage areas, stockpiling areas, and sorting or crushing equipment as appropriate.
9. A detailed reclamation plan that complies with the following:
  - a. Describes in detail the intended reclamation use of the site upon completion of extraction activities, the spatial arrangement of proposed reclamation uses, and preliminary final grading of the site.
  - b. Depiction of finished, stabilized, side slopes, and provisions for revegetation and stabilization.
  - c. The inclusion of a landscape plan, including an inventory of plant/tree species to be used, sizes, and locations, and the manner in which vegetation shall be restored upon the site including appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetative cover on the land surface to minimize erosion. The landscape plan shall provide that a layer of arable topsoil shall be spread over the excavated area, except exposed rock surfaces, to a minimum depth of four (4) inches in accordance with an approved grading plan and intended reclamation use.
  - d. Final slopes no greater than a 3:1 (horizontal:vertical) ratio.
  - e. No noxious, flammable or toxic backfill and grading materials shall be used.
  - f. Provides for the removal of all rubbish, debris, structures, buildings, and equipment within 365 days of the termination of extraction operations.
  - g. The inclusion of a reclamation schedule that provides, in part, that reclamation shall be carried out progressively so as to ensure that no active extraction area exceeds five (5) acres in area, unless expressly authorized otherwise upon a finding that no practical alternatives exist and the public health, safety and welfare shall be ensured.

**B. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage, except as follows:

1. Minimum lot area shall be ten (10) acres.
2. Notwithstanding any other minimum setbacks required by this Ordinance, all extraction activities, including alteration of existing topographic conditions, fixed and temporary buildings and equipment, washing and stockpiling of materials, truck parking and truck storage areas, shall be set back a minimum distance of one hundred (100) feet from all lot lines and two hundred (200) feet from a residence existing at the time an application is submitted.

**C. Additional Standards:**

1. Rumble strips shall be provided along access drives to discourage the tracking of dirt onto adjacent roads. Public streets within 1000 feet of the exit of the extraction site shall be kept reasonably clear on a daily basis of mud, dirt and debris from vehicles exiting the site.
2. Measures shall be employed as necessary to prohibit windborne dust, sand, or other materials from leaving the extraction site, including the seeding of exposed earth, use of berms and vegetative screens, and the application of chemicals to non-vegetated areas provided such chemicals are biodegradable and non-toxic.
3. No topsoil shall be removed from the extraction site except as may be delineated on an approved site plan or otherwise authorized as part of an approval of the extraction operation.
4. Extraction areas shall be graded in a fashion which will not cause water to accumulate in stagnant pools.
5. Truck or heavy vehicle traffic related to extraction operations shall use major thoroughfares for access to the greatest extent feasible. The applicant shall make an adequate financial guarantee with the Township or Clare County Road Commission to address any additional road maintenance and/or improvements necessitated by extraction operation truck traffic.
6. Extraction operations, including crushing, washing, processing, loading and transport operations, shall commence no earlier than 7:00 a.m. and cease no later than 7:00 p.m. on weekdays and, on Saturdays between May 1st through November 30th, no earlier than 7:00 a.m. and cease no later than 5:00 p.m. Extraction operations shall not occur on Sundays, Christmas Day, and Thanksgiving Day. The Township Board may modify the limitations of this subsection upon a finding that specific conditions are present or are to be established that support more lenient limitations.
7. All temporary structures shall be removed from the premises upon completion of the extraction activity

unless said structures are of sound construction and are compatible with the approved reclamation plan.

8. The site shall be rehabilitated progressively as extraction areas are worked or abandoned so that they shall be in a condition of being entirely lacking in hazards and be inconspicuous, and blended with the general surrounding ground form. Reclamation of the site concurrent with extraction activities shall be undertaken to the extent that the reclamation activities will not interfere with the excavating activity or if the extraction activity will damage the reclaimed areas. Extraction areas shall be reclaimed pursuant to the approved reclamation plan. The excavator shall be required to post an acceptable performance guarantee pursuant to Section 3.6 of this Ordinance to address the reclamation costs for each five (5) acres of land to be disturbed or fraction thereof. Extraction activities shall not be initiated on any location of the site until such performance guarantee has been posted for that area of the site.
9. Any expansion of an extraction operation beyond that area covered by a valid Zoning Permit shall be subject to the special land use provisions of Article 16.
10. Any performance bond that may be required according to Section 3.6 may cover anticipated yearly or other periodic inspections.
11. All areas which are subject to current extraction operations, or past extraction operations but which have yet to be reclaimed or otherwise exhibit slopes in excess of 3:1 (horizontal to vertical), shall be fenced to a minimum height of six (6) feet. Any gates made part of such fencing shall be secured at all times when the site is unattended by the operator. Such fencing shall include signs no less than three (3) square feet in area and spaced no greater than two hundred (200) feet apart, with the following or similar notice: "Warning – Danger, Excavation in Progress."

**D. Abandonment/Termination of Use:**

1. An operator shall submit written notice to the Township Board of the abandonment of an extraction operation within six (6) months of such abandonment.
2. When extraction operations have ceased for more than 365 consecutive days or when, by examination of the premises or other means, the Township determines that the extraction operation, or portion thereof, has been abandoned, the Township Board shall give the owner written notice of the Township Board's intention to declare the extraction operation abandoned. Within thirty (30) days following receipt of such notice, the owner shall have an opportunity to submit evidence that the use of the extraction operation, or portion thereof, is continuing.
3. The Township Board shall then render a decision as to the extent to which extraction operations may continue or the operation shall be declared as abandoned. Upon a declaration of abandonment, the owner shall complete all provisions of the approved reclamation plan not otherwise completed to date, within six (6) months of such declaration, except upon a finding by the Township Board that there exist special or unique conditions that support a different time frame for completion.
4. Where an extraction operation has been declared abandoned, a new application and permit shall be necessary before additional extraction activities may occur.

**E. Time Limitation on Permit:** A permit for an extraction operation shall be valid for three (3) years. No less than every three (3) years from the issuance of such permit, the applicant shall submit project status documents delineating the status of extraction operations to date including the current limits of extraction, reclamation efforts undertaken and completed to date, updated phasing plans for the remainder of the approved extraction area, and the status of any alleged violations and corrective actions. The Township Board shall consider such documents and the recommendation of the Zoning Administrator, and upon finding such documents are satisfactory, the Township Board shall renew the permit for an additional three (3) years. The Township Board shall not deny the renewal of such permit if the extraction operation is in compliance with the originally approved zoning permit and all conditions made part of the original permit.

**F. No Very Serious Consequence:** When reviewing and taking action on a special land use application for an extraction operation, and in addition to reviewing such application according to the general special land use approval standards of Section 5.06, such application shall also be reviewed to determine whether adequate documentation has been submitted demonstrating that "no very serious consequences" will result by the approval of such application. The determination of "no very serious consequence" may be based on any of the following factors as may be applicable:

1. The relationship of extraction and associated activities with existing land uses.
2. The impact on existing land uses in the vicinity of the property.
3. The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.
4. The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.

5. The impact on other identifiable health, safety, and welfare interests in the Township.
6. The overall public interest in the extraction of the specific natural resources on the property.

**G. Exceptions:** The Township Board may waive any of the application requirements and standards of this Section upon finding that because of the overall low-intensity character of the proposed extraction operation, compliance with such requirements and standards is not warranted or may otherwise be relaxed. Criteria that the Township Board shall apply to determine whether any such waivers are reasonable shall include, at a minimum:

1. The extraction operation is not the principal use of the property.
2. Less than one hundred (100) cubic yards of total extracted material shall be removed during any one (1) year period.
3. No conditions are present on the property that suggest the need for compliance with the requirements and standards to which a waiver applies, and the waiving of a specific requirement, standard or regulation shall not undermine the public health, safety and welfare or otherwise undermine the Township's ability to effectively evaluate all aspects of the application and the extent to which the application complies with this Ordinance.
4. The application materials provide adequate detail to enable the Township Board to understand the scope of alterations to the property to accommodate extraction activities including the limits of excavation.

### **Section 8.10 Foster Care Facility, Group Home**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage.

**B Additional Standards:**

1. Any outdoor children's' play area shall be enclosed with fencing, a minimum of four (4) feet high.
2. The property, including landscape and structural elements, shall be developed and maintained in a manner that is consistent with the general character of residential properties within the general area.
3. An off-street drop-off area is to be provided with the capability to accommodate at least two (2) automobiles in addition to the parking required for employees.
4. The facility shall provide a loading/unloading area of adequate dimensions near a barrier-free entrance to the facility, and provide a loading/unloading area of adequate dimensions for delivery vehicles servicing the facility.
5. No approval shall be granted prior to the applicant's receipt of a license from the Michigan Office of Child and Adult Licensing.

### **Section 8.11 Golf Courses, Country Clubs, and Driving Ranges**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage, except as follows:

1. All principal and accessory buildings, and parking areas, shall be not less than fifty (50) feet from all lot lines and two hundred (200) feet from an existing dwelling.
2. No temporary sanitary facility or trash receptacle shall be located within one hundred (100) feet of a lot line.
3. Outdoor swimming pools and surrounding deck areas shall be located a minimum of one hundred (100) feet from all lot lines.

**B Additional Standards:**

1. No driving station shall be located within seventy-five (75) feet of any lot line. Where necessary, buffering conditions shall be in place to minimize the impact or safety threats upon adjacent land uses.
2. Fairways and driving ranges shall have sufficient width and shall be oriented in such a manner and set back a sufficient distance to prevent golf balls from being hit outside the perimeter of the golf course.
3. Accessory uses may include managerial facilities, maintenance sheds, restrooms, lockers, restaurants and drinking establishments, racket sports, swimming facilities, clubhouses, and other uses having a customary accessory relationship with a country club, provided all standards of this Ordinance are met and the approving body determines that such uses are clearly accessory and subordinate in character to the principal use of the parcel as an outdoor recreational facility.
4. A minimum fifty (50) foot buffer zone between turf areas and natural water bodies, watercourses or wetlands shall be maintained. The buffer zone may be selectively pruned or thinned, and weeds and dead plant material may be removed. However, the buffer shall consist of natural vegetation and shall not be chemically treated.

5. A hydrogeological study shall be completed and submitted to document the anticipated impact of the golf course on groundwater supply. This study shall inventory and analyze well logs from surrounding properties, giving consideration to the depth of the wells and quality of water. The study shall further estimate the quantity of water that will be used on a daily basis during the peak watering periods and shall evaluate the impact of watering operations on surrounding wells. The study shall be performed by an engineer or hydrologist licensed in the State of Michigan.
6. Detailed plans for hazardous materials storage shall be provided. Buildings in which hazardous materials are stored shall be designed to contain spills, shall not have floor drains that discharge into a septic system or other pathway to the groundwater, shall be lockable, and shall be kept locked. An inventory manifest of stored hazardous materials must be posted at the entrance of the storage building and filed with the Township. Plans for emergency containment and clean-up shall also be provided.
7. The design of buildings shall be of an overall residential or lodge character and exterior materials shall be primarily wood, siding, stone or brick.

## Section 8.12 Hospitals

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage.

**B Additional Standards:**

1. The lot shall have frontage on at least one (1) paved road classified by the Clare County Road Commission as a primary road according to PA 51 of 1951, and take its access from such road.
2. Ambulance and emergency entrance areas shall be visually screened from the view of adjacent residential uses and residentially-zoned land by a structure or masonry wall of six (6) feet or more in height.

## Section 8.13 Junkyards

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage, except as follows:

1. The minimum lot size shall be ten (10) acres.
2. All storage, dismantling, or other work on junk shall be set back at least two hundred (200) feet from all lot lines.

**B Additional Standards:**

1. A solid fence or wall enclosure at least eight (8) feet in height, but no greater than ten (10) feet in height, shall be provided around all sides of the area used to store, dismantle, or otherwise work on junk. Such fence or wall shall be of sound construction, painted or otherwise finished neatly and inconspicuously. All activities shall be confined to within the enclosed area including storage or stockpiling of materials; disassembly of materials, parts, and vehicles; and the storage or parking of all equipment and operative and inoperative vehicles. There shall be no stocking of material above the height of the enclosure.
2. There shall be no storing, dismantling, or other work on junk within three hundred (300) feet of a church, school, public building, park, cemetery, dwelling, or Residential District.
3. No junk yard shall be used for the dumping or disposal of household, commercial, or industrial garbage and trash.
4. No open burning shall be permitted.
5. Between the hours of 5:00 p.m. and 8:00 a.m., all processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.
6. All roads, driveways, parking lots, and loading and unloading areas within any junk yard shall be paved, watered, or chemically treated so as to limit the nuisance caused by wind-borne dust.
7. The operation shall be licensed by the Michigan Secretary of State.
8. Any materials listed on the Michigan Critical Materials Register (gasoline and solvents) require secondary containment and a Pollution Incident Protection Plan filed with the Michigan Department of Environmental Quality.
9. No inoperable vehicle shall be maintained on the site for more than three (3) days except where all fluids and other hazardous materials in such vehicle, including but not limited to batteries, fuels, oils, and coolants, are fully drained. Such fluids shall be disposed of in accordance with all local, county, state and federal regulations. The leaking of such materials onto the ground is prohibited.
10. All junk material shall be fully removed from the site prior to the termination of said use.



## Section 8.14 Kennels

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage, except as follows:

1. Buildings where animals are kept, runs, and group exercise areas (versus walking trails) shall not be located closer than 100 feet to any lot line.

### **B Additional Standards:**

1. The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease or offensive odor. The site plan application materials shall document the manner in which animal stalls are to be constructed and animal waste is to be disposed, and measures to be taken to protect against odors, fleas, and the spread of disease.
2. All animals must be licensed and maintained in a healthful and careful manner, and all kennel operations shall comply with all applicable county, township, state and federal regulations.
3. Kennel buildings used to house animals shall have concrete floors throughout and shall be fully enclosed, heated, ventilated, and insulated in such a manner that animal noises are minimized.
4. Habitual barking or unusual noise from the kennel which results in a nuisance to neighboring land owners or residents is prohibited.
5. Outdoor runs, pens or exercise yards shall not be used between the hours of 9:00 p.m. and 7:00 a.m.
6. Animals shall be kept confined and not allowed to run at large on the property except as part of supervised training.
7. Outdoor runs and exercise yards are prohibited in a Commercial District.

## Section 8.15 Landscape Services

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage.

### **B Additional Standards:**

1. The outdoor storage of landscape supplies shall not be located in a front yard nor encroach into the principal building's required side or rear setback.
2. All outdoor areas for the storage of materials, equipment and vehicles shall be so specified on the site plan.
3. The handling and storage of road salt, fertilizers, pesticides, and other hazardous materials shall comply with all local, county and state rules and regulations.
4. No composting shall be undertaken except where expressly authorized as part of the zoning permit approval. Such composting area shall be clearly indicated on a site plan and shall be managed to prohibit odors beyond the lot lines.
5. The storage or burning of grass clippings, leaves, brush, or other organic material brought onto the lot from off-site locations is prohibited.

## Section 8.16 Marinas

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage, except as follows:

1. All buildings, boat storage areas, repair and service areas, docks, and parking areas shall be set back a minimum distance of fifty feet from all lot lines.

### **B Additional Standards:**

1. Marinas shall be located where topographic conditions minimize the necessity to excavate upland areas to create the necessary basin and where dredging will have minimal impact on wetlands, submerged aquatic plant beds, and rare, threatened or endangered species.
2. Marinas shall be located and designed to maximize the flushing and circulation of the marina area.
3. The site plan shall provide for evergreen tree buffers of sufficient density to effectively screen the marina operations, including lighting, parking, restroom facilities, docks, boat launches, and picnic and other open space areas, from neighboring residences.
4. All aspects of a marina shall be located and designed to minimize disturbances to neighboring properties including lighting, noise, parking, restroom facilities, boat launches, and picnic and other open space areas.
5. Documentation shall be included in a marina application that describes in detail the means and capacity for sewage collection and disposal.
6. There shall be no storage of fuels or other hazardous materials except where expressly authorized by

the approving body. In such case, the application shall provide documentation of the marina's capability to respond rapidly and effectively to contain any spills of fuels and other hazardous materials.

### Section 8.17 Mini Storage Facilities

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage.

**B Additional Standards:**

1. One (1) parking space shall be provided for each twenty (20) rental units within the buildings, and one (1) parking space shall be provided for each employee.
2. There shall be a minimum of thirty (30) feet between storage buildings for driveway, parking, and fire lane purposes. Where no parking for loading or unloading is permitted within the building separation areas, said building separation need only be twenty-two (22) feet. Traffic direction and parking shall be designated by signaling or painting.
3. No retail, wholesale, fabrication, manufacturing, or service activities may be conducted from the storage units.
4. Storage spaces shall not contain more than 500 square feet each.
5. All storage shall be within the enclosed building area unless specifically provided for otherwise as part of an approved site plan, as in the case of the storage of recreational vehicles. No outdoor storage shall occur within a front yard and within fifty (50) feet of a side and rear lot line.
6. No storage of hazardous, toxic, or explosive materials shall be permitted at the facility. Signs shall be posted at the facility describing such limitations.

### Section 8.18 Motels and Hotels

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage, except as follows:

1. The front yard setback shall be a minimum of seventy-five (75) feet.
2. Side and rear yard setbacks shall be a minimum of fifty (50) feet.

**B. Additional Standards:**

1. Each unit shall contain at least a furnished bedroom and bath and a minimum gross floor area of two hundred fifty (250) square feet.
2. Motels and hotels shall provide customary services such as maid service, linen service, and telephone and/or desk service.
3. A hotel or motel may include accessory services including meeting rooms and restaurants provided such uses are contained within the motel building, comply with the provisions of this Ordinance including adequate off-street parking in addition to the motel itself, and such uses are made part of the zoning permit application for which approval is granted.
4. A caretaker's residence may be established within the motel only.
5. The site shall have direct access to a county primary road or M-61.

### Section 8.19 Multiple Family Developments

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage, except as follows:

1. Any portion of a building within one hundred (100) feet of a Residential District shall not exceed twenty (20) feet in height.
2. Buildings shall be a minimum twenty-five (25) feet from the edge of a parking lot or access drive not otherwise comprising a road right-of-way

**B. Special Performance Standards:**

1. The minimum distance between any two buildings on the lot shall be equal to fifty (50) feet except that the minimum distance between any two buildings on the lot that are generally arranged end-to-end shall be the height of the taller building but no less than twenty (20) feet.
2. There shall be provided easily accessible and usable open space in the development in an amount of ten percent (10%) or more of the site area or one hundred (100) square feet per dwelling unit, whichever is greater, but in no case shall less than ten thousand (10,000) square feet be provided. No single designated open space shall be less than 1,000 square feet in area. Such open space shall be available for recreation and leisure.
3. In no case shall a residential building be more than one hundred fifty (150) feet from the parking lot from which it is served.

4. Accessory buildings, structures, and uses that are clearly customary and incidental to the functioning of the development are permitted, including business and administrative offices, laundry facilities and auxiliary storage for tenants, and community buildings.
5. All access drives shall have a minimum pavement width of thirteen (13) feet for one-way streets and twenty-four (24) feet for two-way streets.
6. The minimum floor area for multiple family dwelling units shall be as follows:
  - a. Efficiencies: 400 sq. ft. of heated living area.
  - b. One bedroom units: 750 sq. ft. of heated living area.
  - c. Two bedroom units: 850 sq. ft. of heated living area.
  - d. Three bedroom units: 950 sq. ft. of heated living area.
  - e. Four or more bedroom units: 1,050 sq. ft. of heated living area, plus 100 sq. ft. of heated living area for each additional bedroom in excess of the fourth bedroom.

### **Section 8.20 Open Air Businesses (On-Site Sales of Vehicles, Landscape Supplies, Outdoor Furniture, and Similar Outdoor Sales)**

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage.

**B Additional Standards:**

1. All outdoor sales, storage or display areas shall include a building of a minimum two hundred (200) square feet in area, which functions in association with the business.
2. All outdoor sales, storage and display areas shall comply with the minimum setback standards for the building on the premises.
3. Any lot devoted to the sale of vehicles shall have frontage on at least one (1) paved road classified by the Clare County Road Commission as a primary road according to PA 51 of 1951.
4. In the case of vehicle sales, the following shall apply:
  - a. All repair, assembly, disassembly or maintenance of vehicles shall occur within a closed building except minor maintenance including tire, oil and wiper replacement.
  - b. All vehicle display and storage areas shall be asphalt or concrete paved except where the approving body determines such paving is not necessary due to the prohibition of public access to such areas, the limited use of such areas on a day-to-day basis, or other reasons the approving body finds applicable.
5. The outdoor storage or display of any soil, fertilizer, sand, or similar exposed or packaged materials shall be sufficiently contained to prevent any adverse affect on water bodies, wetlands, drainage ways and adjacent properties.
6. Outdoor broadcasting of voice or music shall be prohibited.

### **Section 8.21 Open Space Preservation Communities**

**A. Purpose:** It is the purpose of Open Space Communities (OSPC) to provide opportunities for residential development which, because of the more flexible standards available to OSPCs under this Section and according to Section 506 of the Michigan Zoning Enabling Act, more effectively encourage the preservation of the Township's open spaces and natural resources including woodlands, wetlands and sensitive environmental areas, and the Township's rural character. The regulations of this Section intend to accomplish these purposes, in part, by providing for the grouping or clustering of new homes on smaller lots than typically required by the District within which the OSPC is proposed to be located, so that the remainder of the site can be preserved as open space.

**B. The following site and developmental requirements shall apply:**

1. **Uses:** Uses within an OSPC shall be limited to those dwelling types authorized by the District in which the OSPC is located and customary accessory uses to dwellings, in addition to the open space as required by this Section.
2. **Number of Lots/Dwellings:** The number of dwellings and lots authorized in an OSPC shall be the number attainable by the Conventional Plan according to subsection (C)(2) below plus an additional twenty-five percent.
3. **Minimum Lot Area and Width**
  - a. **Lot Area:** The minimum lot area shall be that which is necessary for acquisition of all required public health permits and approvals including potable water and on-site sewage disposal where such public utilities are not available. Where such public utilities are provided, the minimum lot area shall

be no less than thirty-five percent (35%) of the normally required lot area of the respective District.

- b. Lot width: Minimum lot widths shall be of such dimension so that no lot has a depth greater than four (4) times its width, but in no case shall a lot be less than sixty-five (65) feet in width.

4. Setbacks

a. The following front, side and rear yard setbacks shall apply except that in no case shall a building be located within one hundred (100) feet of a road right-of-way outside of the OSPC parcel and seventy-five (75) feet of the perimeter lot line of the OSPC parcel. Where the approving body finds the natural or proposed topography, vegetation, or other conditions provide adequate screening and buffering, the above referenced setbacks may be reduced by no greater than thirty percent (30%).

- 1) Front yard: twenty-five (25) feet.
- 2) Side yard: ten (10) feet.
- 3) Rear yard: twenty (20) feet.

b. In addition to subsection (a) above, a minimum (75) foot setback shall be maintained along lakes, ponds, rivers, streams, and wetlands, except that this setback shall not prohibit trails, boardwalks, observation platforms or other similar structures that enhance passive enjoyment of the site's resources within the setback.

5. Guarantee of Open Space: An OSPC shall include permanently dedicated open space. Such required open space shall remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land, acceptable to the approving body. Further subdivision of open space land or its use for other than conservation, agricultural uses, or preservation in an undeveloped state, is prohibited. The applicant shall guarantee to the satisfaction of the approving body that all open space portions of the development will be maintained in perpetuity and in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the proposal. For the purposes of this Section, "undeveloped state" shall be construed to mean a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. For the purposes of this Section, "greenway" shall be construed to mean a contiguous or linear open space, including habitats, wildlife corridors, and trails, that link parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.

a. The open space conveyance shall:

- 1) Indicate the proposed allowable use(s) of the dedicated open space.
- 2) Require that the dedicated open space be maintained by parties who have an ownership interest in the open space, and establish a funding mechanism to ensure the same.
- 3) Provide for maintenance to be undertaken by the Township in the event that the dedicated open space is inadequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the property owners.

6. Open Space Preservation Area, Character, and Priorities

a. A minimum of fifty percent (50%) of the OSPC parcel shall be designated as permanent open space. However, in no case shall the required open space area be characterized by year-round submerged land such as ponds, lakes, and year-round submerged wetlands. In addition, no more than fifty percent (50%) of the required open space area shall be characterized by wetlands not otherwise submerged year-round.

b. Open space shall be located on the parcel to meet the following objectives:

- 1) To preserve distinctive natural features and rural characteristics such as mature woodlands, steep slopes, wetlands, floodplains, stream corridors, special plant and animal habitats, and panoramic views. Greatest preservation priority shall be placed upon water courses and bodies, MDNRE-regulated wetlands, floodplains, and mature woodlands. Other on-site natural resources shall also be considered in the location of open spaces and overall design of the project including farmland, tree lines, wetlands not regulated by the MDNRE, and panoramic rural views.
- 2) To promote the effective preservation of the existing character along the public road frontages that the OSPC abuts.
- 3) To ensure the open space area is of a unified character comprised predominantly of large contiguous areas, except where special conditions may exist that support a more fragmented configuration of the open space.

7. Fire Protection: Fire protection measures shall be provided in all OSPCs which provide public water, and in OSPCs which are generally characterized by lots of approximately twenty thousand (20,000) sq. ft. or less in

size where such lots are clustered or otherwise generally adjacent to one another. Fire protection measures shall include an adequate on-site source of water for use by the local fire department and associated infrastructure to enable the local fire department to effectively respond to a fire emergency.

**8. Vehicular and Pedestrian Access and Circulation**

- a. All dwellings within an OSPC shall gain access from an interior road within the OSPC.
- b. A non-motorized circulation system may be required along one or both sides of the roads of the OSPC and/or through other portions of the OSPC, to ensure safe non-motorized travel. The circulation system shall be coordinated with existing or planned pedestrian ways, roads, and activity centers in the area. Non-motorized circulation networks shall encourage ease of access from residences to the designated open space areas.
- c. Access points or paths shall be provided to afford pedestrian access to designated open space and common areas. These access points shall link the open space to the road system, sidewalks, or the remainder of the development.
- d. All public roads shall conform to the requirements and standards of the Clare County Road Commission. All private roads shall conform to the requirements and standards of this Ordinance.

**C. Special Application and Approval Requirements:** OSPCs are classified as special land uses and OSPC applications shall be reviewed and acted upon according to Article 15 (Site Plan Review) and Article 16 (Special Land Uses), in addition to the following:

1. Unified Control: The application shall demonstrate that the proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.
2. Conventional Plan: At the time the applicant submits a site plan for the OSPC, the applicant shall also submit a conventional plan which shall illustrate a practical and reasonable manner for developing the project parcel according to the conventional development standards of the District in which it is located including the normally required minimum lot area and width. This plan shall identify the total number of lots and dwellings reasonably attainable. The approving body shall make the final determination as to the number of dwellings and lots reasonably attainable by conventional design. This information shall be used when determining the permissible number of dwellings and lots for an OSPC proposal. a. The conventional plan referenced in subsection (2) above need not be an engineered set of construction drawings, but shall be of such detail and clarity to demonstrate conformity with all state, county and township regulations including, but not limited to, potable water and sewage disposal, storm water management including necessary detention and retention ponds, and general road design and construction. The conventional plan shall demonstrate the feasibility of the proposed plan both in regard to its construction and its negligible impact upon sensitive environmental resources including wetlands and drainage courses and, in doing so, shall include the following: natural features such as wetlands, woodlands, flood plains, streams, rivers, county drains, lakes, ponds, and topography (at two-foot intervals), and man-made features such as existing roads, structures, utilities, easements, and adjacent land use conditions. A conventional plan shall not be considered by the approval body if it determines that it does not provide the necessary level of detail or information to assess such conventional plan for the purposes of subsection (2) above.
3. Recording of Approval Action/Permit Issuance: The applicant shall record an affidavit with the County Register of Deeds containing the full legal description of the project site, specifying the date of final Township approval, and declaring that all improvements will be carried out in accordance with the approved OSPC plan unless a change is approved by the Township. In addition, all deed restrictions and easements shall be duly filed with the Register of Deeds of the County. Copies of recorded documents shall be presented to the Township Clerk. Upon receipt of the recorded documents, the Township Clerk shall direct the Zoning Administrator to issue a zoning permit for the OSPC.

## Section 8.22 Outdoor Eating Areas

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage. The outdoor eating area shall comply with the principal building setback requirements for the District in which it is located.

### **B Additional Standards:**

1. No outdoor eating area shall be used or otherwise occupied except during normal indoor business hours.
2. Outdoor tables and chairs shall be movable and all outdoor furnishings, including umbrellas, shall be adequately weighted. All outdoor furnishings shall be maintained in good repair and in a clean and safe condition.
3. No outdoor entertainment shall be permitted. This limitation shall not apply in the case of recorded music that is not audible at any property line.
4. No outdoor eating area shall include cooking or other food preparation equipment except where expressly authorized by the approval of a site plan clearly delineating the location and character of such food preparation facilities.
5. An outdoor eating area shall be kept free of litter. Trash receptacles shall be emptied daily.
6. Electrical illumination of an outdoor eating area shall be directed downward upon such area. This limitation shall not apply in the case where such lighting does not exceed six (6) feet in height and the approving body determines that such lighting will not undermine the use and enjoyment of nearby property. No lighting shall increase light levels or glare upon adjacent properties.
7. No furniture, apparatus, decoration or appurtenance used in connection with the operation of an outdoor eating area shall be located in such a way as to impede the safe and speedy ingress and egress to or from any building, or otherwise interfere with emergency services.
8. No signage shall be allowed in association with an outdoor eating area except for the name of the establishment on an awning or umbrella fringe, and one menu board not to exceed six (6) square feet in area. Moving, fluttering or flapping pennants, flags, balloons and similar decorations are prohibited.
9. In no case shall patrons be allowed access to an outdoor eating area in which alcohol consumption is permitted except by access through the principal means of entrance into the indoor eating and/or drinking area.
10. The approving body may place restrictions on the hours of operation of the outdoor eating area where it determines surrounding land uses or other conditions, such as the proximity of nearby dwellings, justify such a restriction to ensure compatibility and public welfare.

### **C. Special Application Requirements:**

1. The boundaries of the outdoor eating area shall be clearly defined by fencing, planters, surface material, or other visual means.

## Section 8.23 Private Landing Strips

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage, except as follows:

1. Runways, hangers, maintenance buildings, and any other structures associated with the landing strip shall be located a minimum of one-hundred (100) feet from lot lines.

### **B Additional Standards:**

1. Runways shall be twelve hundred (1,200) feet in land length and fifty (50) feet in width, with a clear approach in each direction of 10:1 (horizontal to vertical) for a distance of 10,000 feet, except where the applicant can demonstrate that the intended type of aircraft to be used has standard operational characteristics that make such standards excessive such as in the case of "ultra light" aircraft.
2. Approval of landing strips shall not be made prior to the receipt of the Federal Aviation Authority's review of the proposed landing strip.

## Section 8.24 Sawmills

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage, except as follows:

1. A minimum lot area of ten (10) acres, and lot width of six hundred (600) feet, is required.
2. All buildings, equipment and access drives shall be at least one hundred (100) feet from lot lines and five hundred (500) feet from any dwelling existing or under construction at time of approval. Access drives may be less than one hundred (100) feet from lot lines where no reasonable alternative exists to comply with County Road Commission requirements, and/or the approving body finds a lesser distance will not increase negative impacts on existing adjacent uses.

**B Additional Standards:**

1. Outdoor storage of material shall be a minimum of one hundred (100) feet from lot lines.
2. Operating hours shall be determined by the approving body based on the nuisance potential to adjoining property owners. The maximum range of hours is Sunday through Saturday from 8:00 a.m. to 6:00 p.m., and operations may be prohibited on legal holidays.

## Section 8.25 Shooting Ranges

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage, except as follows:

1. Minimum lot area shall be forty (40) acres for outdoor firearm shooting activities and shall be twenty (20) acres for outdoor archery-only shooting activities.

**B Additional Standards:**

1. An outdoor shooting range's boundaries shall be clearly posted with warning signs around its perimeter. All vehicular access shall be controlled by locked gates.
2. A site plan for the range, whether indoor or outdoor, shall clearly indicate all safety provisions to prohibit any projectile discharged within the confines of a shooting range from exiting the range.
3. The Township may submit a copy of the site plan to law enforcement agencies for review and comment.
4. All indoor and outdoor activities, including the shooting of projectiles and storage of projectiles, shall comply with the most current published standards and guidelines of the National Rifle Association and Field Archery Association, as applicable.
5. Outdoor shooting hours shall be between 10:00 a.m. and 6:00 p.m. but not past sundown, as published by the National Weather Service, unless expressly authorized otherwise by the approving body.
6. Outdoor shooting ranges shall be configured to minimize the potential for lead to enter surface waters, ground water and wetlands. Application materials shall include a lead management plan that shall specify measures to address the containment, migration, removal and disposal of lead.

## Section 8.26 Vehicle / Car Wash Establishment

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage.

**B Additional Standards:**

1. The facility shall have frontage on and gain direct access to a paved road.
2. All washing activities shall be carried on within an enclosed building or under a covered structure with side walls separating individual washing bays.
3. Vacuuming activities shall be set back a minimum of one hundred (100) feet from property used for residential purposes.
4. Maneuvering lanes and stacking lanes shall be located on the site and shall provide sufficient room to avoid waiting cars encroaching into a road right-of-way.
5. Each bay shall be graded and drained to collect run-off originating in the bay.
6. Trash containers shall be provided and emptied as necessary to prohibit litter.

## Section 8.27 Vehicle Repair Shops and Service Stations

**A. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage, except as follows:

1. Fuel pumps and pump canopies shall be setback a minimum distance of twenty-five (25) feet from all lot lines, as shall all above and below ground storage of fuel and other flammable materials.

### **B Additional Standards:**

1. The lot shall have frontage on at least one (1) paved road classified by the Clare County Road Commission as a primary road according to PA 51 of 1951, and take its access from such road.
2. Hydraulic hoists, service pits, lubricating, greasing, washing, and repair equipment and operations shall be located within a completely enclosed structure, and all storage of vehicle parts and dismantled vehicles, and repair work, shall occur in such structure.
3. Vehicles rendered inoperative for any reason, and vehicles without current license plates and registration, shall not be maintained on the property for more than fifteen (15) days. Such vehicles shall be parked or stored in a building, or an enclosed area, in a side or rear yard, that shall be setback from all lot lines the minimum distance required for principal buildings in the District.
4. All lighting mounted to the underside of a canopy shall be fully recessed.
5. The application materials shall identify the extent, quantities, and types of explosive, flammable, or otherwise hazardous materials that may be used, and the measures to be used for proper handling, storage, and disposal of such materials.

## Section 8.28 Wind Energy Turbines

**A. Definitions:** For the purposes of this Section, the following phrases shall have the following meanings:

1. Ambient Sound Level: The amount of background noise at a given location prior to the installation of a WET(s) which may include, but not be limited to, traffic, machinery, lawnmowers, human activity, and the interaction of wind with the landscape. The ambient sound level is measured on the dB(A) weighted scale as defined by the American National Standards Institute.
2. Anemometer: A temporary wind speed indicator constructed for the purpose of analyzing the potential for utilizing a wind energy turbine at a given site. This includes the tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipment, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
3. Blade: The aerodynamic surface that catches the wind.
4. Decommissioning: The process of terminating operation and completely removing a wind energy turbine (WET) and all related buildings, structures, foundations, access roads, and equipment.
5. KW-kilowatt is a measure of power for electrical current (1000 watts).
6. KWh-Kilowatt-hour: A measure of energy equal to the use of one kilowatt in one hour.
7. Large Wind Energy Turbine (LWET): A wind energy turbine that is tower-mounted and has a nameplate capacity that exceeds two hundred fifty (250) kilowatts.
8. Medium Wind Energy Turbine (MWET): A wind energy turbine that is tower-mounted and has a nameplate capacity that exceeds thirty (30) kilowatts but does not exceed two hundred fifty (250) kilowatts.
9. Net-Metering: A special metering and billing agreement between utility companies and their customers, which facilitates the connection of renewable energy generating systems to the power grid.
10. Occupied Building: A residence, school, hospital, church, public library, business, or other building used for public gatherings.
11. Operator: The entity responsible for the day-to-day operation and maintenance of a wind energy turbine (WET).
12. Owner: The individual or entity, including their respective successors and assigns, that have an equity interest or own the wind energy turbine (WET) in accordance with this ordinance.
13. Shadow Flicker: The moving shadow, created by the sun shining through the rotating blades of a wind energy turbine (WET). The amount of shadow flicker created by a WET is calculated by a computer model that takes into consideration turbine location, elevation, tree cover, location of all structures, wind activity, and sunlight.
14. Small Tower-Mounted Wind Energy Turbine (STMWET): A wind energy turbine (WET) that is tower-mounted and has a nameplate capacity that does not exceed thirty (30) kilowatts.



15. Small Structure-Mounted Wind Energy Turbine (SSMWET): A wind energy turbine that is attached to a structure's roof, walls, or other elevated surface and has a nameplate capacity that does not exceed ten (10) kilowatts.
16. Total Height: The vertical distance measured from the ground level at the base of a wind energy turbine (WET) to the uppermost vertical extension of any blade, or the maximum height reached by any part of the wind energy turbine (WET).
17. Tower: A freestanding monopole that supports a wind energy turbine (WET).
18. Wind Energy Turbine (WET): A wind energy conversion system that converts wind energy into electricity through the use of a turbine mounted on a tower or other structure, including any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system, and may include structures and buildings accessory to such system.

**B. Additional Application Requirements for SSMWETs and STMWETs:** The following information shall be provided in addition to the application information required by Section 3.4(B)(1 )(b) for plot plan approval.

1. Maps (drawn to scale) showing the proposed location of all components and ancillary equipment of the SSMWETs or STMWETs, property lines, physical dimensions of the property, existing buildings, setback lines, right-of-way lines, public easements, overhead utility lines, sidewalks, non-motorized pathways, roads and contours. The plot plan shall include adjoining properties as well as the location and use of all structures.
2. Total proposed number of SSMWETs and STMWETs and the proposed type and height of each to be constructed; including the manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated generating capacity, dimensions, rotor diameter, and a description of ancillary facilities.
3. Documented compliance with the noise requirements of this Ordinance.
4. Documented compliance with applicable local, state and national regulations including, but not limited to, all applicable safety, construction, environmental, electrical, communications, and FAA requirements.
5. Proof of applicant's liability insurance
6. Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.
7. Other relevant information as may be reasonably requested.

**C. Additional Application Requirements for a MWET and LWET:** The following information shall be provided in addition to the application information required by Article 15 (Site Plan Review) and Article 16 (Special Land Uses).

1. Shadow Flicker Analysis: An analysis on potential shadow flicker at any occupied building with direct line-of-sight to the MWET or LWET. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sun-rise to sun-set over the course of a year. The analysis shall identify situations where shadow flicker may affect the occupants of the buildings for more than 30 hours per year, and describe measures that shall be taken to eliminate or mitigate the problems.
2. Site Plan Drawing: Location and height of all proposed MWETs or LWETs, buildings, structures, ancillary equipment, underground utilities and their depth, towers, security fencing, access roads (including width, composition, and maintenance plans), electrical sub-stations, and other above-ground structures and utilities associated with a proposed MWET or LWET.
3. Site Plan Documentation: The following documentation shall be included with the site plan:
  - a. The contact information for the owner and operator of the MWET or LWET as well as contact information for all property owners on which the MWET or LWET is located.
  - b. A copy of the lease, or recorded document, with the landowner(s) if the applicant does not own the land for the proposed MWET or LWET. A statement from the landowner(s) of the leased site that he/she will abide by all applicable terms and conditions of the zoning permit, if approved.
  - c. In the case of a Condominium Development, a copy of the Condominium Development's Master Deed and Bylaws addressing the legal arrangement for the MWET or LWET.
  - d. The proposed number, representative types and height of each MWET or LWET to be constructed; including their manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated capacity, rotor diameter, and a description of ancillary facilities.
  - e. Documents shall be submitted by the developer/manufacturer confirming specifications for MWET or LWET tower separation.
  - f. Documented compliance with the noise, and shadow flicker requirements of this Ordinance.
  - g. Engineering data concerning construction of the MWET or LWET and its base or foundation, which

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may include, but not be limited to, soil boring data.

- h. A certified registered engineer shall certify that the MWET or LWET meets or exceeds the manufacturer's construction and installation standards.
- i. A copy of the maintenance and operation plan, including anticipated regular and unscheduled maintenance. Additionally, a description of the procedures that will be used for lowering or removing the MWET or LWET to conduct maintenance, if applicable.
- j. Documented compliance with applicable local, state and national regulations including, but not limited to, all applicable safety, construction, environmental, electrical, and communications. The MWET or LWET shall comply with Federal Aviation Administration (FAA) requirements, Michigan Airport Zoning Act, Michigan Tall Structures Act, and any applicable airport overlay zone regulations.
- k. Proof of applicant's liability insurance shall be required bi-annually
- l. Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.
- m. A written description of the anticipated life of each MWET or LWET; the estimated cost of decommissioning; the method of ensuring that funds will be available for decommissioning and site restoration; and removal and restoration procedures and schedules that will be employed if the MWETs or LWETs become inoperative or non-functional.
- n. The applicant shall submit a decommissioning plan that shall be carried out at the end of the MWET's or LWET's useful life, and shall describe any agreement with the landowner regarding equipment removal upon termination of the lease.
- o. The following additional information requirements shall apply to LWETs only:
  - 1) A description of the routes to be used by construction and delivery vehicles and of any road improvements that will be necessary to accommodate construction vehicles, equipment or other deliveries, and an agreement or bond which guarantees the repair of damage to public roads and other areas caused by construction of the LWET.
  - 2) A study assessing any potential impacts on the natural environment (including, but not limited to, assessing the potential impact on endangered species, eagles, birds and/or other wildlife, wetlands and fragile ecosystems). The study shall conform to state and federal wildlife agency recommendations based on local conditions.

#### **D. Anemometers**

- 1. The construction, installation, or modification of an anemometer tower shall require a zoning permit and shall conform to all applicable local, state, and federal applicable safety, construction, environmental, electrical, communications, and FAA requirements.
- 2. An anemometer shall be subject to the height, setback, separation, location, safety, and decommissioning provisions that correspond to the size of the WET that is being contemplated for the site.
- 3. An anemometer shall be permitted for no more than thirteen (13) months for a SSMWET, STMWET, or MWET, and no more than three (3) years for a LWET.

**E. Compliance with Table 4-4:** All WETs shall comply with the provisions of Table 4-4 of Article 4 except where subsections (F) - (H) provide otherwise.

**F. Standards Applicable to All WETs:** The following provisions shall apply to all WETs.

- 1. Visual Appearance
  - a. WETs, including accessory buildings and related structures shall be a non-reflective, non-obtrusive color (e.g. white, gray, black). The appearance of the turbine, tower, and any ancillary facility shall be maintained throughout the life of the WET.
  - b. A WET shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or otherwise necessary for the reasonable safety and security thereof.
  - c. A WET shall not be used for displaying any advertising (including flags, streamers, or decorative items), except for identification of the turbine manufacturer.
- 2. Ground Clearance: The lowest extension of any blade or other exposed moving component of a WET shall be at least fifteen (15) feet above the ground, at the highest point of the ground elevation within fifty (50) feet of the base of a tower, and at least fifteen (15) feet above any outdoor surfaces intended for human use, such as balconies or roof gardens, that are located directly below a SSMWET or STMWET.
- 3. Noise: Noise emanating from the operation of WETs shall not exceed, at any time, the lowest ambient sound level that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a residential or agricultural use parcel or from the property line of parks, schools, hospitals, and churches. Noise emanating from the operation of WETs shall not exceed, at any time, the lowest ambient noise level plus 5 dBA that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a

4. Vibration: Vibrations shall not be produced which are humanly perceptible beyond the property on which a WET is located.
5. Guy Wires: Guy wires shall not be permitted as part of the WET.
6. Electrical System: All electrical controls, control wiring, grounding wires, power lines, and all other electrical system components of the MWET or LWET shall be placed underground within the boundary of each parcel at a depth designed to accommodate the existing land use to the maximum extent practicable. Wires necessary to connect the wind generator to the tower wiring are exempt from this requirement. Further, the electrical system shall comply with all state, county and National Electrical Codes. Above ground wiring is permitted in the case of a SSMWET or STMWET provided such wiring is necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box and the grounding wires.
7. The design of WETs shall conform to all applicable industry standards.

**G. Additional Standards Applicable to SSMWETs and STMWETs:** The following provisions shall apply to SSMWETs and STMWETs in addition to those of subsection (F).

1. SSMWET

- a. Height: The height of a SSMWET shall not exceed (15) feet as measured from the highest point of the roof, excluding chimneys, antennae, and other similar protuberances.
- b. Setback: The setback of a SSMWET shall be a minimum of fifteen (15) feet from the property line, public right-of-way, public easement, or overhead utility lines if mounted directly on a roof or other elevated surface of a structure. If the SSMWET is affixed by any extension to the side, roof, or other elevated surface, then the setback from the property line or public right-of-way shall be a minimum of fifteen (15) feet. The setback shall be measured from the furthest outward extension of all moving parts.
- c. Location: The SSMWET shall not be affixed to the wall on the side of a structure facing a road.
- d. Quantity: No more than three (3) SSMWETs shall be installed on any parcel.
- e. Separation: If more than one SSMWET is installed, a distance equal to the height of the highest SSMWET must be maintained between the base of each SSMWET.

2. STMWET

- a. Height: The total height of a STMWET shall not exceed one hundred (120) feet.
- b. Occupied Building Setback: The setback from all occupied buildings on the applicant's parcel shall be a minimum of twenty (20) feet measured from the base of the tower.
- c. Other Setbacks: The setback shall be equal to 1 1/2 times the total height of the STMWET, as measured from the base of the Tower, from the property line, public right-of-way, public easement, or overhead public utility lines. This setback may be reduced if the applicant provides a registered engineer's certification that the WET is designed to collapse, fall, curl, or bend within a distance or zone shorter than the height of the wind turbine.
- d. Quantity: No more than one (1) STMWET shall be installed on any parcel of property.

**H. Additional Standards Applicable to MWETs and LWETs:** The following provisions shall apply to MWETs and LWETs in addition to those of subsection (F).

1. Shadow Flicker: Shadow flicker on a building shall not exceed thirty (30) hours per year.

2. Safety Requirements:

- a. If the MWET or LWET is connected to a public utility system for net-metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's then-current service regulations applicable to wind power generation facilities, and the connection shall be inspected by the appropriate public utility.
- b. The MWET or LWET shall be equipped with an automatic braking or governing system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades and other wind energy components unless the manufacturer certifies that a braking system is not necessary.
- c. Security measures shall be in place to prevent unauthorized trespass and access. Each MWET or LWET shall not be climbable up to fifteen (15) feet above ground surfaces. All access doors to MWETs or LWETs and electrical equipment shall be locked and/or fenced as appropriate, to prevent entry by non-authorized persons.
- d. All spent lubricants, cooling fluids, and any other hazardous materials shall be properly and safely removed in a timely manner.
- e. Each MWET or LWET shall have one sign, not to exceed two (2) square feet in area, posted at the base of the tower and on the security fence if applicable. The sign shall include, at a minimum,

warnings of high voltage, manufacturer's and owner/operators name, and emergency contact numbers.

- f. The structural integrity of the MWET or LWET shall conform to the design standards of the International Electrical Commission, specifically IEC 61400-1, "Wind Turbine Safety and Design," IEC 61400-22 "Wind Turbine Certification," and IEC 61400-23 "Blade Structural Testing," or any similar successor standards.
3. Signal Interference: The MWET or LWET shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite, or emergency communication systems.
4. Decommissioning:
  - a. The MWET or LWET Owners or Operators shall complete decommissioning within twelve (12) months after the end of the useful life. Upon request of the owner of the MWET or LWET, and for a good cause, the Township Board may grant a reasonable extension of time. Each MWET or LWET will presume to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months. All decommissioning expenses are the responsibility of the owner or operator.
  - b. Decommissioning shall include the removal of each MWET or LWET, buildings, electrical components as well as any other associated facilities. Any foundation shall be removed to a minimum depth of sixty (60) inches below ground elevation, or to the level of the bedrock if less than sixty (60) inches below ground elevation. Following removal, the location of any remaining wind turbine foundation shall be identified on a map as such and recorded with the deed to the property with the County Register of Deeds.
  - c. All access roads to the MWET or LWET shall be removed, cleared, and graded unless the property owner requests, in writing, a desire to maintain the access road. The Township will not be assumed to take ownership of any access road unless through official action of the Township Board.
  - e. The site and any disturbed earth shall be stabilized, graded, and cleared of any debris. If the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion, unless the property owner submits a valid basis for not seeding the area.
  - f. A performance guarantee shall be posted pursuant to Section 3.6 for the decommissioning of all MWETs and LWETs.
5. MWETs: The following additional requirements apply to MWETs only.
  - a. Location: If an MWET is located on an agricultural, commercial, industrial, or public property that has an occupied building, it shall only be located in the rear yard.
  - b. Condominium: The MWET shall only be located in a General Common Element in a Condominium Development.
  - c. Height: The total height of a MWET shall not exceed one hundred and fifty (150) feet.
  - d. Quantity: No more than one (1) MWET shall be installed for every two and one-half (2.5) acres of land included in the parcel.
  - e. Setback & Separation:
    - 1) Property Line Setbacks: Except as provided by subsection (2) below, an MWET shall be a minimum distance from all lot lines equal to the total height of the MWET as measured from the base of the tower. This setback may be reduced by the Township Board if the applicant provides a registered engineer's certification that the WET is designed to collapse, fall, curl, or bend within a distance or zone shorter than the height of the WET.
    - 2) Public Road Setbacks: A MWET shall be set back from the nearest public road a minimum distance equal one and one-half (1.5) times the total height of the MWET, determined at the nearest boundary of the underlying right-of-way for such road.
    - 3) Occupied Building Setback: The setback from all occupied buildings on the applicant's parcel shall be a minimum of twenty (20) feet measured from the base of the tower.
    - 4) Communication and Electrical Lines: A MWET shall be set back from the nearest above-ground public electric power line or telephone line a distance equal to one and one-half (1.5) times the total height of the MWET, as measured from the base of the tower, determined from the existing power line or telephone line.
    - 5) Tower Separation: MWET/tower separation shall be based on industry standards and manufacturer recommendations.
6. LWETs: The following additional requirements apply to LWETs only:
  - a. Ground Clearance: The lowest extension of any blade or other exposed moving component of an LWET shall be at least fifty (50) feet above the ground, at the highest point of the ground elevation within one hundred fifty (150) feet of the base of the tower).
  - b. Quantity: The number of LWETs shall be determined based on setbacks and separations.
  - c. Access Driveway: Each LWET shall require the construction of a private road to offer an adequate means by which the Township may readily access the site in the event of an emergency.

- d. **Setback & Separation:**
- 1) **Property Line Setbacks:** Except as provided by subsection (2) below, an LWET shall be a minimum distance from all lot lines equal to two (2) times the total height of the LWET as measured from the base of the tower. This setback may be reduced by the Township Board if the applicant provides a registered engineer's certification that the WET is designed to collapse, fall, curl, or bend within a distance or zone shorter than the height of the WET.
  - 2) **Public Road Setbacks:** A LWET shall be set back from the nearest public road a minimum distance equal to four hundred (400) feet or one and one-half (1.5) times its total height, whichever is greater, determined at the nearest boundary of the underlying right-of-way for such road.
  - 3) **Occupied Building Setback:** A LWET shall be set back from the nearest occupied building that is located on the same parcel as the LWET a minimum of two (2) times its total height, or one thousand (1000) feet, as measured from the base of the tower, whichever is greater.
  - 4) **Communication and Electrical Lines:** Each LWET shall be set back from the nearest above-ground public electric power line or telephone line a minimum distance no less than four hundred (400) feet or one and one-half (1.5) times its total height, whichever is greater, determined from the existing power or telephone line.
  - 5) **Tower Separation:** Tower separation shall be based on industry standards and manufacturer recommendations.
- e) A sound pressure level analysis shall be conducted from a reasonable number of sampled locations at the perimeter and in the interior of the property containing any LWETs to demonstrate compliance with the requirements of this Ordinance. Proof of compliance with the noise standards is required within ninety (90) days of the date the LWET becomes operational. Sound shall be measured by a third-party, qualified professional.
- f) An LWET owner shall provide the township zoning administrator with a copy of the yearly maintenance inspection.

## Section 8.29 Wireless Communication Facilities

**A. Definitions:** For the purposes of this Section, the following phrases shall have the following meanings:

1. **Collocate:** To place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound. "Collocation" has a corresponding meaning.
2. **Equipment compound:** An area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.
3. **Wireless communications equipment:** The set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding wireless communications support structures.
4. **Wireless communications support structure:** A structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building.
5. **Wireless Communication Facility:** All structures and accessory facilities, and improvements thereto, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to, equipment compounds, wireless communications equipment, and wireless communications support structures. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities, towers for personal communications only, and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.
6. **Class One Wireless Communication Facility Improvements:** Any wireless communication facility modifications that meet all of the following requirements:
  - a. No construction or other improvements provide for the erection of a new wireless communications support structure, but may provide for an increase in height of an existing tower as provided by subsection (d)(1) below.
  - b. All proposed wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.
  - c. The existing wireless communications support structure or existing equipment compound is in compliance with this Ordinance or was previously approved by the Township.

d. The proposed collocation of equipment shall not do any of the following:

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- 1) Increase the overall height of the wireless communications support structure by more than 20 (twenty) feet or 10% (ten percent) of its original height, whichever is greater.
- 2) Increase the width of the wireless communications support structure by more than the minimum necessary to permit collocation.
- 3) Increase the area of the existing equipment compound to greater than 2,500 square feet.
- 4) The proposed collocation complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound by the then-designated approving body of the Township.

7. Class Two Wireless Communication Facility Improvements: the erection of a new wireless communications support structure, or any modification of an existing wireless communication facility that is not classified as Class One Communication Tower Improvements.

**B. Application, Review and Approval for Class One Communication Tower/Antenna:** A Class One Communication Tower/Antenna constitutes a use permitted by right in any district, subject to site plan approval according to Article 15.

**C. Application, Review and Approval for Class Two Communication Tower/Antenna:** A Class Two Communication Tower constitutes a special land use and shall be subject to this Ordinance's provisions addressing the same including compliance with Article 15 (Site Plan Review), Article 16 (Special Land Uses), and the following provisions:

1. Application Review Time Frame

- a. After a special land use application for wireless communication equipment is filed with the Planning Commission, the Planning Commission shall determine whether the application is administratively complete. Unless the Planning Commission proceeds as provided under subsection (b) below, the application shall be considered to be administratively complete when the Planning Commission makes that determination or the passing of fourteen (14) business days after the Planning Commission receives the application, whichever occurs first.
- b. If, before the expiration of the fourteen (14) day period under subsection (a) above, the Planning Commission notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the 14-day period under subsection (a) above is tolled until the applicant submits to the body or official the specified information or fee amount due. The notice shall be given in writing or by electronic notification. A fee required to accompany any application shall not exceed the Township's actual, reasonable costs to review and process the application or \$1,000.00, whichever is less.
- c. The Township Board shall approve or deny the application not more than sixty (60) days after the application is considered to be administratively complete, except that in the case of a special land use application for wireless communications equipment that will not be collocated on an existing wireless communications support structure or in an existing equipment compound, or for a wireless communications support structure, the period for approval or denial shall be 90 days. If the Township Board fails to timely approve or deny the application, the application shall be considered approved and the Township Board shall be considered to have made any determination required for approval.

2. Additional Application Requirements: In addition to submitting the information required for all special land use applications, including a site plan pursuant to Article 15, each applicant for a Class Two wireless communication facility shall provide the following additional information. Any information of an engineering nature that the applicant submits, whether civil, mechanical, electrical, or structural, shall be certified by a licensed professional engineer of applicable expertise registered in the State of Michigan.

- a. An inventory of its existing towers, antennas, or sites approved for towers or antennas, that are within the Township and one (1) mile of the border thereof, including specific information about the location, height, and design of each tower, the distance from the proposed tower, the owner(s)/operator(s) of the existing tower(s), and any additional information that is relevant in terms of potential collocation or in demonstrating the need for the proposed facility.
- b. Elevation drawings of the proposed tower and any other structures.
- c. The distance between the proposed tower to dwellings within a one-half (1/2) mile radius, and the distance to Residential districts and platted and similar neighborhood developments.
- d. Method of fencing and finished color and, if applicable, the method of camouflage.
- e. A written statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennae for future users.

- f. Identification of the entities providing the lines that connect a provider's towers/cell sites to one or

more cellular telephone switching offices, long distance providers, and/or the public switched telephone network (backhaul routes) for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Township.

- g. A description of the suitability of the use of existing towers, other structures, or alternative technology not requiring the use of towers or structures, to provide the services of the proposed new tower.
  - h. A certification by a professional engineer of applicable expertise licensed in Michigan that all construction features of the tower comply with the requirements of all agencies having jurisdiction and the State Construction Code.
3. **Special Considerations:** Special consideration shall be given to the following conditions in determining the extent to which the application complies with the site plan approval standards of Section 15.4 and the special land use approval standards of Section 16.6:
- a. The height of the tower.
  - b. The proximity of the tower to residential structures and Residential districts.
  - c. The character of surrounding land uses.
  - d. The topographic features of the site and surrounding areas.
  - e. On-site and surrounding tree coverage.
  - f. Proposed access to the tower.
  - g. The overall design of the tower and tower facility to minimize visual impacts, including the extent to which the design of buildings and structures uses materials, colors, textures and screening that will encourage their compatibility with surrounding conditions.
  - h. The availability of suitable existing towers, other structures, or alternative technologies.

**D. Compliance with Table 4-4:** See Table 4-4 for standards pertaining to minimum lot area, width, frontage, and yard setbacks, and maximum building height and lot coverage, except as follows:

- 1. The lot on which a tower is located shall comply with the minimum lot area requirement of Table 4-4. A smaller portion of said lot may be leased for tower purposes and such leased area need not comply with the area requirements of Table 4-4.
- 2. Class Two towers and antennas shall be set back from lot lines a minimum distance equal to the tower's height, including antennas.

**E. Additional Standards:**

- 1. **Separation Distances:** The following separation distances shall apply to Class Two wireless communication facilities except that the approving body may reduce the standard separation distance by no greater than twenty-five percent (25%) upon a finding that there exist on-site or surrounding conditions that mitigate the need for such separation distances and that the purpose of this Ordinance will be preserved. Separation distances shall be measured from the base of the tower to the lot line of the off-site use except where otherwise noted, and measurements shall not extend beyond Township boundaries.

Off-Site Use or Designated Area	Separation Distance
Single-family and two-family dwellings.	300 feet or 150% of the tower's height, whichever is greater.
Vacant land zoned for single-family or two-family dwellings, including vacant land that has received site plan approval for residential use.	200 feet or 100% of the tower's height, whichever is greater.
Vacant residentially zoned land not otherwise addressed above.	100 feet or 100% of the tower's height, whichever is greater.
Land not zoned for residential use, whether vacant or otherwise.	The setback standards of Table 4-4 or the tower's height, whichever is greater.
Another communication tower.	1 mile, measured by a straight line between the base of the existing and proposed tower.

2. **Fencing and Lighting**

- a. The base of a tower shall be fenced with a minimum six (6) foot high fence with anti-climbing measures.
- b. Towers and antenna shall not be artificially lighted unless required by the Federal Aviation Administration or Federal Communications Commission. If lighting is required, the lighting plan shall cause the least disturbance to surrounding uses.

3. Tower Construction

- a. Towers shall be of monopole construction. Guy wires are prohibited.
- b. Towers shall be of a white, light gray, silver or other similar color that blends with the background sky, and shall be constructed of or treated with corrosive resistant material.
- c. All towers and antennas including all support systems, antenna mounts, structural and electrical components, and wind load resistance, shall comply with the most current standards and regulations of the Federal Aviation Authority, Federal Communications Commission, State Construction code, and all other codes and agencies having jurisdiction, and shall be maintained in compliance.
- d. If, upon inspection, the Township concludes that a tower fails to comply with applicable codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- e. No tower shall exceed one hundred ninety five (195) feet in height, measured from the base of the tower to the highest point of the tower including antennae. All towers and antenna shall comply with the height restrictions of any airport management plan filed with and approved by the Michigan Aeronautics Commission.
- f. All new communication towers shall be designed and constructed so as to accommodate colocation of a minimum of three (3) wireless communication facilities.

4. Landscaping and Signage

- a. Signage shall be limited to emergency information only except as may be required by law.
- b. The landscape plan required by Article 14, Site Plan Review, shall provide for a planting program that effectively screens the view of the tower facility from nearby residential properties, and shall provide for coniferous plantings spaced at no greater than fifteen (15) feet apart and located within forty (40) feet of the perimeter of the tower facility and within any leased land area comprising the tower facility.

5. Presence of Personnel: No persons shall be located on a communication tower site except for the occasional presence of personnel associated with periodic maintenance or emergency conditions.

6. General Design: The design of buildings and structures shall, to the greatest extent practical, use materials, colors, textures and screening that will encourage their compatibility with surrounding buildings. Where an antenna is installed on a structure other than a tower, the antenna and supporting equipment shall be of a color to make the antenna and equipment as visually unobtrusive as reasonably practical.

7. Colocation

- a. **Statement of Policy:** It is the policy of the Township to minimize the overall number of newly established locations for communication towers within the community, and encourage the use of existing structures or towers while promoting the public health, safety, and welfare and minimizing negative impacts of such sites. If a provider fails or refuses to permit colocation on a facility owned or otherwise controlled by it, where colocation is feasible, the result will be that a new and unnecessary additional structure will be compelled, contrary to the Township's policy for colocation. The provisions of this subsection are designed to carry out and encourage conformity with the policy of the Township.
- b. **Feasibility of Colocation:** Colocation shall be deemed to be feasible and practical for purposes of this subsection (7) except where satisfactory evidence is submitted demonstrating that no existing tower, structure or alternative technology can accommodate the applicants proposed antenna. Such evidence may consist of any of the following:
  - 1) No existing towers or structures are located within the geographic area that meets applicants engineering requirements.
  - 2) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
  - 3) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - 4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
  - 5) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.



- 6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- 7) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable micro cell network using multiple low-powered transmitters/receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

c. Requirements for Colocation:

- 1) A permit for the construction and use of a communication tower shall not be granted unless and until the applicant demonstrates that a feasible colocation is not available for the coverage area and capacity needs.

8. Removal

- a. Any tower that is not operated for a continuous period of 365 days shall be considered abandoned, and the owner of such tower shall remove the same and the site shall be restored to the condition it existed prior to the placement of the tower within ninety (90) days of receipt of notice from the zoning administrator for such removal. In the case where there are multiple users of a single tower, removal of the tower shall be not required until all users cease use of the tower for a continuous period of 365 days.
- b. If the required removal of a facility has not been completed within ninety (90) days of the condition specified in subsection (a) above, the township may remove or secure the removal of the facility with reliance on the security posted at the time application was made for establishing the facility.

9. Nonconforming Towers/Antenna: Nonconforming towers and antennas shall be subject to the provisions of Article 7, Nonconforming Lots, Uses, and Structures, except that a nonconforming tower or antenna that is damaged or destroyed may be rebuilt provided the new tower is of the same type, height, and location of the original tower, and the tower facility is of no greater intensity than the original facility. This provision shall apply provided all building permits for the new tower are acquired within 180 days of the damage date. If such permits are not acquired within this time frame or said permits expire, the tower or antenna shall be deemed abandoned and subject to the removal provisions of subsection (8) above.

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**End of Article 8**

**Article 9**  
**(RESERVED for FUTURE USE)**

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**End of Article 9**

## Article 10 SIGNS

### Section 10.1 Purpose

The purpose of this Article is to provide a framework in which the identification and informational needs of all land uses can be harmonized with community interests in public health, safety and welfare, including the preservation of the Township's overall character and that of its business and residential areas. It is intended through the provisions contained herein to give recognition to the legitimate needs of business, industry and other activities, in attaining their identification and informational objectives, while recognizing that unrestricted or unregulated signage does not support the desired character of the Township nor benefit either private enterprise or the community-at-large as it creates traffic safety hazards, visual clutter, confusion for vehicle drivers, visual blight, and decreased property values, and undermines economic development initiatives.

### Section 10.2 Definitions

**A. Billboard:** A sign which identifies goods, services, facilities, events, or attractions which are available or provided at a location other than the lot upon which such sign is located (commonly referred to as a "off-premises advertising sign").

**B. Business Center:** A grouping of two or more business establishments on one (1) or more parcels of property which may share parking and access and are linked architecturally or otherwise developed as a unified grouping of businesses.

**C. Free-Standing Sign:** A sign which is not attached to a principal or an accessory structure, including center pole signs, posts and panels, and ground signs, but excluding billboards.

**D. Ground Sign:** A free-standing sign of comparatively limited height and which is designed in such a manner that the face of the sign structure extends down to the ground, similar to a monument, or which includes supports or poles that are less than two (2) feet in height.

**E. Portable Sign:** Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building, including but not limited to "A-frame", "T-frame", or inverted "T-shaped" structures, signs mounted on wheeled trailers, hot-air and gas filled balloons, banners, pennants, and streamers.

**F. Sign:** Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, banner, flag, pennant, trade names or marks, or other representation, or combination thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity or product, an activity, a person, or an idea, which is located upon any land or structure on or in any building, in such manner as to attract attention from outside or off the premises.

**G. Sign Area:** The area of a sign shall be computed by calculating the square footage of a sign face as measured by enclosing the most protruding points or edges of all sign faces of the sign within a single parallelogram, rectangle, triangle, circle or semi-circle, including any framing. Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except that where (2) such similarly shaped faces are placed back-to-back, parallel to one another and less than one (1) foot apart from one another, the area of the sign shall be the area of one (1) face.

**H. Sign Height:** The distance measured from the highest point of the sign, including all frame and structural members of the sign, to the average ground elevation within ten (10) feet of the sign base, excluding any berms or other means of increasing the permissible sign height.

**I. Sign Setback:** The distance measured from the nearest edge of the sign as measured from a vertical line perpendicular to the ground below the nearest edge of the sign, to the lot line.

**J. Tourist-Oriented Directional Sign (TODS):** A type of billboard that is typically comprised of multiple and comparatively small panels of a unified color and design character, providing directional information to multiple establishments.

**K. Wall Sign:** A sign which is attached directly to a building wall with the sign area surface flat against or generally parallel to the building wall, including signs painted on a building wall, and including signs on a rigid or non-rigid fabric marquee, canopy or awning-type structure.



## Section 10.3 General Standards and Regulations

### A. Permits/Review

1. Required Permit/Review: All signs shall require a Zoning Permit prior to placement, erection, replacement or alteration unless exempted by subsection (2) below. If site plan review is required for a proposed project that a proposed sign shall be part of, the proposed signage shall be reviewed as part of the site plan review procedure for the entire project, pursuant to Article 15. If the proposed signage is to be part of an existing development for which site plan approval has already been granted or was not necessary, the Zoning Administrator shall review the sign application to ensure all applicable ordinance standards have been met prior to issuing a permit for the sign. The Zoning Administrator may defer action on proposed signage to the site plan approving body.
2. Signs Exempt from Permit/Review: The following signs are exempt from the provisions of subsection (1) above but shall conform to all other regulations and standards of this Article.
  - a. Signs erected by a governmental entity
  - b. Indoor signs affixed to or covering windows.
  - c. Signs authorized under Section 10.4.
  - d. Signs less than ten (10) sq. ft. in area not otherwise listed above.
  - e. The replacement or changing of copy on a previously approved sign.

### B. Materials, Construction and Maintenance:

1. All signs shall be constructed and maintained in a manner consistent with building code provisions and maintained in good structural condition at all times, free of hazards to the general public. Signs shall not be constructed from materials that are remnants or manufactured for a different purpose.
2. All signs shall be kept neatly painted, stained, sealed or preserved including all metal parts and supports. Signs shall be maintained free of peeling paint or paper, fading, rust, or other conditions reflective of a state of disrepair.
3. No light pole, utility pole, or other supporting member shall be used for the placement of a sign unless specifically designed and approved for such use.
4. All freestanding signs shall be constructed of stone, face stone, wood, brick, and variations thereof, to the greatest extent practical. The use of plastics and metals shall be minimized.
5. All signs shall comply with the State Construction Code.

**C. Lighting:** Signs may be internally or externally illuminated except where provided otherwise. In the case of external illumination, the source of illumination shall be shielded from traffic and adjacent properties and shall not be visible beyond the property line of the parcel on which the sign is located.

### D. Prohibited Signs:

1. Moving Parts: Any sign which revolves or has any visible moving parts, visible revolving parts or visible mechanical movement of any type, or other apparent visible movement irrespective of the cause of the movement, is prohibited. Banners, pennants, festoons, spinners and streamers, and similar devices, which move due to wind or mechanical devices and which are intended to draw attention to a location are considered moving signs and are prohibited. This subsection (1) shall not be construed to prohibit light-emitting diode (LED) signs provided such signs are not of a scrolling or moving character.
2. Traffic Interference: No sign, by location, design, color, or lighting, shall undermine public safety in association with vehicles or pedestrian passing, entering or exiting a lot including the obstruction of free and clear vision of approaching, intersecting or merging traffic, or encouraging confusion among drivers due to unauthorized traffic signs, signals or devices, or signs that make use of the words "stop", "look", "danger" or any word, phrase, symbol or character in such manner as to interfere with, mislead or confuse drivers or pedestrians.
3. Flashing Lights: No sign shall include flashing, blinking, moving or variable intensity illumination, excluding time or temperature signs and similar signs that provide a non-commercial public message, subject to site plan approval. This subsection (3) shall not be construed to prohibit non-bulb illuminated signs such as light-emitting diodes (LED), subject to site plan approval.
4. Obsolete Signs: No sign shall remain on a lot if such sign advertises or identifies a business, activity or service no longer available on such lot.
5. Right-of-Way Signs: No sign shall be placed in, upon, or over any public right-of-way, alley, or other public place, except that signs for the sole purpose of providing directional information for religious institutions, schools, governmental entities, and bona fide public service organizations are permitted in such public place upon approval of the Township Board and Clare County Road Commission.



## Section 10.4 Signs Permitted in All Districts

A. The following signs are permitted in all Districts, subject to the standards and limitations prescribed including the provisions of Section 10.3, and provided such signs shall not be illuminated unless provided otherwise and provided such signs shall be set back a minimum distance of ten (10) feet from all lot lines.

1. Dwelling identification and home occupation signs: No more than one (1) sign shall be erected for the purpose of identifying a dwelling unit, a home occupation, or family home day care facility. Such sign shall not exceed four (4) sq. ft. in sign area and may be illuminated. These limitations shall not prohibit the display of an additional address identification sign posted along the abutting road for postal and emergency identification purposes where such sign complies with the most current guidelines published by the U.S. Postal Service.
2. Residential Development Identification: A residential development consisting of a platted subdivision, condominium subdivision, multiple family development, manufactured housing community, or other unified residential development consisting of at least five (5) dwelling units shall be permitted one (1) sign per vehicle entrance having a sign area not exceeding thirty-two (32) sq. ft. and a height not exceeding six (6) feet. The sign shall be for the sole purpose of identifying the development and may be illuminated.
3. Real Estate/Dwelling Unit/Personal Property Availability Signs:
  - a. One (1) sign advertising the sale or lease of the lot, building, building space, or residence on which the sign is located shall be permitted, provided no more than one (1) sign shall be erected for each full two hundred (200) feet of road frontage, no sign shall exceed an area of eight (8) sq. ft. and a height not exceeding six (6) feet, and the total area of all signs shall not exceed thirty-two (32) sq. ft.
  - b. A platted subdivision, site condominium, multiple family development, manufactured housing community, or other unified residential or non-residential development consisting of at least five (5) dwelling units, or three (3) acres of land in the case of a non-residential development, is permitted one sign advertising the sale or lease of a lots, buildings or residences, having a sign area not exceeding sixteen (16) sq. ft. and six (6) feet in height. Such sign shall be removed within six (6) months after the sale of ninety percent (90%) of all lots, units, or buildings within said development.
  - c. In addition to (a) and (b) above, a maximum of two (2) additional signs, not to exceed an area of four (4) sq. ft. each and four (4) feet n height, may be erected in a development of multiple dwellings or units for the purpose of directing the public to a model home or rental office in such development.
4. Construction Signs: Signs which identify the owners, financiers, contractors, architects and engineers of a project under construction for which a Zoning Permit has been granted, provided such a sign is a maximum thirty-two (32) sq. ft. in area and a maximum six (6) feet in height, and provided only one (1) such sign per road frontage. Such sign shall be erected no earlier than thirty (30) days prior to the commencement of construction and shall be removed no later than thirty (30) days after a certificate of occupancy is issued, or eighteen months, whichever occurs first.
5. Bulletin Board: A single bulletin board sign shall be permitted on a lot in any district that is used for a religious institution, school, museum, library, or other similar institution. Such sign shall have a maximum height of six (6) feet, shall not exceed twenty (20) sq. ft., and shall not be included in sign area calculations for compliance with Table 10-1. Such sign shall be setback a minimum of ten (10) feet from all lot lines and may be illuminated.
6. Political or philosophical signs related to a candidate running for office, or a proposition up for public vote, or a political or philosophical view, provided such signs shall not exceed sixteen (16) sq. ft. in area and six (6) feet in height. Where the sign pertains to a public vote, the sixteen (16) sq. ft. area standard shall not apply during the 60-day period prior to and the 15-day period after the respective vote.
7. Directional Signs: Signs that are used solely for the purpose of providing traffic directions or instructions in association with a lot on which they are located, such as "entrance," "exit," "in," and "out", are permitted in all districts provided such signs shall not exceed two (2) sq. ft. in area and four (4) feet in height. Such signs shall not count toward the permissible sign area standards of Table 10-1.
8. Special Event Signs: Signs designed to be moved easily and not permanently attached to the ground or a structure, containing public messages concerning special events sponsored by governmental agencies, nonprofit organizations, religious institutions, schools, museums, libraries, or other similar institutions, are permitted provided they are located on the lot which the event is to be held only, shall be no greater than twenty-four (24) sq. ft. in area, no more than two such signs shall be displayed for each event, and such signs shall be displayed no earlier than twenty-one (21) days prior to the event and shall be removed within forty-eight (48) hours of the event's conclusion.
9. Warning Signs: Warning signs such as no trespassing, no hunting and warning of electrical current or animals, provided that such signs do not exceed two (2) sq. ft.

10. **Building Signs:** Signs carved into stone, concrete, or similar material, or made of bronze, aluminum, or other noncombustible material, which identify the name of a building, a building's date of erection, or monumental citations, provided such signs do not exceed ten (10) sq. ft. in area and are an integral part of the building structure.
11. **Flags:** Flags with the insignia of a nation, state, community organization, educational institution, or corporation, or other flags that are determined to not function to draw attention to a location, and which do not exceed twenty (20) sq. ft. in area and twenty (20) feet in height.
12. **Stick-On Signs:** Miscellaneous stick-on and painted signs affixed to vending machines, gas pumps, ice containers, and similar outdoor items of less than six (6) feet in height, indicating the contents or announcing on-premises sales, provided each sign does not exceed two (2) sq. ft. in area.
13. **Historical Markers:** Historical markers, plaques, or signs describing township, county state or national designation as an historic site or structure by the State Historical Commission, not exceeding ten (10) sq. ft. in area and six (6) feet in height.
14. **Public Notice Signs:** Signs and notices of Hamilton Township, Clare County, the State of Michigan, or the United States of America, as may be deemed necessary and appropriate by the unit of government.
15. **Corporate Logo Signs:** Corporate logo signs of no greater than five (5) sq. ft. in area and a height not exceeding six (6) feet, provided only one (1) such sign shall be erected per road frontage.
16. **Garage Sale Signs:** Signs advertising garage or yard sales of no greater than sixteen (16) square feet in area and a height not exceeding six (6) feet, provided no more than two (2) such sign shall be erected and such signs shall be removed within twenty-four (24) hours after the sale.

### Section 10.5 Additional Signs Permitted by District

In addition to the signs permitted by Section 10.4 and the limitations thereof, signs pertaining to an authorized and approved business, use or activity on a lot may be erected on such lot provided the signs are wall signs or freestanding signs unless specified otherwise, and comply with the District standards of Table 10-1. Nothing in Table 10-1 shall be construed as authorizing a sign area or height that is otherwise prohibited by Section 10.4.

### Section 10.6 Billboards and Tourist-Oriented Directional Signs (TODS)

**A. General Provisions:** Billboards not constituting TODS are permitted in compliance with the Highway Advertising Act, P.A. 106 of 1972, as amended, and the following additional limitations:

1. Billboards are permitted only on lots abutting M-61 in a Commercial or Industrial District.
2. Billboards shall be setback a minimum of twenty-five feet from all lot lines.
3. There shall be a minimum of one thousand (1,000) feet between any two billboards along the same side of M-61. A double-face or V-type sign shall be construed as a single sign.
4. A billboard's total sign area facing any single direction shall not exceed three hundred (300) sq. ft.
5. A billboard shall not exceed a height of fifteen (15) feet.

**B. TODS:** TODS are permitted according to the following provisions and compliance with Section 10.3.

1. **Construction:**
  - a. A TODS shall be constructed of non-rusting metal, painted green with white lettering. Support posts shall be painted green.
  - b. A TODS shall be comprised of no more than four panels located above one another. Each panel shall be two (2) feet in height and six (6) feet in length. The upper edge of the highest panel shall not be more than twelve (12) feet above the ground below.
2. **Information:** No information shall be displayed on TODS except information pertaining to an establishment in Hamilton Township, and the information shall be limited to the establishment's name, symbol and/or logo, a directional arrow, and the mileage to the establishment.
3. **Location:** No TODS shall be located within two hundred (200) feet of an intersection and no TODS shall be located within two thousand (2,000) feet of another TODS on the same side of the road.

### Section 10.7 Nonconforming Signs

**A. General Provisions:** The continuance of a lawful use of any sign existing on the date of adoption of this Ordinance or amendment thereto, although such sign may not conform to the provisions of this Article, shall be permitted according to the following limitations:

1. A nonconforming sign shall not be replaced by another nonconforming sign.
2. A nonconforming sign shall not be structurally altered so as to prolong the life of the sign, but the sign may undergo routine maintenance and change of copy.
3. The shape, size, location, type or design of a nonconforming sign shall not be altered unless such

alteration brings all nonconforming aspects of the sign into conformance.

4. A nonconforming sign shall not be re-established if damaged by any means to an extent greater than fifty percent (50%) of its replacement cost.

**Table 10-1**

In addition to the signs permitted by Section 10.4 and the limitations thereof, signs pertaining to an authorized non-residential use or activity on a lot may be erected on such lot provided the signs are wall signs or freestanding signs unless specified otherwise, and comply with the District standards of Table 10-1 below. Nothing in Table 10-1 shall be construed as authorizing a sign area or height that is otherwise prohibited by Section 10.4.

See “Special Notes to Table 10-1” on following page.

FS = Free-Standing Sign WS = Wall Sign

District	Maximum Number of Signs	Maximum Area of Signs	Maximum Sign Height	Minimum Sign Setback from Lot Lines
<b>Agricultural</b>	FS: One (1) or WS: One (1)  A total of one (1) sign is permitted.	FS: 32 sq. ft.  WS: 32 sq. ft.  A total of one (1) sign is permitted.	FS: 6'	FS: 10' except 50' where the adjacent parcel s in an Agricultural or Residential District.
<b>Residential</b>	FS: One (1) or WS: One (1)  A total of one (1) sign is permitted.	FS: 32 sq. ft.  WS: 32 sq. ft.  A total of one (1) sign is permitted.	FS: 6'	FS: 10'; 50' where the adjacent parcel s in an Agricultural or Residential District.
<b>Commercial</b>	FS: One (1)  WS: One (1)	FS: 1 sq. ft. for each 2' of building length generally oriented to the road, measured as a straight line between building corners, except no sign must be less than 16 sq. ft. and no sign shall be greater than 64 sq. ft., and provided that a ground sign shall not exceed thirty-two (32) sq. ft.  WS: 10% of the vertical area of the building façade to which the sign is attached, except no sign must be less than 32 sq. ft. and no sign shall be greater than 100 sq. ft.	FS: 12' except a ground sign shall have a maximum height of 6'.	FS: 10' except 50' where the adjacent parcel s in an Agricultural or Residential District.
<b>Industrial</b>	FS: One (1)  WS: One (1)	FS: 1 sq. ft. for each 2' of building length generally oriented to the road, measured as a straight line between building corners, except no sign must be less than 16 sq. ft. and no sign shall be greater than 64 sq. ft.  WS: 10% of the vertical area of the building façade to which the sign is attached, except no sign must be less than 32 sq. ft. and no sign shall be greater than 100 sq. ft.	FS: 12' except a ground sign shall have a maximum height of 6'.	FS: 10' except 50' where the adjacent parcel is in an Agricultural or Residential District.

## **Special Notes to Table 10-1**

### **All Districts**

1. Wall Signs: No wall sign shall extend above the eaves of the building roof, or more than six (6) inches from the face of the wall, or beyond the corner of a wall.
2. Width/Length Ratio: No free-standing sign shall have a dimension that exceeds five times that of its opposite dimension, such as in the case of a sign's width and length.
3. Window Signs: No sign affixed to or covering a window which is intended to be viewed from the outside shall exceed one-quarter (25%) of the total window area except in the case of the advertising of the grand opening of a business for a period not to exceed forty-five (45) days. Window signage in excess of a total of fifty (50) sq. ft. shall be applied to the calculation of wall sign area.
4. Illumination: No sign advertising a non-residential use shall be illuminated except where authorized as part of site plan review proceedings upon a finding by the approving body that such lighting is necessary for the nature of the use and its hours of operation, the extent of illumination and intensity is the minimum necessary, and such lighting shall not negatively impact surrounding uses. No illumination shall be provided except during hours of operation except as may be necessary for general security.
5. Corner Lot: The sign area standards of Table 10-1 shall apply to each frontage separately for a corner lot.

### **Agricultural Districts**

1. Produce Sales: One (1) sign may be erected on a farm for the purpose of advertising the sale of farm produce grown on the farm, provided the sign shall not exceed sixteen (16) sq. ft. in area and shall be displayed only during the seasonal period when the sale of produce is available.

### **Commercial Districts**

1. Business Center Free-standing Signs: A business center, as defined in this Article, shall be permitted one (1) free-standing sign for the purpose of identifying the business center and which may include information on individual businesses or tenants located within. Such sign shall not to exceed thirty-two (32) square feet except that in the case of a business center that exceeds three hundred (300) linear feet of building along a single road, the maximum sign area shall be sixty-four (64) square feet. In the case where such business center is comprised of multiple buildings and served by an internal road network, one (1) ground sign shall be permitted for each building provided such sign is located in the immediate proximity of the building to which it pertains and does not exceed six (6) feet in height and twenty-four (24) sq. ft. in area.
2. Business Center Wall Signs: A business center, as defined in this Article, shall be permitted one (1) wall sign for the purpose of identifying the business center and which may include information on individual businesses or tenants located within. In addition, the business center shall be permitted one (1) wall sign for each business or tenant space having frontage along a public road or parking area, and such sign shall be attached to the façade of such business or tenant space. All of the area of all wall signs, including in the case of a corner lot and irrespective of whether used to identify the business center and/or individual businesses or tenants located within, shall not exceed ten (10) percent of the vertical surface area of the facade forming the building frontage generally oriented to the road frontage or parking area.
3. Portable Signs: One (1) portable sign may be erected provided the sign shall not exceed thirty-two (32) sq. ft., shall comply with the setback standards of Table 4-4 of Article 4, and shall be properly anchored and shall meet all building and safety codes. Such sign shall not be displayed for more than thirty (30) days and there shall be a minimum of thirty (30) days between display periods. Such sign shall include a nameplate that identifies the name, address and phone number of the sign owner.
4. Pennants: Pennants and banners may be displayed in association with a retail sales establishment provided such pennants and banners are securely anchored. Such sign shall not be displayed for more than thirty (30) days and there shall be a minimum of thirty (30) days between display periods.

### **Industrial Districts**

1. The provisions of (1), (2) and (3) under "Commercial Districts" shall apply to Industrial Districts.

**End of Article 10**

## Article 11 OFF-STREET PARKING and LOADING

### Section 11.1 Purpose

It is the purpose of this Article to establish standards and requirements to ensure that parking spaces shall be adequately provided and maintained by each property owner in every District for the off-street parking of motor vehicles as may be necessary, including in association with employees and patrons, ingress, egress and circulation, and the receiving and distribution of goods by motor vehicle, to prevent hazards and undue interferences among and between vehicles and pedestrians and protect the public health, safety and welfare.

### Section 11.2 General Requirements

**A. Fractional Space:** When units of measurement determining the number of required parking spaces result in a fractional space, any fraction to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall require one (1) parking space.

**B. Requirements for a Use Not Mentioned:** In the case of a use not specifically mentioned, the requirements of off-street parking for a use which is mentioned and which is most similar to the use not listed shall apply. This determination shall be made during site plan review proceedings.

**C. Use of Off-Street Parking Areas:** Off-street parking areas shall be reserved for the parking of vehicles used to service the establishment to which it is accessory and by its patrons. No commercial repair work, storage, selling or any other activity shall be conducted in an off-street parking area except as may be expressly authorized during site plan approval proceedings.

**D. Building Additions or Other Increases in Floor Area:** Whenever a use requiring off-street parking is increased in area, or when interior building modifications result in an increase in capacity for any premise use, additional parking shall be provided and maintained in the proper ratio to the increased floor area or capacity.

**E. Location and Joint Use of Parking Areas:** All off-street parking areas shall be located on the same lot, or on the adjacent premises in the same District as the use they are intended to serve. The joint use of parking facilities by two or more uses may be granted during site plan review proceedings whenever such joint use is practical and satisfactory to each of the uses intended to be served, and when all requirements of this Article are met.

1. **Computing Capacities:** In computing capacities of any joint use, the total space requirement shall be 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 a proposed agreement between joint users, when the joint uses are located on separate lots, shall be filed with the application for a Zoning Permit and a copy shall be recorded with the County Register of Deeds upon approval of the application. The agreement shall include a guarantee for continued use of the parking facility by each party and a provision requiring written approval by all joint users and the site plan approving body for termination of such agreement. No such joint use shall be approved if vehicular access between the two lots requires the use of a public or private road.

**F. Decrease in Parking Areas:** No off-street parking area that exists on the date of adoption of this Ordinance, or which is provided subsequent thereto, for the purpose of complying with this Ordinance, shall thereafter be relinquished or reduced in any manner below the requirements established by this Ordinance unless additional parking area or space is provided sufficient to meet the requirements of this Article.

**G. Barrier-Free Parking Spaces:** Barrier-free parking spaces shall be provided in accordance with the most current standards and rules of the Michigan Department of Labor, Construction Code Commission, Barrier Free Design Division. Such spaces shall be placed in the most convenient locations to facilitate access into a building. Such spaces shall be clearly identified by both adequate paint striping and wall or post signs.

**Section 11.3 Site Development Requirements for Off-Street Parking**

All off-street parking areas, except for single family and two family dwellings, shall be designed, constructed and maintained in accordance with the following standards and requirements.

**A. Marking and Designation:** Parking areas shall be so designed and marked as to provide for orderly and safe movement and parking of vehicles.

**B. Driveways:**

1. Adequate ingress and egress to the parking area by means of clearly limited and defined drives shall be provided.
2. Two-way drives for ingress and egress to a parking area shall be not less than twenty-five (25) feet wide and all turning radii shall comfortably accommodate vehicle turning patterns.
3. Each entrance to and exit from an off-street parking area shall be at least twenty-five (25) feet from any lot line, fifty (50) from another driveway, and fifty (50) feet from an intersection.
4. A parcel in a Commercial District shall have no more than one (1) driveway providing access to or from M-61 or a county primary road as classified by the County Road Commission, for each three hundred (300) feet of frontage along such road, or fraction thereof.

**C. Surface:** All required off-street parking areas, including aisles and driveways, intended to accommodate four (4) or more spaces, shall be paved with concrete, bituminous asphalt or similar material approved by the site plan approval body. The site plan approval body may waive this requirement upon its determination that such paving is not in character with the surrounding and intended land use pattern, the lack of paving will not cause a nuisance to current and future residents, and the nature of the use generates comparatively low traffic volumes. Paved parking spaces shall be marked with striping.

**D. Drainage:** All required off-street parking areas shall provide adequate surface drainage facilities to collect and properly manage storm water runoff. Off-street parking areas shall be drained so as to prevent direct drainage onto abutting properties and public streets.

**E. Location/Setback:**

1. Off-street parking areas shall comply with the required yard setbacks for the principal building in the District, except that the site plan approving body may waive up to fifty percent (50%) of the setback standard upon finding that existing site conditions provide adequate screening for such areas and/or encourage a more unified parking system in relation to adjacent parking facilities.
2. Off-street parking areas shall be designed and arranged to prohibit a parked vehicle from being closer than five (5) feet to a building, including any bumper overhang.

**F. Lighting:** All parking lot lighting shall comply with Article 13, Environmental Protection.

**G. Parking Spaces and Maneuvering Lanes:** Each parking space within an off-street parking area shall be provided with adequate access by means of maneuvering lanes. Backing directly onto a public road right-of-way shall be prohibited. The layout of off-street parking areas shall comply with the following minimum standards:

Parking Pattern	Maneuvering Lane Width		Parking Space Width	Parking Space Length
	One-Way	Two-Way		
0° (Parallel)	11 ft.	18 ft.	9 ft.	23 ft.
30° to 53°	13 ft.	22 ft.	9 ft.	20 ft.
54° to 74°	14 ft.	22 ft.	9 ft.	20 ft.
75° to 90°	15 ft.	23 ft.	9 ft.	20 ft.

**H. Service Drives and Connections to Adjacent Parking Areas:** To minimize traffic hazards and congestion and protect the public health, safety and welfare through appropriate access management, the site plan approving body may require the development of a parcel in a Commercial or Industrial District to include one or both of the following improvements, where practical and feasible:

1. Off-street parking areas shall provide for direct vehicular access to existing or potential off-street parking areas on adjacent parcels to minimize the necessity for additional curb cuts onto public roads and vehicles unnecessarily entering onto public roads to gain access to nearby parcels or businesses.
2. Off-street parking areas shall include a service drive across the front or rear of the respective lot to collect traffic from parking areas and funnel the traffic to one or more curb cuts along a public road, so as to reduce the number of curb cuts that would otherwise be required if each parking area accessed the public road. Such service drives shall be designed to afford connections to existing or potential service drives on adjacent parcels.

- I. **Number of Spaces:** See Section 11.4.
- J. **Landscaping and Screening:** See Article 12.

## Section 11.4 Parking Space Requirements

### A. Compliance with Required Number of Parking Spaces:

1. **Required Spaces:** This Section identifies the number of required off-street parking spaces in all Districts, by land use type. Such parking spaces shall be located on the lot upon which the land use is located unless joint use of parking areas is permitted according to Section 11.2(E).
2. **Waivers:**
  - a. In recognition that certain commercial uses generate significantly heightened demands for parking spaces during seasonal or holiday shopping periods, the site plan approving body may, upon request by the applicant, waive up to twenty-five percent (25%) of the required number of parking spaces as a reserved parking area for possible future use. However, the site plan approving body may subsequently require the applicant to construct such parking spaces upon a determination by the site plan approving body that the reduced number of parking spaces is not adequate to meet the parking needs of the use and public safety and welfare is at risk. Upon such a determination, the applicant shall convert the reserve parking area into available parking spaces, meeting all requirements of this Article, within six (6) months of such determination. The approved site plan shall clearly identify the location of this reserve parking area including parking spaces and aisles, and no buildings, structures, or similar improvements shall be established in the reserve parking area. This subsection shall apply only to commercial uses that are required to provide more than thirty (30) parking spaces.
  - b. A ten percent (10%) reduction in the number of required parking spaces is permitted in the case where a commercial use gains no access from M-61 or a county primary road as classified by the County Road Commission.

### B. Residential Uses:

1. **One and Two Family Dwellings:** Two (2) spaces for each single family dwelling unit.
2. **Multiple Family Dwellings:** Two (2) spaces for each multiple family dwelling unit plus one space per five (5) units for guest parking, and one (1) additional parking space shall be provided for each employee of the largest work shift.
3. **Manufactured Housing Community:** Two (2) spaces for each mobile home site plus one (1) space per three (3) units for guest parking.
4. **Group Homes (adult foster care):** One (1) space for every three (3) residents of the home, and one (1) additional parking space shall be provided for each employee of the largest work shift.

**C. Commercial Uses:** In addition to the parking spaces required below, an additional one (1) parking space shall be provided for each employee of the largest work shift.

#### 1. **Housing, Lodging, and Care Facilities:**

- a. **Hospital, Nursing Facility, Convalescent Home, Home for the Aged:** One (1) space for each three (3) beds.
- b. **Motels and Hotels:** One (1) space for each sleeping unit, plus spaces required by this Section for accompanying bars, restaurants, banquet rooms, and other associated facilities.
- c. **Medical Clinics:** Two (2) spaces for each examination or treatment room.
- d. **Day Care Centers, Child Care Center, Nursery School, School of Special Education:** One (1) parking space for each 350 sq. ft. of usable floor space or one (1) space for each seven children, whichever is greater.

#### 2. **Recreation:**

- a. **Par 3 Golf Courses:** Three (3) spaces for each hole.
- b. **Par 4 or Greater Golf Courses:** Four (4) spaces for each hole.
- c. **Miniature Golf Courses:** Two (2) spaces for each hole.
- d. **Roller Skating Rinks and Pool and Billiard Rooms:** One (1) space for every three (3) persons allowed based on the maximum capacity of the facility as determined by the State Fire Marshall.
- e. **Bowling Alleys:** Three (3) spaces for each alley.
- f. **Athletic Clubs, Physical Exercise Establishments, Health Studios, Self-Defense Clubs:** One (1) parking space per three (3) patrons based on the occupancy load established by the State Fire Marshall.

3. Retail Sales:

- a. **Automobile or Machinery Sales:** One (1) space for each 200 sq. ft. of showroom floor area. Spaces used for storage of vehicles for sale shall not be used to meet parking requirements.
- b. **Clothing, Furniture, Appliance, Hardware, Automobile, and Machinery Sales.** One (1) space per four hundred (400) feet of gross floor area.
- c. **Service Stations:** Two (2) spaces for each repair and service stall (a service stall is not considered a parking space).
- d. **Standard Restaurants, Taverns, Bars:** One (1) space for every three (3) seats provided plus one (1) additional space for each fifty (50) sq. ft. of standing room available to customers.
- e. **Restaurant, Drive-Through (with indoor eating facilities):** One (1) space for every three (3) seats and fifteen (15) sq. ft. of floor area devoted to placing orders, plus sufficient area for eight (8) stacking spaces for drive-through windows.
- f. **Restaurant, Drive Through (no indoor eating facilities):** One (1) space for every 15 sq. ft. of usable floor area.
- g. **Restaurant, Carry-Out (no indoor eating facilities):** One (1) space for every fifteen (15) sq. ft. of usable floor area, provided a minimum of five (5) spaces are provided.
- h. **Supermarket, Self-Service Food Store:** One (1) space for every two-hundred (200) sq. ft. of gross floor area, excluding walk-in refrigeration units.
- i. **Retail Stores and Facilities, (not otherwise specified above):** One (1) space for every two hundred (200) sq. ft. of gross floor area.

4. Services:

- a. **Banks and Financial Institutions:** One (1) parking space for every 250 sq. ft. of usable floor area plus sufficient area for five (5) stacking spaces for the first drive-through window and two (2) spaces for each additional window.
- b. **Barber Shops and Beauty Parlors:** Three (3) spaces for each chair and other treatment station.
- c. **Vehicle Service/Repair:** Two (2) spaces for each service bay, provided at least six (6) spaces are provided.
- d. **Car Wash, Automatic:** For those systems which do not operate as a continuous conveyor system accommodating multiple vehicles at a single time, reserve parking or storage for eighty (80) percent of the manufacture's hourly rated capacity for the system in use shall be required.
- e. **Car Wash, Self-Service:** Reserve parking required to accommodate up to five (5) times the maximum number of vehicles able to be undergoing some phase of washing at the same time, determined by dividing the awaiting wash line(s) by twenty (20) feet.
- f. **Funeral Homes and Mortuaries:** One (1) space for every twenty-five (25) sq. ft. of floor area of chapels and assembly rooms.
- g. **Kennels:** One (1) space for each five (5) animals of the facility's capacity.
- h. **Laundromat:** One (1) space for every three (3) washing or drying machines.
- i. **Offices and Professional:** One (1) space for every two hundred (200) sq. ft. of gross floor area.
- j. **Personal Service Establishments (not otherwise specified above):** One (1) space per four hundred (400) feet of gross floor area.

**D. Industrial Uses:** In addition to the parking spaces required below, an additional one (1) parking space shall be provided for each employee of the largest work shift.

- 1. **Industrial or Manufacturing Establishments:** One (1) space for every one-thousand (1,000) sq. ft. of floor area.
- 2. **Warehouses, Wholesale Stores:** One (1) space for every one-thousand (1,000) sq. ft. of floor area.

**E. Other Uses:** In addition to the parking spaces required below, an additional one (1) parking space shall be provided for each employee of the largest work shift.

- 1. **Religious Institutions:** One (1) space for each three (3) seats or five (5) linear feet of pew or bench seating in the main unit of worship.
- 2. **Non-School Auditorium, Theater, Assembly Hall:** One (1) space for each four (4) seats or five (5) linear feet of bench seating, or one (1) space for each three (3) persons based on the occupancy load as established by the State Fire Marshall, whichever is greater.
- 3. **Private Civic, Fraternal Club or Lodge, Community Centers:** One (1) space for each two (2) members, based upon the load capacity as determined by the State Fire Marshall.
- 4. **Elementary and Middle Schools:** See requirements for non-school auditoriums.



- 5. **High Schools:** One (1) space for each ten (10) students (based on the capacity of the facility as determined by the Fire Marshall), plus one (1) space for every four (4) seats where the school contains an auditorium and/or stadium or gym.
- 6. **Libraries, Museums, Post Offices:** One (1) space for every eight hundred (800) sq. ft. of floor area.
- 7. **Outdoor Theaters and Other Outdoor Entertainment Facilities:** One (1) space for every four fixed seats or five (5) linear feet of bench seating, and one (1) additional space for one hundred (100) sq. ft. available to accommodate additional attendees not otherwise restricted to a fixed seating area.

**Section 11.5 Loading and Unloading Space Requirements**

**A. Additional Space:** Loading space required under this Section shall be provided as area additional to off-street parking space required under Section 10.4.

**B. Space Requirements:** There shall be provided an adequate space for standing, loading, and unloading services. Each space shall be a minimum of twelve (12) feet in width and twenty-five (25) feet in length, and fifteen (15) feet in height, open or enclosed. The site plan approval body may require a greater space length where necessitated by the anticipated type of truck traffic. The number of spaces shall be provided as follows:

<u>Gross Floor Area</u>	<u>Spaces Required</u>
Up to 5,000 sq. ft. of gross floor area:	1 space, if determined necessary during site plan review.
5,001 to 50,000 sq. ft. of gross floor area:	1 space.
50,001 or more sq. ft. of gross floor area:	2 spaces, plus 1 space per each 100,000 sq. ft. of gross floor area, or fraction thereof, in excess of the first 100,000 sq. ft..

**C. Access:** Access to a truck standing, loading, and unloading space shall be provided directly from a public road or alley and such space shall be so arranged to provide sufficient off-street maneuvering as well as adequate ingress and egress to and from the road or alley.

**D. Screening:** All loading and unloading areas that are adjacent to a different District or residential property, or face or are visible from residential properties roads, shall be screened.

**E. Location:**

- 1. A loading-unloading area shall not be located in any front yard.
- 2. A loading-unloading area shall not be located in a required side or rear yard setback except where such yard adjoins a Commercial or Industrial District, but in no case shall such loading-unloading area be located within ten (10) feet of the lot line.
- 3. In no case shall a loading-unloading area be located closer than fifty (50) feet to a lot used principally for residential purposes.

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**End of Article 11**

## **Article 12**

# **LANDSCAPING and SCREENING**

### **Section 12.1 Purpose**

It is the purpose of this Article is to establish standards and requirements to assure adequate landscaping and screening so that land uses minimize noise, air, and visual pollution; improve the appearance of off-street parking and other vehicular use areas; assure adequate buffering between differing uses; support the desired community character along property adjoining public rights-of-way; prevent soil erosion and soil depletion; and protect and preserve the appearance, character, and value of the community as a whole.

### **Section 12.2 Uses Subject to This Article**

The requirements of this Article shall apply to those uses for which site plan approval is required under Article 15, Site Plan Review, and any other use so specified in this Ordinance. This Article shall not apply to single family and two-family dwellings.

### **Section 12.3 Landscape Plan Required**

**A.** A landscape plan is required to be submitted as part of a site plan (see Article 15). The plan shall be prepared at a minimum scale of 1" = 100' and shall identify all buffer areas (see Sections 12.4 and 12.5). The landscape plan shall include, but not necessarily be limited to, the clear delineation of the following:

1. Proposed plant location, spacing, size, common and botanical name, and growth habit of each plant type proposed.
2. Identification of grass and other proposed ground cover, including common and botanical name.
3. Existing and proposed contours.
4. Planting and staking details in either text or drawing form to ensure proper installation of proposed plant materials, including significant construction details to resolve specific site conditions such as tree wells to preserve existing trees.
5. Identification of existing trees and vegetative cover to be preserved.

### **Section 12.4 Buffer Areas**

**A. Side and Rear Yard Buffer Areas:** A buffer area shall be established along all side and rear lot lines. The buffer area shall not be used for storage or used in any other manner except for the purposes of a buffer.

1. The buffer area shall extend from the respective lot line for a minimum width of ten (10) feet.
2. The buffer area shall include a berm or solid wall or fence or a combination thereof, and be of at least (5) feet in height. Heights of walls shall be measured on the side of the proposed wall/fence having the higher ground elevation.
  - a. A side and rear yard buffer area need not include a berm, wall or fence where the abutting parcel is in the same District as the buffer yard, except where such a measure is determined necessary during site plan review proceedings to adequately mitigate negative impacts. However, all plant material required by (3) below shall be provided.
3. The buffer area shall be planted and maintained with evergreens such as spruce, pines, or firs, and deciduous trees. While such plantings need not be evenly spaced, the trees shall be provided at a rate of at least one (1) evergreen tree per thirty (30) linear feet and one (1) deciduous tree per fifty (50) linear feet. At the time of their planting, evergreen trees shall be a minimum of six (6) feet in height and deciduous trees shall have a caliper of at least two and a half (2 1/2) inches, measured five (5) feet above the ground surface, and be a minimum of twelve (12) feet in height.

**B. Front Yard Buffer Areas:** The required front yard buffer area shall be a minimum of twenty (20) feet in width and extend along and be parallel to the front lot line. The buffer area shall be landscaped with a minimum of one (1) tree meeting the minimum size requirements specified in Section 1 2.4(A)(3) above for each fifty (50) lineal feet, or portion thereof, of frontage adjoining the road right-of-way. The remainder of the front yard buffer area shall be landscaped in grass, shrubs, trees and/or other ground cover. Access ways from public rights-of-way through required buffer areas shall be permitted, but such access ways shall not be subtracted from the lineal dimension used to determine the minimum number of required trees.

## Section 12.5 Parking Lot Landscaping and Screening

A. Parking lots shall be landscaped and screened as follows:

1. There shall be provided a minimum of one (1) deciduous tree of at least two and a half (2 1/2) inch caliper for every eight (8) parking spaces or fifty (50) linear feet of parking lot edge, whichever is greater. Such trees shall be located within parking islands or within ten (10) feet of the edge of the parking lot. A minimum distance of three (3) feet shall be maintained between proposed tree or shrub plantings and the edge of curbing and pavement.
2. Where a parking lot contains ten (10) or more parking spaces and is within one hundred (100) feet of a Residential District, or public road, a berm, fence, wall and/or vegetative screen shall be installed to screen views to the parking area. All berms and plant material, either individually or in combination, shall be of such height and spacing to effectively screen the parking lot border to a minimum height of three (3) feet at the time of berm and plant material installation. Shrub materials shall be of evergreen or otherwise densely-branched screening character.

## Section 12.6 Minimum Standards of Landscape Elements

**A. Quality and Composition:** Plant material shall be free of insects and diseases, and hardy to the climate. Plant species which are generally considered undesirable due to limited disease tolerance, low wood strength and/or high wood-splitting tendencies, such as boxelder, mulberry, and willows, are prohibited unless specifically authorized by the site plan approving body based on the manner in which the plant material is to be used or located. A mixture of plant material shall be required to protect against insect and disease infestation.

**B. Existing Trees:** If existing plant material is labeled "To Remain" on site plans by the applicant or required by the site plan approval body, protective techniques such as fencing, placed at the dripline around the perimeter of the plant material, shall be indicated on the site plan. No vehicle or other construction equipment shall be parked or stored within the dripline of any plant material intended to be saved. In the event that existing healthy trees which are used to meet the minimum requirements of this Ordinance, or those labeled to remain are cut down, destroyed, damaged, or excavated at the dripline, as determined by the site plan approving body, the applicant shall replace them with trees that meet Ordinance requirements. Such replacement trees shall be planted at a rate of one (1) tree per two (2) inches of tree caliper of the tree cut down, damaged, or otherwise destroyed.

## Section 12.7 Installation, Maintenance and Completion

All landscaping required by this Ordinance shall be planted prior to obtaining a Certificate of Occupancy or, where the applicant can demonstrate to the Zoning Administrator that seasonal conditions prohibit the installation of the plant material prior to desired occupancy, the plant material shall be installed within six months of receipt of such Certificate. All landscaping and landscape elements shall be planted, and earth moving or grading performed, in a sound workmanlike manner and according to accepted good planting and grading procedures. All plant material shall be maintained in a healthy condition, and free of refuse and debris. All unhealthy and dead material shall be replaced within one (1) year of damage or death or the next appropriate planting period, whichever comes first.

## Section 12.8 Fencing and Walls Construction

All required fencing and walls shall be constructed and maintained in a sound manner to assure long-term structural integrity and visual character. Site plans shall include all necessary construction details to illustrate compliance with this requirement. The finished side of fencing shall face abutting properties.

## Section 12.9 Waivers and Modifications

Any of the requirements of this Article may be modified through site plan review proceedings, provided the approving body makes a finding that identifies characteristics of the site or site vicinity that would make required buffer areas, fencing, or screening unnecessary, inappropriate, or ineffective, or where it would impair vision at a driveway or street intersection.

**End of Article 12**

## **Article 13 ENVIRONMENTAL PROTECTION**

### **Section 13.1 Purpose**

The purpose of this Article is to promote a healthy environment as it relates to the Township's natural resources; and sensitive ecosystems; the quality of the Township's visual environment including the management of outdoor lighting and its impact upon traffic safety, adjacent land uses and the night sky; and the provision of adequate sewage disposal and potable water.

### **Section 13.2 Natural Resources**

**A. Compliance with Local, County, State, and Federal Regulations:** All land uses and construction activities shall conform to the provisions of this Ordinance and all local, county, state and federal rules and regulations including, but not limited to fire safety and emergency vehicle access requirements of the State Construction Code and State Fire Marshall; requirements of the Michigan Department of Environmental Quality including those applying to air and water quality protection, wetlands, stream crossings, fills in or near water bodies or in flood plains, discharges into the air, surface or ground waters, and land, and waste disposal; regulations pertaining to the loading/unloading, transport, storage, use and/or disposal of hazardous substances including fuels and other flammable liquids; and the requirements of the Clare County Health Department and Drain Commissioner.

#### **B. Sensitive Lands:**

1. Where a portion of a parcel is characterized by sensitive or fragile environmental features, including wetlands, hydric soils, or flood plains, new development on the parcel shall only occur on those portions of the parcel void of such features where reasonably feasible.
2. Except where required to do so by state or federal law, the Township shall not approve any land use which requires a county, state, or federal permit until such permit has been obtained and satisfactory evidence has been submitted verifying the acquisition of the necessary permits.
3. The Township may require mitigation measures be taken to replace those resources disturbed or destroyed by a land use, or to otherwise lessen the impact of a new land use upon natural resources and sensitive areas.

**C. Clearing, Grading, and Drainage:** In order to protect soil resources, adjacent properties, roads, and public watercourses, and to provide for adequate drainage of surface water, the following rules shall apply to all construction activities requiring permits pursuant to this Ordinance.

1. Removal of Topsoil: Stripping and removal of topsoil from a site is prohibited prior to the completion of all approved site improvements and the seeding, sodding, and landscaping of all disturbed areas except where expressly authorized as part of an approved site plan. "Disturbed areas" shall be interpreted to mean any area of a lot which is altered by grading or other construction activities and which area is not proposed to be paved or otherwise built upon. This subsection (1) shall not apply in the case of a single family dwelling for which a Zoning Permit and Building Permit has been issued, provided the topsoil to be removed is limited to the immediate area of the proposed site improvements according to such permits.
2. Drainage/Flow Restrictions:
  - a. Temporary and permanent ground elevations surrounding a building or structure shall be designed and landscaped such that surface waters flow away from the building or structure.
  - b. It shall be prohibited to increase the rate or quantity of runoff upon adjacent properties or public roads, to cause erosion or filling of a roadside ditch, stream or other water body, to block a public watercourse, or create standing water over a sewage disposal drainage field.

### **Section 13.3 Potable Water and Sewage Disposal**

Any building intended for human occupancy and used for dwelling, businesses, industrial, recreational, or institutional purposes shall not be erected, altered, used or moved upon any premises unless said building shall be provided with a potable water supply and waste water disposal system that ensures a safe and effective means of collection, treatment, and disposal of generated wastes. All sewage disposal and potable water facilities shall be constructed and maintained in accordance with the requirements and standards of the Clare County Health Department as well as those of other applicable local, county, state, or federal agencies.

### **Section 13.4 Lighting**

**A.** No lighting shall in any way impair the safe movement of traffic on any road.

**B.** Lighting associated with a commercial, industrial, or other non-residential uses shall comply with the following:

1. A wall, fence, or berm, at least four (4) feet in height, shall be erected to prevent headlight glare from shining onto adjacent residential property. Such wall/fence shall in no way impair safe vertical or horizontal sight distance for moving vehicles.
2. Exterior lighting shall be designed and installed so that the surface of the source of light shall be hooded or louvered to the greatest extent practical to ensure that:
  - a. all emitted light is directed downward onto the lot upon which the light source is located.
  - b. light sources shall not be visible from beyond the lot lines and shall be so arranged to reflect light away from adjacent properties.
  - c. no more than one foot candle power of light shall cross a lot line five (5) feet above the ground.
3. Subsections (1) and (2) above shall not apply to outdoor recreation and amusement areas, and similar outdoor use of light, provided the lighting is designed with baffling and glare guards to ensure that no more than one foot candle power of light shall cross a lot line five (5) feet above the ground in a Residential District, and such lighting is turned off during hours the facility is closed to the public.

**C.** Lighting designed to illuminate residences and residential yards, driveways and walkways, shall comply with the following:

1. Exterior lighting in excess of six (6) feet above the ground below shall be designed and installed so that the surface of the source of light shall be hooded or louvered to the greatest extent practical to ensure that all emitted light is directed downward onto the lot upon which the light source is located, and that the light source shall not be visible from beyond the lot lines and shall be so arranged to reflect light away from adjacent properties.
2. No more than one foot candle power of light shall cross a lot line five (5) feet above the ground, excluding light emitted from an approved neighborhood street lighting system.

### **Section 13.5 Vibration**

The operation of any land use including equipment and devices associated therewith, that creates vibrations that are typically discernible by human senses at or beyond the lot line of the source, is prohibited. For the purposes of this Section, "typically discernible by human senses" means vibrational motion of such character to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or observation of moving objects.

### **Section 13.6 Glare and Heat**

Any operation which produces glare or heat shall be conducted within an enclosed building or other enclosure so as to be completely imperceptible from any point beyond the lot lines of the lot upon which the source of glare or heat is located.

**End of Article 13**

## Article 14 ACCESS and PRIVATE ROADS

### Section 14.1 Purpose

The purpose of this Article is to provide regulations and standards that will facilitate safe, practical and efficient traffic movement and vehicular access in the Township, including provisions addressing the design, construction and maintenance of private roads. The standards contained herein are intended to protect the public health, safety, and welfare, including minimizing congestion and potential for accidents, and better assure accessibility to property under emergency conditions. The regulations and standards of this Article apply to all properties in the Township unless specified otherwise, and shall be applied in addition to the requirements of the Michigan Department of Transportation, Clare County Road Commission, and other provisions of this Ordinance.

### Section 14.2 Lots to Have Access

All lots hereinafter created in the Township shall have frontage on a public road, or private road constructed and approved according to this Ordinance, and take their access from such frontage so as to provide safe, convenient access for fire protection, other emergency vehicles, and any required off-street parking. This Section shall not apply to buildings and activities associated with a farm operation or a dwelling served by a shared driveway as regulated by Section 14.3.

### Section 14.3 Driveways

**A. Approval Required:** All plans for structures to be erected, altered, moved or reconstructed, and use of premises, shall contain a plan for the proposed driveway access to the premises which shall be part of the required plot plan or site plan.

**B. Standards:** Driveways shall meet the following minimum standards:

1. Driveways shall be within ten (10) degrees of perpendicular to the road at their point of intersection.
2. No driveway shall serve more than one (1) single family dwelling unless specifically approved otherwise pursuant to Section 14.3(C) or elsewhere in this Ordinance.
3. Residential driveways shall be a minimum of ten (10) feet in clear unobstructed width, be clear and unobstructed to a minimum height of fifteen (15) feet, and have a sand, gravel, stone, or paved surface to facilitate emergency access.
4. Non-residential driveway ingress and egress points shall not be closer than one-hundred (100) feet to the intersection of any two (2) roads or closer than one hundred (100) feet to an adjacent driveway, except upon a finding by the site plan approving body that lesser separation distances shall not undermine the public health, safety and welfare based on vehicle speeds, projected turning patterns and vehicle trips.

**C. Residential Shared Driveways:** A driveway serving and shared by no more than two (2) detached single family dwellings, referred to as a "shared driveway" for the purpose of this subsection (C), is permitted subject to this subsection (C).

1. Zoning Permit Required: No shared driveway, including a new shared driveway or a shared driveway existing on the effective date of this Ordinance, shall be established, extended, or relocated after the effective date of this Ordinance unless a zoning permit has been issued for such activity by the Zoning Administrator.
2. Application and Review: The approving body for an application for a shared driveway shall be the Zoning Administrator. The Zoning Administrator shall forward all relevant application materials for review and comment to the Fire Chief and Township Attorney and, where the Zoning Administrator considers necessary, to the Township Engineer. An application for a shared driveway shall include the following:
  - a. A plot plan drawn to a scale of not less than one inch equals 100 feet (1" = 100') delineating the proposed alignment of the driveway and the lots it is to serve, soil conditions, and existing and proposed ground elevations.
  - b. Draft maintenance agreement signed by applicant/owner(s) to be recorded with the Township Clerk and County Register of Deeds providing for:
    - 1) A method of financing such shared driveway in order to keep the shared driveway up to the specifications of this Section.
    - 2) A workable method of apportioning the costs of maintenance and improvements to current and future lots along such shared driveway.





- c. Draft easement agreement signed by the applicant/owner(s) to be recorded with the Township Clerk and County Register of Deeds providing for:
  - 1) Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary.
  - 2) A provision that the owners of any and all of the property using the shared driveway shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress, public utilities, and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitee, vendors, tradesman, delivery persons, and others bound to or returning from any of the properties having a need to use the driveway.
- 3. Action on Application: Upon a finding that the application materials conform to the requirements and standards of this Section and Ordinance, the Zoning Administrator shall approve, or approve with conditions, the application. Prior to an approval action, the Zoning Administrator shall inform the applicant in writing of tentative approval of the application and that final approval shall be granted once the Zoning Administrator has received copies of the approved shared driveway easement agreement and maintenance agreement recorded with the Clare County Register of Deeds.
- 4. Shared Driveway Standards: Shared driveways shall comply with the following standards in addition to all other standards and regulations of this Ordinance including subsection (B):
  - a. Access to a shared driveway shall be from a public road or approved private road, and at least one (1) of the lots served by the shared driveway shall have frontage on a public road or approved private road and such frontage shall comply with the minimum frontage dimension standard of the district in which it is located.
  - b. The shared driveway surface shall be a uniform minimum twelve (12) feet wide, measured edge to edge of the drivable surface, with segments twenty-four (24) feet wide and fifty (50) feet long, every three hundred (300) feet, to accommodate passing vehicles.
  - c. Shared driveways shall not serve more than two (2) dwelling units.
  - d. A shared driveway shall not exceed one thousand (1,000) feet in length.
  - e. All addresses served by the shared driveway shall be clearly marked at its point of intersection with a road, and such addresses shall also be clearly marked at any location a single driveway splits from the shared driveway.
  - f. No shared driveway shall be posted with a name.
  - g. The shared driveway shall have an easement width of a minimum of sixty-six (66) feet.

#### **Section 14.4 Clear Vision Zone**

No fence, wall, hedge, screen, sign, structure, vegetation or other obstruction shall be located so as to impede vision between the height of two and one-half (2 1/2) and ten (10) feet above road elevation on any corner lot, within twenty-five (25) feet of the intersecting road right-of-way lines.

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## Section 14.5 Private Roads

**A. Private Roads Permitted:** Private roads are permitted provided such roads comply with the regulations and standards of this Ordinance.

**B. Zoning Permit Required:** No private road, including a new private road or a private road existing on the effective date of this Ordinance, shall be constructed, extended, improved, or relocated unless a Zoning Permit has been issued for such construction by the Zoning Administrator, after approval of the Township Board.

**C. Application for Zoning Permit for Private Road Construction:** Application for a private road shall require site plan approval by the Township Board following the receipt of a recommendation from the Planning Commission, according to Article 15. Approval of such application shall result in the issuance of a Zoning Permit authorizing construction of such road. In addition to the data required by Article 15 for site plan approval, the following additional information shall be provided:

1. **Development Plan:** A general property development plan identifying the following:
  - a. Project description, in both narrative and map form, including the location of the proposed private road easement and location of proposed lots to gain access from said private road.
  - b. The legal description of the proposed private road easement.
  - c. Construction plans and drawings illustrating the proposed design and construction features of the proposed road and easement, including existing and proposed elevation contours within all areas to be disturbed or altered by construction. Proposed traffic control measures (including signs) and proposed road names shall also be indicated.
2. **Easement Agreement:** Road easement agreement signed by the applicant/owner(s) to be recorded with the Township Clerk and Clare County Register of Deeds providing for:
  - a. Easements to the public for purposes of emergency and other public vehicles, and easements for utilities.
  - b. A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, vendors, tradesman, delivery persons, and others bound to or returning from any of the properties having a need to use the road.
  - c. A provision that substantially conforms to the following:

"This parcel of land has private road access across a permanent easement which is a matter of record and a part of the deed. This notice is to make Purchaser aware that this parcel of land has egress and ingress over this easement only. Neither Clare County nor Hamilton Township has any responsibility for maintenance or upkeep of any improvement across this easement, except as may be provided by an established special assessment district. Maintenance is the responsibility of the owners of record. The United States mail service and the local school district are not required to traverse this private improvement and may provide service only to the closest public access. (Michigan P.A. 134 of 1972, as amended.)"
3. **Maintenance Agreement:** Road maintenance agreement signed by applicant/owner(s) to be recorded with the County Register of Deeds providing for:
  - a. A method of initiating and financing such road in order to keep the road up to properly engineered specifications and free of snow or debris.
  - b. A workable method of apportioning the costs of maintenance and improvements to current and future owners.
  - c. A notice specifying that the proposed development may be subject to the establishment of a special assessment district by the Township Board, as provided by law, to ensure continued and adequate maintenance of the road in the event the necessary maintenance is not undertaken by the property owners that are served by such road, and that no public funds of the Township shall be used to build, repair, or maintain the private road except through such an assessment district.

**D. Use of Private Road:** Upon completion of the construction of a private road as authorized by an approved site plan and Zoning Permit, no construction shall be initiated nor shall any Zoning Permit be granted for any structure or use of a lot that relies upon such road for access until the Township Board grants final approval for use of the road as stated in the application. The Township Board shall grant such final approval when the following conditions have been met:

1. The applicant's civil engineer shall certify to the Township Board, in writing, that the required improvements were made in accordance with this Article and Ordinance and all approved plans. The applicant's engineer shall be registered in the State of Michigan.
2. The Township's engineer has determined that the required improvements were made in accordance

with this Article and Ordinance and all approved plans, where requested by the Township Board to perform such an assessment.

3. The Township Board has received copies of the approved road easement agreement and road maintenance agreement recorded with the Clare County Register of Deeds.
4. The Township Board has received an agreement from the applicant that indemnifies and holds harmless the Township and its representatives from any and all claims of personal injury and property damage arising from the use of the private road.

**E. Design Standards:** Private roads shall be located and constructed according to the standards of the Clare County Road Commission applicable to a public road that would function in the same general manner as the proposed private road, including drainage, ground elevations, slopes, and alignments, except as provided below and Section (F).

1. Easement Width and Road Surface: A private road shall be within a private road easement of a minimum width of sixty-six (66) feet, and the private road shall have a minimum drivable surface of twenty (20) feet.
2. Maximum Length: No private road segment shall extend from an intersection with a public road for a distance of more than 1,320' unless such segment is provided with a second intersection with a public road.
3. Cul-de-sac: Private roads that terminate at a dead-end shall include a cul-de-sac of a minimum sixty (60) foot radius.
4. Surface Material/Depth: Private roads serving no more than three lots shall have a minimum surface material equal to the aggregate base course required by the Road Commission for a public road that would function in the same general manner as the proposed private road,.
5. Vertical Clearance: In order to provide adequate access for emergency vehicles, fifteen (15) feet of overhead clearance shall be provided within the width of the road surface.
6. Road Names and Signs: All private roads shall be posted with clearly visible road names. These signs shall be blue in color, shall comply with County Road Commission regulations, and shall clearly indicate the road is private. All signs within the private road easement shall be identified on the site plan and be in accordance with the Michigan Manual of Uniform Traffic Control Devices. Street signs shall be provided at all intersections.

**F. Waiver of Design Standards :** Private roads shall be constructed according to the standards of subsection (E) above except that the Township Board may consider alternative design standards that an applicant may propose and, upon finding such alternatives provide equal or greater structural stability and longevity and do not undermine the public health, safety and welfare, may approve such alternatives. Sufficient engineering data shall be submitted to substantiate the proposed alternative and their merits.

**G. Existing Nonconforming Private Roads**

1. Maintenance and Existing Lots: Private roads which were lawful prior to the adoption of this Ordinance or amendment thereto, but that are inconsistent with the standards herein, may continue and undergo routine maintenance for safety purposes. The erection of new dwellings or other principal buildings on existing lots which front along such private road is permitted if the road is found by the Township Board to be reasonably capable of providing sufficient access for the uses intended to be served by such road including adequate year round access for emergency vehicles.
2. Extensions: No private road that was lawful prior to the adoption of this Ordinance or amendment thereto, but that is inconsistent with the standards herein, shall be extended in length, or be subject to an increase in the number of building sites through the partitioning of land along such road or road extension, except upon a finding that the road will be capable of providing sufficient access including year round access for emergency vehicles. The Township Board may require improvements of such road as a condition of the establishment of new building sites.

**End of Article 14**



## Article 15 SITE PLAN REVIEW

### **Section 15.1 Purpose**

It is the purpose of this Article to specify the process that shall be followed in the preparation, review and approval of site plans as required by this Ordinance, including the standards by which such plans shall be evaluated, to ensure that proposed uses subject to site plan review are in conformance with this Ordinance.

### **Section 15.2 Site Plan Approval Required**

**A. Uses Requiring Site Plan Approval:** Except as provided by subsection (1) below or elsewhere in this Ordinance, site plan approval by the Planning Commission is required prior to the Zoning Administrator's issuance of a Zoning Permit for all authorized uses including, but not limited to, multiple family developments, commercial and industrial uses, institutions, site condominiums, and platted subdivisions.

1. **Exceptions:**

- a. Single family or two-family dwelling, and alterations and accessory structures and buildings thereto, shall be subject to plot plan approval by the Zoning Administrator according to Section 3.4(B).
- b. Site plans for special land uses shall be subject to Township Board approval following a recommendation by the Planning Commission.

### **Section 15.3 Review Procedures**

**A. Optional Concept Plan:** Prior to preparing a detailed site plan and seeking approval of such site plan, an applicant may seek approval of a concept plan for the purpose of receiving approval of the general design and layout of the project. A concept plan shall be reviewed and acted upon in the same manner as a site plan, as delineated in subsections (B) – (E) below. An applicant that exercises his/her right to not submit a concept plan and proceed to site plan approval directly bears the risk of the time and costs incurred in the preparation of a site plan without the benefit of official action on a concept plan first.

1. **Level of Detail:** The concept plan shall be prepared according to the manner and information required for a site plan pursuant to Section 15.3(B), except that detailed construction drawings to address specific site improvements are not necessary. However, the detail of the concept information shall adequately portray the arrangement and feasibility of critical components of the project such as, but not limited to, preliminary storm water management including flow direction and preliminary location of detention/retention basins; preliminary grading including approximate limits of clearing and proposed contours at minimum five (5) foot intervals; vehicular circulation including road alignments, parking spaces and parking circulation; lot areas and lot lines; signage; and landscaping.

a. A concept plan shall be evaluated according to the level of information required at the concept plan level. A concept plan shall be approved if it contains the information required by, and is in compliance with this Ordinance, the conditions imposed pursuant to this Ordinance, other Township planning documents, other applicable ordinances, and state and federal statutes.

2. **Approval Period:** Approval of a concept plan is valid for a period of one (1) year. If a complete site plan has not been submitted during this period, the approval of the concept plan shall be null and void unless the specified approving body finds that no changes have occurred to ordinance regulations, abutting properties, or other conditions that suggest revisions to the previously approved concept plan.

**B. Site Plan Application Submittal, Distribution and Data:** A minimum of eight (8) copies of a site plan shall be submitted to the Zoning Administrator along with any supporting documents and application fee. Upon receipt of the application, the Zoning Administrator shall record the date of their receipt and transmit copies to the Planning Commission, and other agencies or individuals selected to review such plans. The Zoning Administrator shall request all reviewing entities to respond within twenty (20) days of receipt of the materials. The Planning Commission need not delay taking action on the application if such response has not been received within such period.

1. **Format of Site Plan:** The site plan shall be of a scale not less than 1" = 100' and with a north arrow on each sheet. The site plan shall be of a scale not less than 1" = 50' where the parcel is less than three (3) acres in area. All information depicted shall be designed by a professional engineer, land surveyor, or landscape architect licensed in Michigan and shall bear the seal and signature of the licensed individual. The site plan shall present all necessary information in a clear and comprehensible fashion.

- a. The Planning Commission may waive the requirement that the site plan shall be prepared by a professional engineer, land surveyor, or landscape architect, where it determines that the character of the proposed alterations to the lot are of a minimal and non-complex nature such as, by example, where no building and/or paved parking is proposed.
2. Site Plan Information: A site plan shall include, at a minimum, the following except where the Planning Commission determines, upon a request by the applicant, that the waiving of specific submittal items, due to the particular character of proposed development or site or surrounding conditions, shall not undermine the ability to effectively evaluate the extent to which the site plan complies with the standards of this Ordinance and protects the public health, safety and welfare. The Planning Commission may subsequently void this waiver should deliberations reveal the need for additional information.
  - a. The applicant's full name, address and phone number, the name, address and phone number of the person and firm who prepared the plan, and the date each drawing was prepared or last revised.
  - b. A vicinity sketch showing the location of the property subject to the application in relation to the surrounding road system for a minimum distance of one-thousand (1,000) feet in all directions; the uses and locations of all structures and buildings within one-hundred (100) feet of the property; and the zoning classification of the subject parcel and all surrounding parcels.
  - c. A property line survey, correlated with a legal description, showing property line dimensions and bearings, lot area in acres and square feet, and graphic scale.
  - d. Existing uses, buildings, structures, roads, easements and all other existing site improvements, including dimensions thereof, with a designation as to which are to be retained, removed, or otherwise altered, and the delineation of driveways within one-hundred (100) feet of the property.
  - e. Existing natural features on and within one-hundred (100) feet of the site including woodland areas; wetlands; drainage courses, water bodies, and 100-year flood plain areas; topography at no greater than two-foot contour intervals; and soils by type and drainage features according to the County Soil Survey or well/boring logs.
  - f. Required front, side and rear yard setbacks for principal buildings.
  - g. Proposed lots including area, dimensions and lot line bearings; proposed principal and accessory uses, buildings, and structures including trash storage areas, signs, and lighting; the total number of dwelling units; total and usable floor area of each non-residential building; carports or garages; proposed open spaces and type of recreation facilities to be provided; computations associated with the number of parking spaces required and provided; and a project narrative that addresses the intended use of the property and each building proposed.
  - h. Proposed public right-of-ways and private easements, including their widths and purposes, and deed restrictions.
  - i. Proposed roads, drives, and alleys including widths, cross-sections and profiles; acceleration, deceleration and turn lanes; driveways, parking spaces, and parking aisles, with an indication of the total number of spaces and typical space and aisle/driveway dimensions, the direction of travel, the inside radii of all curves including driveway curb returns, and the number of total parking spaces along with the consecutive numbering of such spaces; and sidewalks and other non-motorized travel ways. Proposed traffic control measures (including signs) shall also be indicated.
  - j. Proposed source and location of all public and private utilities including potable water, sewage disposal, and electrical and communication lines, and the necessary easements that exist or are to be established for installation, repair and maintenance of such utilities.
  - k. Proposed signs and light fixtures including the heights and construction type thereof.
  - l. A graphic illustration of the location and extent to which natural features on the site shall be disturbed or otherwise cleared including those under subsection (e) above.
  - m. Proposed landscaping/screening plan in compliance with the requirements of Article 12, including the identification of proposed fences and walls and the heights and construction type thereof.
  - n. Proposed grading, storm drainage and storm water management plan, including soil erosion and sedimentation control measures and spot elevations to adequately portray drainage patterns and final elevations and slopes. Such plan shall include the location of drainage easements, exterior drains, dry wells, catch basins, retention and/or detention areas, sumps and other facilities designed to collect, store or transport storm water. The point of discharge for all drains and pipes shall be specified on the site plan as well as invert and related elevations, and pipe lengths and slope, to construct the same. Such plans shall document the extent of clearing of vegetation and the extent of other clearing, cuts, fills, or other grading, and the finished floor elevations of all buildings.

- o. Proposed location and specifications for any existing or proposed above or below ground storage facilities for any toxic or hazardous substances, as well as any containment structures or clear zones required by government authorities; a complete inventory of toxic or hazardous substances to be stored or used on the site, including the quantity of substances, substance names and characteristics; the proximity of such materials to ground water aquifers, wetlands, surface waters, existing and proposed wells, storm sewers, storm drains, and sanitary sewers; and a proposed storage and disposal plan for such materials including their transfer and/or transport.
- p. Proposed elevation drawings of all buildings, and floor plans for all buildings to be occupied.
- q. Proposed area of the parcel, in acres and square feet, to be dedicated to buildings, roads, access drives and parking areas, and the area of the parcel to be dedicated to landscaping and other dedicated open space areas.
- r. A statement identifying all federal, state and local permits required, if any.
- s. Proposed project completion schedule.
- t. Other information as is necessary to enable designated reviewing bodies to determine whether the proposed site plan shall conform to the provisions of this Ordinance.

**C. Planning Commission Review and Action:** The Planning Commission shall review the application and plans and determine their conformity with the provisions of this Ordinance, including the site plan submittal requirements of Section 15.3(B) and the site plan approval standards of Section 15.4. After conducting a review, the Planning Commission shall reject, approve, or conditionally approve the Site Plan and accompanying zoning permit application, as it pertains to requirements and standards contained in the Zoning Ordinance. Any conditions required by the Planning Commission shall be stated in writing and shown on the Site Plan, together with the reasons, and delivered to the applicant. A Site Plan and accompanying zoning permit application shall be approved if it contains the information required by, and is in compliance with this Ordinance, the conditions imposed pursuant to the Ordinance, other Township planning documents, other applicable ordinances, and state and federal statutes. The Planning Commission may require the submittal of a fully revised site plan upon its determination that the conditions necessary for the approval of such plan are of an extent or character that a fully revised set of documents is necessary to clearly portray the plan as anticipated to be approved.

- 1. Issuance of Zoning Permit: Upon approval or conditional approval of the site plan and accompanying zoning permit application by the Planning Commission, the Zoning Administrator shall issue a Zoning Permit authorizing the use and construction subject to the approved application.
- 2. Building Permit Required: Upon issuance of a Zoning Permit, no construction shall be initiated prior to the acquisition of all necessary Building Permits from the Building Inspector unless expressly authorized by the Planning Commission.

**D. Approved Site Plans:** Two (2) copies of an approved site plan, with any conditions contained within, shall be maintained as part of the Township records for future review and enforcement. A third copy shall be returned to the applicant. For identification of the approved plans, each of the three (3) copies shall be signed and dated with the date of approval by the Planning Commission Chairperson and Secretary. If any variances from the Zoning Ordinance have been obtained from the Zoning Board of Appeals, the approved minutes concerning the variances shall also be filed with the Township records as a part of the site plan and delivered to the applicant.

**E. As-Built Drawings:** The applicant shall submit three (3) copies of as-built drawings upon completion of construction activities, but no later than sixty (60) days from the issuance of a permit of occupancy by the Building Inspector. Such drawings shall identify all improvements made upon the site including utility services.

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## **Section 15.4 SITE PLAN APPROVAL STANDARDS**

**A. Specific Site Development Standards:** Each site plan shall conform with the specific site development standards of this Ordinance such as requirements pertaining to lot area, lot width, setbacks, heights, permitted uses, nonconformities, signs, road access, potable water, sewage disposal, and screening.

**B. General Site Plan Approval Standards:** In addition to compliance with the standards of subsection (A) above, all site plans shall comply with the following general site plan approval standards:

1. All elements of the site plan shall be harmoniously and efficiently organized in relation to the size and character of the lot, the manner in which buildings and support facilities on the lot relate to one another, and the character of the proposal as viewed from nearby properties and roads.
2. The site plan shall be of a character that supports the purpose of the District in which the site is located.
3. The site plan shall not impede the normal and orderly development, improvement, or enjoyment of surrounding property for uses permitted in the District, including matters pertaining to visual impacts from lighting, signage, outdoor storage, and off-street parking.
4. The site plan shall preserve the environmental character of the site insofar as practical by minimizing the removal or disturbances to on-site natural features such as trees, woodlands, soils, topography, water courses and wetlands.
5. The site plan shall provide for the removal of storm water so as to minimize on-site flood conditions and assure the well being of the users of the property, while not adversely affecting adjacent properties and public and natural drainage systems due to flooding, erosion, sedimentation, increased rates or quantities of runoff, or other negative impacts. Storm water management plans shall rely on existing drainage patterns to the greatest extent practical and minimize topographic alterations, and incorporate the necessary measures to discourage soil erosion and sedimentation and the discharge of impurities into the groundwater and nearby water courses.
6. The site plan shall provide vehicular and non-motorized circulation and parking in a manner that ensures for all users visually clear, safe, convenient and efficient travel in the site and at ingress and egress points, including minimizing congestion and conflicting turning patterns, minimizing negative impacts upon abutting properties and roads, coordinating access with the existing and planned public circulation system and improvements thereto, avoiding unnecessary curb cuts and encouraging the use of shared drives where practical, and ensuring that all buildings shall be so arranged as to permit emergency access by some practical means to all sides.
7. The site plan shall provide for the appropriate location of all necessary and proposed utilities. Underground facilities shall be provided to the greatest extent practical.
8. Where a project is proposed for construction in phases, the project 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 ensure protection of natural resources and public health, safety and welfare. In developments that are intended to be of a mixed-use character, the approving body may require a phasing plan to ensure that the intended dominant character of the development is preserved, such as the specification of a number or percentage of the proposed residential units in a predominantly residential development be constructed prior to or concurrently with nonresidential components.
9. Site plans shall conform to all applicable Township planning documents including the Hamilton Township Master Plan, other applicable ordinances, and state and federal statutes.

## **Section 15.5 Conformity to Approved Site Plans**

Property which is the subject of site plan approval shall be developed in compliance with the approved site plan and any approved changes thereto. If construction or use of the property does not conform to such approved plans, the approved Zoning Permit shall be subject to revocation pursuant to Section 3.4(C).

## **Section 15.6 Changes to Approved Site Plans**

**A. Site Plan Changes:** No changes shall be made to an approved site plan prior to, during, or after construction except according to the following procedures:

1. **Major Changes:** Major changes to an approved site plan shall be reviewed and acted upon according to Section 5.3. A "major change" shall include a change in excess of five (5) feet in the location of vehicular circulation ways, parking areas, or exterior building walls; a change in the number of accesses to a street or alley or any other change impacting the basic circulation pattern and/or traffic flow; a



reduction or increase of more than four (4) parking spaces or one-hundred (100) square feet of floor area; an increase in the number of dwelling units or the realignment of lot lines where such realignment exceeds two (2) feet at any single point; or an increase of more than three (3) feet in building height.

2. **Minor Changes:** Minor changes shall be subject to Zoning Administrator approval. Approved changes shall be clearly specified in writing and signed by the Zoning Administrator. The Zoning Administrator shall keep accurate records of approved changes. The Zoning Administrator may defer action on a minor change to the Planning Commission or, in the case of a special land use, to the Township Board. Minor changes to an approved site plan shall include changes not otherwise identified as a major change in (A)(1) above including changes to required landscaping and screening where the change will not alter the overall appearance and effectiveness of the required landscaping and screening, and changes to the location, elevation or slope of storm sewer, sanitary sewer, or other utilities where such change has received the approval of a licensed engineer.

### **Section 15.7 Expiration of Site Plan Approval**

An approved site plan shall expire upon the expiration of the Zoning Permit for which the site plan pertains. In the case of a multi-phased project, site plan approval for each phase shall expire when a Zoning Permit for such phase has not been issued within one (1) year of the intended initiation of such phase, according to the construction/phase schedule of the approved site plan. The body that originally granted approval of the site plan may extend the site plan approval time for such phase, for multiple periods with each period not to exceed one (1) year, provided such body finds that surrounding conditions and land uses, and the most current standards of this Ordinance, continue to support the adequacy of the site plan. See Section 3.4(C)(3) regarding expiration of Zoning Permits.

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**End of Article 15**



## **Article 16**

### **SPECIAL LAND USES**

#### **Section 16.1 Purpose**

It is the purpose of this Article to specify the process that shall be followed in the review and approval of “special land uses” as authorized by Tables 4-2 and 4-3 of Article 4 and elsewhere in this Ordinance, including the standards by which such applications shall be evaluated to ensure such uses are in conformance with this Ordinance and encourage public health, safety and welfare.

#### **Section 16.2 Review Procedure**

**A. Application:** An application for a Zoning Permit for a Special Land Use shall consist of the following:

1. An application form available from the Zoning Administrator, signed by the property owner(s) and applicant(s).
2. A concept plan or site plan prepared according to Sec. 15.3.
3. A detailed description of the proposed project, in narrative form.

**B. Planning Commission Action / Public Hearing:**

1. Application for a Zoning Permit for a Special Land Use shall follow the same general procedures as delineated for site plan review according to Section 15.3(A) except that upon finding that the application materials are complete, and prior to the Planning Commission forwarding a recommendation to the Township Board, the Planning Commission shall hold a public hearing on such application. Notice of the hearing shall comply with Section 3.11.
2. An application for a Zoning Permit for a Special Land Use shall be an application to determine the appropriateness of both the proposed use on the subject property, and the manner in which the proposed use is to be arranged and function on the site as delineated in the required site plan. The use and site plan shall be viewed as inseparable and shall be acted upon through a single motion.
3. Action on the application by the Planning Commission shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the recommendation and any conditions recommended. The Planning Commission shall refer to the approval standards set forth in Section 16.6 in addition to those specified for site plan approval (Section 15.4) prior to taking action.

**C. Township Board Action:** Following receipt of the Planning Commission’s recommendation, the Township Board shall deny, approve, or approve with conditions the final application for special land use/site plan. The use and site plan shall be viewed as inseparable and shall be acted upon through a single motion. The Township Board shall refer to the approval standards set forth in Section 16.6 in addition to those specified for site plan approval (Section 15.4) prior to taking action. Action on the application by the Township Board shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions recommended.

#### **Section 16.3 Appeals**

A person aggrieved in association with a Special Land Use decision may appeal the Special Land Use application decision to the circuit court only.

#### **Section 16.4 Reapplication**

No application for a Zoning Permit for a Special Land Use which has been denied wholly or in part by the Township Board shall be resubmitted until the expiration of one (1) year from the date of such denial, except on the grounds of newly-discovered evidence or proof of changed conditions having bearing on the basis for the previous denial, as determined by the Township Board. A reapplication shall require a new fee and the process shall follow the provisions of Section 16.2.



### **Section 16.5 Changes**

**A. Site Plan:** Changes to an approved site plan that are classified as “minor” according to Section 15.6 shall be acted upon as provided in Section 15.6. In the case where such change constitutes a “major” change, such change shall be subject to the same review and approval provisions as specified in Section 16.2.

**B. Use or Activity:** A change in the character of the use or activity from what the originally approved Zoning Permit authorized shall not occur until such change is applied for and approved according to the application and review procedures of Section 16.2. Examples requiring a new application and review procedure include the establishment of another special land use, an expansion or increase in intensity of use including but not necessarily limited to the erection of additional buildings, the extension of authorized hours of operation, or the addition of two-hundred (200) square feet or more of floor area.

### **Section 16.6 Approval Standards**

**A. General Standards:** No Special Land Use application shall be approved except where the application complies with the following standards:

1. Shall be consistent with the goals, objectives and policies of the Hamilton Township Master Plan.
2. Shall be consistent with the purpose of the zoning district in which it is located.
3. Shall be designed, constructed, operated and maintained so as to be compatible with the existing and planned character of the general vicinity, taking into consideration such features as the bulk, placement, and materials of proposed structures, open space areas, lighting, and landscaping and screening.
4. Shall be served adequately by essential public facilities and services such as roads, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, and schools; and minimize the impact of traffic generated by the proposed development on adjacent properties.
5. Shall not be hazardous, disturbing, or detrimental to the use, peaceful enjoyment, economic value or development of neighboring property, or the vicinity in general, taking into consideration such features as the location of driveways and traffic flow patterns including turning patterns, vehicular and pedestrian safety, the intensity and character of traffic and parking conditions, hours of operation, and the production of noise, glare, vibration, odors, or other external impacts.
6. Shall not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to the natural environment including air, soil, surface water, and ground water resources.
7. Shall not create excessive additional requirements at public cost for public facilities and services.
8. Shall be in compliance with the site plan approval standards of Section 15.4.

**B. Specific Standards:** In addition to compliance with the above standards in subsection (A), special land uses shall comply with the standards and regulations applicable to each specific land use as may be identified in this Ordinance including Article 8.

**End of Article 16**

## Article 17 ZONING BOARD of APPEALS (ZBA)

### **Section 17.1 Purpose**

The purpose of this Article is to establish a Zoning Board of Appeals (ZBA) pursuant to Public Act 110 of 2006, including its responsibilities, procedures, and standards of review, to ensure that the objectives of this Ordinance are fully and equitably achieved.

### **Section 17.2 Creation and Membership**

**A. Establishment and Appointment of Members:** The ZBA previously created under the 2000 Hamilton Township Zoning Ordinance shall continue to function under this Ordinance, and each member shall remain in office until such time that the member is not reappointed or otherwise no longer eligible to serve. The ZBA is retained in accordance with Public Act 110 of 2006 as amended. The ZBA shall consist of five (5) members, appointed by the Township Board by majority vote. One (1) of the members shall be a member of the Planning Commission. One (1) regular or alternate member of a ZBA may be a member of the Township Board but shall not serve as the chairperson. The remaining regular members, and any alternate members, shall be selected from the electors of the Township residing within. The members selected 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 ZBA.

**B. Alternate Members:** The Township Board may appoint not more than two (2) alternate members to the ZBA, each appointed for a term of three (3) years. The alternate members shall be called on a rotating basis to sit as regular members of the ZBA in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings of the ZBA. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member shall serve on a case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the ZBA.

**C. Terms of Appointment:** Members shall be appointed for three (3) year terms except in the case of a Planning Commission and/or Township Board member serving on the ZBA, whose terms on the ZBA shall be limited to the time they are members of the Planning Commission or Township Board. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term in the same manner as the original appointment. Members may be reappointed.

**D. Removal from Office / Conflict of Interest:** A member of the ZBA may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from deliberations and a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from deliberations and a vote in which the member has a conflict of interest constitutes malfeasance in office.

### **Section 17.3 Organization**

**A. Rules of Procedure and Officers:** The ZBA shall adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The ZBA shall annually elect from its members a chairperson, vice-chairperson, and secretary.

**B. Meetings and Quorum:** Meetings of the ZBA shall be held at the call of the chairperson and at such other times as the ZBA in its rules of procedure may specify. A majority of the regular membership of the ZBA shall comprise a quorum, which may include an alternate member(s) sitting in for a regular member(s). The ZBA shall not conduct official business unless a quorum is present. All meetings shall be open to the public and conducted pursuant to the requirements of the Open Meetings Act (P.A. 267 of 1976, as amended).

**C. Oaths and Witnesses:** The chairperson may administer oaths and compel the attendance of witnesses.

**D. Records/Minutes:** The ZBA shall maintain a record of its proceedings which shall be filed in the office of the Township Clerk, and shall be a public record according to the Freedom of Information Act. All minutes shall state the grounds for each determination, including findings of fact and conclusions, and shall be available to the public according to the Open Meetings Act.

**E. Legal Counsel:** The Township Attorney shall act as legal counsel for the ZBA and shall be present at a

ZBA meeting at the request of the ZBA.

### **Section 17.4 Jurisdiction**

The ZBA shall act upon questions as they arise in the administration of this Ordinance and take other actions as specified in this Ordinance. The ZBA shall perform its duties and exercise its powers as provided in Public Act 110 of 2006, as amended. The ZBA shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this Ordinance, but shall have the power to act on those matters so specified in this Ordinance including Ordinance interpretations, variances, and the review of an order, requirement, decision, or determination made by an administrative official or body charged with the administration or enforcement of this Ordinance.

### **Section 17.5 Appeals for Administrative Reviews**

**A. Authority:** The ZBA shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, or decision by the Zoning Administrator or by any other body or official in administering or enforcing the provisions of this Ordinance. Within this capacity the ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of such body or official. The ZBA shall have all the powers of the body or official from whom the appeal is taken.

**B. Standards:** The ZBA shall reverse or otherwise modify the decision of such body or official from whom the appeal is taken only if it finds that the action or decision appealed:

1. was arbitrary or capricious, or
2. was based upon an erroneous finding of a material fact, or
3. constituted an abuse of discretion, or
4. was based upon erroneous interpretation of the Zoning Ordinance or zoning law, or
5. did not follow required procedures.

**C. Procedures:**

1. Application Requirements: A written application for an appeal for administrative review shall be completed and filed with the Zoning Administrator on forms established for that purpose, within twenty-one (21) days after the date of the Planning Commission meeting during which the meeting minutes addressing the decision being appealed was approved. Application for an administrative review shall specify, at a minimum, the name, address, and phone number of the applicant; the decision being appealed; and the basis for the appeal. A minimum of seven (7) copies of the application shall be submitted along with any required application fees.
2. Stay: An appeal for an administrative review filed under this Section stays all proceedings in furtherance of the action appealed unless the officer or body from whom the appeal is taken certifies to the ZBA, after the notice of appeal is filed, that by reason of facts stated in the certification, a stay would in the opinion of the officer or body would cause imminent peril to life or property. If such a certification is filed, the proceedings shall only be stayed by a restraining order. A restraining order may be granted by the ZBA or by the circuit court, on application, on notice to the officer or body from whom the appeal is taken and on due cause shown.
3. Record of Facts / Transmission of Record: Upon receipt of an application for an administrative review, the officer or body from whom the appeal is taken shall transmit to the ZBA all papers constituting the record upon which the action appealed from was taken. In hearing and deciding appeals under this Section, the ZBA's review shall be based upon the record of the administrative decision being appealed, and the ZBA shall not consider new information which had not been presented to the administrative official or body from whom the appeal is taken except where the ZBA first remands the matter, along with the new information, back to the body that made the original administrative decision, for reconsideration.
4. Hearing: Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 3.11. See Sec. 3.7 regarding timely action. Upon the hearing, any party may appear in person or by agent or attorney. See subsection (5) regarding participation at the hearing by a member of the ZBA who is also a member of the Planning Commission or the Township Board.
5. Decision: The ZBA shall render a decision in the form of a motion containing a full record of the findings and determination of the ZBA, and basis for such determination. The concurring vote of a majority of the members of the ZBA shall be necessary to reverse or otherwise modify the action subject to the appeal. A member of the ZBA who is also a member of the Planning Commission or the Township Board shall not participate in a public hearing, deliberation, or vote, on the same matter that the

Article 17: Zoning Board of Appeals (ZBA)



member voted on as a member of the Planning Commission or the Township Board. However, the member may consider and vote on other unrelated matters involving the same property.

### **Section 17.6 Interpretations**

**A. Authority:** The ZBA shall hear and decide upon requests to interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning, including the determination of the precise location of the boundary lines between zoning districts, application of off-street parking and loading requirements for a specific use, and whether a particular use is authorized in a particular district.

**B. Procedures:**

1. **Application Requirements:** A written application for an interpretation shall be completed and filed with the Zoning Administrator on forms established for that purpose. Application for an interpretation shall specify, at a minimum, the name, address, and phone number of the applicant; the standard, regulation or provision requiring an interpretation; and a plot plan, site plan, or similar drawing illustrating the application or relevance of such interpretation. A minimum of seven (7) copies of the completed application shall be submitted along with any application fees.
2. **Hearing:** Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 3.11. See Sec. 3.7 regarding timely action. Upon the hearing, any party may appear in person or by agent or attorney.
3. **Decision:** The ZBA shall render a decision in the form of a motion containing a full record of the findings and determination of the ZBA, and basis for such determination. The concurring vote of a majority of the members of the ZBA shall be necessary to make an interpretation. In deciding on an interpretation, the ZBA shall ensure that its interpretation is consistent with the intent and purpose of the Ordinance, the Article in which the language in question is contained, and all other relevant provisions in the Ordinance.
  - a. Prior to deciding a request for an interpretation, the ZBA may confer with Township staff and consultants to gain insight into the provision subject to interpretation and any consequences which may result from differing decisions.
  - b. A decision providing an interpretation may be accompanied by a recommendation to the Planning Commission for consideration of an amendment of the Ordinance to address what the ZBA may find is a problematic aspect of the Ordinance.

### **Section 17.7 Variances**

**A. Authority:** The ZBA shall have the power to authorize specific variances from specific site development standards contained in this Ordinance, such as lot area and width requirements, building height and setback requirements, yard width and depth requirements, lot depth to width ratio requirements, off-street parking and loading space requirements, and sign requirements. The ZBA shall not have the power to authorize variances from requirements of this Ordinance pertaining to permitted uses of land in a District.

**B. Standards:** The ZBA shall have the power to authorize variances from specific site development requirements provided that all of the standards listed below are met and the record of proceedings of the ZBA contains evidence supporting each conclusion.

1. That there are practical difficulties that prevent carrying out the strict letter of this Ordinance due to unique circumstances specific to the property such as its narrowness, shallowness, shape, or topography, that do not generally apply to other property or uses in the same district, and shall not be recurrent in nature. These difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.
2. That the practical difficulty or special condition or circumstance is not a result of the actions of the applicant.
3. That the variance will relate only to property described in the variance application.
4. That the variance will be in harmony with the purpose of this Ordinance and the intent of the District, including the protection of public health, safety and welfare in general and vehicular and pedestrian circulation specifically.
5. That the variance will not cause a substantial adverse effect upon surrounding property including property values and the development, use and enjoyment of property in the neighborhood or District.
6. That strict compliance with the site development requirement in question would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.

7. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the practical difficulty.

### **C. Procedures**

1. Application Requirements: Application for a variance shall specify, at a minimum, the name, address, and phone number of the applicant; the legal description for the lot subject to the variance; a specification of the Ordinance's standards for which a variance is sought and the specific variance being requested; and a plot plan, site plan, or similar drawing that adequately illustrates the proposed improvements to the lot for which the variance is requested. In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings, including any information the applicant may chose to submit to demonstrate conformance with the standards of subsection (B) above. A minimum of seven (7) copies of the completed application shall be submitted along with any application fees.
2. Hearing: Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 3.11. See Sec. 3.7 regarding timely action. Upon the hearing, any party may appear in person or by agent or attorney.
3. Decision: The ZBA shall render a decision in the form of a motion containing a full record of the findings and determination of the ZBA, and basis for such determination. The concurring vote of a majority of the members of the ZBA shall be necessary to grant a variance.
  - a. In granting a variance, the ZBA may prescribe appropriate conditions and safeguards in conformity with this Ordinance. In the case where the ZBA prescribes such conditions, the ZBA may require that a performance guarantee be furnished to ensure compliance with such conditions, according to Section 3.6. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance. See Article 21 (Supplemental Provisions) regarding conditional approvals.
  - b. A variance shall become null and void unless the construction authorized by such variance has been commenced within one (1) year after the granting of the variance, and there is a continuous good faith intention to continue construction to completion. The ZBA may extend this time limit upon its finding that no substantial changes have occurred to ordinance regulations, abutting properties, or other conditions that undermine the basis for the original issuance of the variance.
  - c. No application for a variance which has been acted upon shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly-discovered evidence or proof of changed conditions having bearing on the basis for the original denial, in the discretion of the ZBA.

### **Section 17.8 Review by Circuit Court**

**A. Circuit Court Review:** The decision of the ZBA shall be final. However, any party aggrieved by an order, determination or decision of the ZBA may obtain a review thereof in the Circuit Court provided that application is made to the Court within thirty (30) days after the ZBA issues its decision in writing signed by the chairperson, or within twenty-one (21) days after the ZBA approves the minutes of its decision. The Circuit Court shall review the record and decision of the ZBA to insure that the decision:

1. Complies with the constitution and laws of the State.
2. Is based upon proper procedure.
3. Is supported by competent, material, and substantial evidence on the record.
4. Represents the reasonable exercise of discretion granted by law to the ZBA.

**End of Article 17**

## **Article 18**

# **ZONING MAP and TEXT AMENDMENTS**

### **Section 18.1 Purpose**

This Article establishes procedures for the review and action on amendment petitions. Amendments to this Ordinance shall be processed according to Public Act 110 of 2006, as amended, and in doing so, the procedures of this Article shall be followed. It is not intended that this Ordinance be amended except to correct an error; to address changed or changing conditions including in a particular area in the Township; to institute new or modified measures or standards to ensure the public health, safety and welfare; to conform with the Master Plan and/or other ordinances of the Township; and to meet a public need for new or additional land uses in appropriate locations.

### **Section 18.2 Initiation of Amendments**

Petitions for amendments may be initiated by the Township Board or Planning Commission, by its own motion, or by petition of one (1) or more owners of property to be affected by the proposed amendment. Only the Township Board may amend this Ordinance.

### **Section 18.3 Procedures**

**A. Application, Distribution and Data:** A petitioner shall submit eight (8) copies of a completed application to the Zoning Administrator on a form established for that purpose, which shall include a detailed description of the proposed amendment including the name, address and phone number of the applicant and the desired change(s) and reason(s) for such change(s), along with any application fees. The Zoning Administrator shall record the date of their receipt and transmit copies to the Planning Commission, Township Board, and other agencies or individuals selected to review such petitions including but not necessarily limited to Township departments and staff, consultants, and the Clare County Road Commission.

1. When the petition involves a change in the Zoning Map, an application shall be submitted for each parcel of land which is not contiguous to any adjacent parcel of land being proposed for the same amendment, and the applicant shall also submit the following information:
  - a. A legal description of the property, and a scaled map of the property correlated with the legal description and clearly showing the property's location.
  - b. The applicant's name, address and phone number and interest in the property, and if the applicant is not the owner, the name, address and phone number of the owner.
  - c. The desired change and reasons for such change.
  - d. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information.

#### **B. Planning Commission Action**

1. **Public Hearing:** The Planning Commission shall review the application materials. Upon finding that the application materials are satisfactorily complete and the Planning Commission has a clear understanding of the requested amendment, the Planning Commission shall establish a date for a public hearing on the application and hold such hearing. Notice of the public hearing shall comply with Section 3.11. Any application not properly filed or complete may be returned to the applicant with a written notice of deficiencies.
2. **Planning Commission Review / Recommendation:** In reviewing any amendment petition, the Planning Commission shall identify and evaluate all factors relevant to the application.
  - a. If the petition involves an amendment to the official zoning map, matters to be considered by the Planning Commission shall include, but need not be limited to, the following:
    - 1) What, if any, identifiable conditions related to the petition have changed which justify the proposed zoning district change?
    - 2) What is the impact of the zoning district change on the ability of the Township and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed zoning district change is adopted?
    - 3) Will the petitioned district change adversely affect the value of the surrounding property?
    - 4) Is the site's environmental features compatible with the host of uses permitted in the proposed district, and will development under the petitioned district change be likely to adversely affect environmental conditions?
    - 5) Can the subject parcel comply with all requirements of the proposed zoning classification?

- 6) Is the subject property able to be put to reasonable economic use in the zoning district in which it is presently located?
  - 7) Is the petitioned district change consistent with the zoning classification of surrounding land?
  - 8) Does the petitioned district change generally comply with the Master Plan?
  - 9) What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?
- b. If the petition involves an amendment to the text of the Ordinance, matters to be considered by the Planning Commission shall include, but need not be limited to, the following:
- 1) Is the amendment petition supported by documentation, such as from the Zoning Board of Appeals, that the proposed amendment would minimize problems or conflicts with specific sections of the Ordinance?
  - 2) Is the amendment petition supported by reference materials, planning and zoning publications, information gained at seminars or experiences of other communities to more effectively address certain zoning issues?
  - 3) Is the amendment petition supported by significant case law?
3. **Planning Commission Recommendation:** Following the hearing, the Planning Commission shall transmit a summary of comments received at the public hearing to the Township Board, along with its recommended action on the amendment petition. The Planning Commission shall also forward its recommended action on the amendment petition to the Clare County Planning Commission for advisory comments.

### **C. Township Board Action**

1. After receiving the findings and recommendations of the Planning Commission, the Township Board at any regular meeting or at any special meeting called for that purpose, shall consider said findings and recommendations. The Township Board may refer any proposed amendment back to the Planning Commission for further consideration and comment within a time specified by the Township Board. The Township Board may adopt the amendment, with or without changes. Such action shall be by Ordinance, requiring a majority vote of the Township Board.
  - a. If the Township Board has not received County Planning Commission comments within thirty (30) days of the submittal of the Township Planning Commission's recommendation, the Township Board need not delay taking action on the amendments.
  - b. The Township Board may hold additional public hearings if the Township Board considers it necessary. The Township Board shall grant a hearing on the proposed amendment to any interested property owner who has filed a written request to be heard. Such written request shall take the form of a certified mail letter from the property owner to the Township Clerk. A hearing under this subsection (b) is not subject to the notice requirements of Section 3.11, except that notice of the hearing shall be given to the interested property owner according to Section 3.11(A) and (C). The Township Board may require the property owner to justify the property owner's interest on which the additional hearing request is based.

**D. Publication of Notice of Ordinance Amendments:** Following adoption of amendments by ordinance by the Township Board, the amendment ordinance shall be filed with the Township Clerk and one (1) notice of adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption. Promptly following adoption of an amendment ordinance by the Township Board, a copy of the notice of adoption shall also be mailed to the airport manager of each airport that registers its name and mailing address with the Township Clerk for the purpose of receiving such notices. The adoption notice shall provide either a summary of the regulatory effect of the amendments including the geographic area affected, or the text of the amendment, and the effective date of the amendment ordinance and the place and time where a copy of the amendment ordinance may be purchased or inspected.

1. **Effective Date:** The effective date of an amendment ordinance shall be the expiration of eight (8) days after publication of the notice of adoption as provided in (D) above except where the Township Board expressly provides a greater number of days.

### **Section 18.4 Resubmittal**

No petition for an amendment which has been denied by the Township Board shall be resubmitted 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 upon inspection by the Planning Commission to be valid.

### **End of Article 18**

**Article 19**

**Reserved for Future Use**

Article 19: Reserved for Future Use  
19-1

Article 20: Reserved for Future Use

**End of Article 19**

**Article 20**

**Reserved for Future Use**



Hamilton Township Zoning Ordinance

Article 20: Reserved for Future Use  
20-1

**End of Article 20**

## Article 21 SUPPLEMENTAL PROVISIONS

### Section 21.1 Purpose

The purpose of this Article is to recognize that there are certain conditions concerning land uses that warrant specific exceptions, regulations, or standards in addition to the regulations contained elsewhere in this Ordinance, and to establish such exceptions, regulations, and standards. The following supplemental provisions apply to all uses and all zoning districts unless otherwise indicated.

### Section 21.2 Conditional Approvals

**A. Conditions on Discretionary Decisions:** The Planning Commission, Zoning Board of Appeals, and Township Board may attach conditions to the approval of a site plan, special land use, variance or other discretionary approval. Such conditions shall be based upon standards in this Ordinance and may be imposed to:

1. 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.
2. Protect the natural environment and conserve natural resources and energy.
3. Insure compatibility with adjacent uses of land.
4. Promote the use of land in a socially and economically desirable manner.

**B. Requirements for Valid Conditions:** Conditions imposed shall meet all of the following requirements:

1. 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.
2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
3. 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.

**C. Record of Conditions and Changes:** Any conditions imposed shall be recorded in the record of the approval action. These conditions shall not be changed except upon the mutual consent of the approving authority and the property owner.

**D. Performance Guarantees:** Performance guarantees may be required to ensure compliance with conditions on discretionary decisions pursuant to the requirements of Section 3.6.

### Section 21.3 Moving Buildings

No existing building or structure within or outside of the Township shall be relocated on any lot in the Township unless the building or structure meets all provisions of this Ordinance and the Michigan Construction Code and a zoning permit has been issued for such relocation.

### Section 21.4 Essential Services

Essential services as defined in this Ordinance shall be permitted as authorized and regulated by law and other ordinances of the Township, it being the intention hereof to exempt such essential services from the application of this Ordinance. This exception shall not apply to administrative buildings, communication towers, public utility storage yards, substations and similar above-ground structures and uses associated with such essential services.

### Section 21.5 One Dwelling Unit / Principal Use per Lot

**A. Dwellings:** No more than one (1) single family dwelling unit shall be established on a lot except as otherwise authorized by this Ordinance, such as in the case where Table 4-2 of Article 4 authorizes two-family or multiple family dwellings, or where a temporary dwelling may be authorized (Section 21.7, Temporary

Dwellings).

**B. Principal Uses:** No more than one (1) principal use shall be established on a lot except as may be authorized in a Commercial or Industrial District and according to an approved site plan pursuant to Article 15.

## Section 21.6 Single Family Dwelling Standards

**A.** All single family dwellings and modifications thereto shall comply with the requirements of this Ordinance including the following standards, provided that the foregoing standards shall not apply to temporary dwellings, or mobile homes located in a licensed manufactured housing community, except to the extent required by State and Federal law.

1. The dwelling shall have a minimum floor area of 720 square feet, provided that a two-story dwelling shall have a minimum of 720 square feet of floor area on the first floor and a minimum of 400 square feet of floor area on the second floor.
2. With the exception of a mobile home, the dwelling shall have a minimum width across its front, side and rear elevation of twenty (20) feet.
3. The dwelling and all modifications thereto shall comply in all respects with the Michigan Construction Code and applicable fire codes. Where a dwelling is required by law to comply with federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by such codes, then and in that event such federal or state standard or regulation shall apply.
4. The dwelling shall be firmly attached to a permanent foundation constructed on the site in accordance with the building code and shall have a wall of the same perimeter dimensions of the dwelling, except in the case of cantilever architecture, and constructed of such materials and type as required by the building code for such dwelling. In the case of a mobile home as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device, and shall be set on a concrete footing with a masonry wall extending from the perimeter wall of the dwelling to ground, or on a concrete footing with fireproof supports and shall have a continuous skirt extending from perimeter to ground, made of commercial quality or equivalent, and comply with the rules and regulations of the Michigan Mobile Home Commission, the Public Health Department, and HUD Regulations 24 CFR 3280, being the "Mobile Home Construction and Safety Standards". No dwelling shall have exposed wheels, towing mechanism, undercarriage, or chassis.
5. The dwelling shall have steps connected to exterior door areas, or to porches connected to exterior door areas, where the difference in elevation exceeds twelve (12) inches.
6. Any additions or modifications to a dwelling shall be constructed of similar or better quality workmanship as the original structure, including permanent attachment to the principal structure and foundation.
7. The dwelling shall contain storage area equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less, and shall be located in a basement under the building, in an attic area, in closet areas, or in a separate structure constructed of similar or better quality workmanship as the principal dwelling.
8. The dwelling shall be connected to a public sewer and water supply or to such private facilities approved by the Clare County Health Department.
9. A dwelling shall incorporate exterior materials commonly employed by the construction industry and which shall withstand local wind and other weather conditions, and which shall not be subject to rust, rot or other degradation. In no case shall the exterior of an accessory building consist of cloth or other similar fabric, exposed wood, exposed plywood, exposed particle board, or wood scraps. No exterior surfaces shall be comprised of insulation or other materials not designed for and commonly considered as an exterior surface by the construction industry.

## Section 21.7 Temporary Dwellings

**A. Authorization/Application:** Temporary dwellings are prohibited except as approved by the Zoning Administrator according to this Section. Application for and authorization of such a temporary dwelling shall require the submittal of a zoning permit application available from the Zoning Administrator including a plot plan prepared according to Section 3.4(B). A temporary dwelling may be authorized for the following purposes only:

1. Emergency Housing: To allow a recreational vehicle or mobile home to be placed on the lot while the permanent dwelling on the same lot is under repair for which a zoning permit and building permit has been issued, where such repair is due to destruction by fire, collapse, explosion, Acts of God, or acts of a public enemy, to the extent that it is no longer safe for human occupancy.
2. New Home Under Construction: To allow a recreational vehicle or mobile home to be placed on the lot while the permanent dwelling on the same lot is under construction and for which a zoning permit and

building permit has been issued.

3. Care of an Elderly or Ailing Relative: To allow a mobile home to be placed on the lot to facilitate the care of a person related by blood, marriage, or adoption, to a resident of a lawful permanent dwelling on the same lot, and the Zoning Administrator finds sufficient documentation has been submitted by the applicant demonstrating the acute necessity for such care.

#### **B. Standards**

1. A temporary dwelling may be placed in any yard except where the dwelling is to be located in a platted or condominium subdivision, in which case the temporary dwelling shall be located in the rear yard only.
2. A temporary dwelling shall comply with the setback standards of the District for the permanent dwelling unless the Zoning Administrator determines that the location of the permanent dwelling, or other features of the lot, prohibit compliance with such setbacks, in which case the Zoning Administrator may approve a reduction of up to fifty percent (50%) of the normally required setback.
3. A temporary dwelling shall comply with county health department rules and regulations for potable water and sewage disposal. The temporary dwelling shall be connected to a county-approved on-site septic system, or sewer system, where such temporary dwelling is to be occupied for more than sixty (60) days unless the Zoning Administrator determines that the permanent dwelling continues to provide necessary potable water and sewage disposal.

**C. Permit Duration and Removal:** No permit issued under this Section shall be issued for a duration exceeding one hundred eighty (180) days except that a permit shall be issued for a duration not exceeding one (1) year in the case of a temporary dwelling for the care of an elderly or ailing relative. A temporary dwelling shall be removed from the lot no later than the termination date of the permit or within thirty (30) days of the issuance of a certificate of occupancy for the permanent dwelling, whichever comes first. The Zoning Administrator may renew a temporary dwelling permit once and for a period not to exceed one hundred eighty (180) days upon the applicant adequately demonstrating that construction delays have been beyond the control of the applicant and that construction completion is continuing in an earnest manner, or in the case of a temporary dwelling for the care of an elderly or ailing relative, the Zoning Administrator finds the applicant has submitted sufficient evidence demonstrating the necessity for continued care.

### **Section 21.8 Accessory Uses, Buildings, and Structures**

#### **A. Scope:**

1. Accessory buildings, structures and uses shall be subject to the regulations of this Section except where expressly regulated otherwise by this Ordinance.
2. No provisions of this Section shall be interpreted as authorizing accessory uses, buildings or structures that do not conform to the definitions of Article 22 pertaining to "accessory building or structure" and "accessory use."
3. For the purposes of this Section, a building shall be considered an accessory building where such building is not structurally attached to the principal building by either shared wall construction or by a fully and structurally enclosed corridor.
4. For the purposes of this Section, and in addition to (3) above, any roofed, walled or enclosed construction shall be construed to be an accessory building if the roofed, walled or enclosed area exceeds ten (10) square feet, irrespective of whether such construction requires a building permit under the State Construction Code.

**B. Permit Required:** No accessory building or structure, including fences, shall be erected prior to the issuance of a Zoning Permit for such structure or building, provided however that a permit is not required in the case of a building or structure that is no more than one-hundred (100) square feet in area and provided such building or structure complies with all requirements of this Ordinance including height and setback standards. Applications for accessory buildings and structures shall be administered and reviewed as part of the original or proposed revised plot plan (Section 3.4(B)) or site plan (Article 15).

#### **C. Placement/Setbacks:**

1. In a case of a platted or condominium subdivision, no accessory building or structure shall be located in a front yard except that, in the case of a lakefront lot, structures constructed and used solely for the purpose of storing or mooring vehicles intended for use upon the water which the front yard abuts may be located within the front yard and need not comply with the front yard setback requirement of the District.
2. An accessory building or structure shall comply with the setback standards for the principal building according to the District in which it is located.

3. An accessory building shall not be located within ten (10) feet of another building on the same lot.
4. An accessory building or structure shall not be located so as to interfere with the proper functioning of utilities including existing and proposed back-up septic drain fields.

#### **D. Height**

1. Accessory buildings and structures in Commercial and Industrial Districts may be constructed to equal the permitted maximum height of the principal structure on the lot, subject to site plan approval.
2. Accessory buildings and structures in Agricultural and Residential Districts shall not exceed one (1) story in height, and shall not exceed sixteen (16) feet in height in the R-1, R-2 and R-3 Districts and twenty-five (25) feet in all other districts. See definition of "building height" in Article 22.

#### **E. Number, Area and Lot Coverage**

1. No accessory building or structure shall be erected that results in noncompliance with the lot coverage standards of Table 4-4 of Article 4.
2. No more than twenty-five percent (25%) of any yard shall be occupied by accessory buildings and structures except during the period when a temporary dwelling is present according to Section 21.7.
3. in the case of a lot used for single-family or two-family purposes, and irrespective of size or floor area, no more than two accessory buildings or other roofed structures shall be erected on a lot except that one additional such building or roofed structure may be erected for each whole ten (10) acres comprising the lot.
  - a. Gazebos and other roofed structures designed for outdoor seating or gathering, including play structures for children, shall not be included in the calculation of the number of such permitted buildings or roofed structures provided each roofed area does not exceed seventy (70) square feet in area and the total cumulative roofed area of all such buildings and structures does not exceed one hundred forty (140) square feet.

**F. Habitation of Accessory Buildings or Structures:** No accessory building or structure shall be used or occupied as a dwelling except as may be authorized pursuant to Section 21.7, Temporary Dwellings.

**G. Prior to a Principal Structure:** Accessory buildings and structures shall not be erected on a lot prior to the establishment of a principal structure except as may be authorized pursuant to Section 21.7, Temporary Dwellings, and subject to the USC and approval by the Zoning Administrator.

**H. Materials/Construction:** Accessory buildings and roofed structures shall comply with the following construction standards irrespective of the size of such buildings and structures.

- a. An accessory building or structure shall meet the Building Code.
- b. An accessory building or structure shall incorporate exterior materials commonly employed by the construction industry and which shall withstand local wind and other weather conditions, and which shall not be subject to rust, rot, or other degradation. In no case shall the exterior of an accessory building consist of cloth or other similar fabric, exposed wood, exposed plywood, exposed particle board, or wood scraps. No exterior surfaces shall be comprised of insulation or other materials not designed for and commonly considered as an exterior surface by the construction industry.
- c. All accessory buildings and structures shall be of the same or better construction workmanship as the principal building on the premises.

### **Section 21.9 Home Occupations**

**A. Definitions:** For the purpose of this Section and Ordinance, the following phrases and definitions shall apply:

1. Home Occupation: An occupation or profession conducted on the same lot as a dwelling, accessory to and incidental to the principal residential use of the premises, and complies with the standards of this Section.
  - a. Class 1 Home Occupation: A home occupation that is conducted entirely within a dwelling, including an attached garage, and complies with the provisions of this Section.
  - b. Class 2 Home Occupation: A home occupation that is conducted wholly or in part outdoors or in an accessory building and complies with the provisions of this Section. Examples of a Class 2 home occupation may include, but are not limited to, the use of a building accessory to a residence as an office of a contractor, as a storage facility for construction vehicles used in association with such business, or used to provide educational services such as crafts and music.

**B. Authorization:** The operating or conducting of a home occupation is permitted according to the regulations and standards of this Section.

1. Class 1 Home Occupation: A Class 1 Home Occupation is permitted as an accessory use to the principal residential use of a lot upon the issuance of a zoning permit, and shall comply with the

2. Class 2 Home Occupation: A Class 2 Home Occupation is classified as a special land use and permitted in the A-1 and RR Districts only, and shall be subject to the provisions of Article 16 and the standards of subsection (C) below. A permit issued for such home occupation shall clearly delineate any conditions upon which such approval is granted. In addition to the information required by Article 16, an application for a Class 2 home occupation shall also include a detailed description of the character of the home occupation such as service or product offered; the number of full-time and part-time employees of the business and the frequency at which such employees will be present at the site; the type and frequency of vehicular traffic to be generated by the home occupation; the location of all parking, delivery and storage areas; and proposed landscaping/screening in association with any outdoor area, including parking and storage areas, to minimize negative impacts on nearby properties.

**C. Standards:** Class 1 and 2 home occupations shall comply with the following standards:

1. The occupation shall be clearly secondary and incidental to the use of the dwelling as a place of residence, and shall not result in a change to the essential residential character of the premises including both the dwelling and yard areas. The dwelling shall have no exterior evidence of the home occupation except for a sign as permitted by Article 10.
2. The occupation shall not produce any noise, odors, vibration, fumes or smoke detectable to normal sensory perception beyond the lot lines. No equipment or process shall be used which creates electrical interference in any radio, television, or communication receivers off the premises, or cause fluctuations in line voltage off the premises.
3. A resident of the dwelling on the lot shall be actively and personally engaged in and be responsible for all home occupation operations.
4. The home occupation shall not involve the use or storage of explosive, flammable, or otherwise hazardous materials and waste not otherwise of a customary household nature, except as may be authorized in the case of a Class 2 home occupation. Refuse generated by the occupation shall be safely and properly disposed of.
5. A Class 1 home occupation shall not occupy an area greater than thirty percent (30%) of the gross floor area of the dwelling including the basement. A Class 2 home occupation shall not occupy an area of an accessory building greater than the gross first floor area of the dwelling.
6. In the case of a Class 1 home occupation, no more than one (1) employee shall be present on the premises during the ordinary course of business, excluding employees residing in the dwelling. In the case of a Class 2 home occupation, no more than two (2) employees shall be present on the premises during the ordinary course of business excluding employees residing in the dwelling. This provision shall not prohibit the arrival of up to two (2) additional employees to the premises for the purpose of receiving daily instructions for work to be performed elsewhere, and there is compliance with subsection (7) below.
7. All traffic to and from the home occupation shall not result in more than ten (10) pedestrian or vehicular arrivals during the daily course of business, including those by customers, salesmen, delivery persons, or other business visitors.
8. No portion of a Class 1 home occupation shall be located outdoors including the storage of equipment and materials. No portion of a Class 2 home occupation shall be located outdoors except as may be expressly authorized as part of an approved site plan, where the site plan approving body determines adequate screening measures are to be in place to minimize its visual and audial impacts on nearby roads and lots.

### **Section 21.10 Prohibited Vehicles**

Under no conditions shall a tow-truck, semi-tractor or trailer, sand and gravel hauling truck, bulldozer, and grader, or any other vehicle exceeding twenty-five (25) feet in length, fifteen (15) feet in height, or a gross vehicle weight rating of 10,000 pounds, but excluding recreational vehicles, be maintained or stored, temporarily or permanently, in a Residential District unless upon a lot currently under construction and such construction requires the use of such vehicles, or such vehicles are otherwise part of an approved home occupation. This subsection (1) shall not prohibit the parking or storing of agricultural vehicles and machinery on a lot devoted to agriculture for which the vehicles and/or machinery is used, nor shall this provision prohibit the storing of buses for school or church use on lots or parcels upon which the school or church is located. Nothing in this Section shall be construed to prohibit the temporary parking of Clare County Road Commission vehicles as part of typical maintenance and construction activities.

### **Section 21.11 Residential Outdoor Living Areas (Patios, Decks, Porches, Etc.)**

**A. Definition:** For the purpose of this Section, “residential outdoor living area” shall be defined as an area designed or used for outdoor gathering, lounging, dining, and/or similar use, in association with a dwelling, constructed of wood, concrete, brick, stone, or similar surface. An outdoor living area may be commonly referred to as a terrace, patio, deck, or porch.

**B. Standards:** Outdoor living areas shall comply with the setback requirements of the District in which the dwelling is located except that an outdoor living area may be set back a minimum distance of three (3) feet from a side or rear lot line when there is compliance with all of the following conditions:

1. The outdoor living area is unroofed and unenclosed.
2. The outdoor living area includes no wall or other similar vertical feature designed to or to have the effect of screening views to or from such outdoor living area.
3. The outdoor living area has a walking surface no greater than eighteen (18) inches above the ground elevation of the portions of the side and rear lot line most proximate to the outdoor living area.
4. No fixed feature of an outdoor living area, including railings, shall exceed thirty-six inches (36”) in height above the surface of such outdoor living area.
5. Any footings to support the outdoor living area shall be fully below the ground surface or otherwise not visible from adjacent lots.

### Section 21.12 Shoreline Stabilization

**A. Definition:** For the purpose of this Section 21.12, “shoreline” shall be defined as the strip of land between the ordinary high water mark of any river or stream, or pond or lake in excess of twenty (20) acres in surface area, and ten (10) feet inland from such ordinary high water mark.

**B. Requirements:** The alteration of a shoreline is prohibited except where a zoning permit is issued by the Zoning Administrator upon finding that the following conditions have been met:

1. The applicant has submitted satisfactory evidence demonstrating the need for such shoreline alteration to stabilize erosion.
2. The applicant has submitted satisfactory evidence demonstrating that all permits and approvals vegetation in conjunction with rock rip rap. Concrete, mortar, vinyl, wood or metal of any kind are prohibited. Except where the MDNRE requires or recommends otherwise, the slope of the rock shall approximate the same incline as the pre-existing shoreline.
3. A zoning permit may be issued by the Zoning Administrator for alterations that are not in compliance with the standards of subsection (B)(3) upon finding:
  - a. The property use is a publicly owned entity such as a marina, park, dam or bridge.
  - b. The site plan approving body finds that the application of such standards to the proposed use is not practical and there exists satisfactory alternative measures to effectively ensure stabilization.
  - c. The Michigan Department of Environmental Quality recommends and approves the installation of the proposed alternative shoreline protection.

### Section 21.13 Keeping of Animals as Accessory Residential Use

**A. Definitions:** For the purpose of this Section, the following phrases shall have the following definitions:

1. “Vicious animal” shall be defined as any animal that attacks, bites, or injures human beings or domesticated animals without adequate provocation, or which because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings or domesticated animals.
2. “Household pets” shall be defined to include dogs, cats, fish, birds, hamsters and other types of animals commonly maintained in a residence.
3. “Large livestock” shall be defined as horses, ponies, cattle, and other livestock that can be reasonably expected to grow to a weight greater than (300) pounds upon reaching maturity.
4. “Medium livestock” shall be defined as sheep, goats, ostrich, swine, and other livestock that can be reasonably expected to grow to a weight of between forty (40) and three hundred (300) pounds upon reaching maturity.
5. “Small livestock” shall be defined as rabbits, chickens, fowl, mink, sable, fox, and other livestock that can be reasonably expected to grow to a weight of less than forty (40) pounds upon reaching maturity.

**B. Keeping of Vicious Animals:** No vicious animal shall be kept permanently or temporarily in any District.

**C. Keeping of Household Pets:** The keeping of household pets as an accessory use in association with any residentially-used lot is permitted provided such activities do not constitute a kennel as defined in this Ordinance, unless approval for such kennel has been granted pursuant to this Ordinance.

**D. Keeping of Livestock:** The keeping of livestock as an accessory use to the principal residential use of a lot



shall be permitted in the A-1, RR and R-1 Districts provided such keeping of livestock is in compliance with the regulations of this Section. This subsection (D) shall apply only to the keeping of livestock as accessory to the principal residential use of a lot, including private stables, and shall not apply to a farm.

1. Small Livestock: The keeping of small livestock shall occur only on parcels of one (1) acre or greater, but in no case shall such livestock be kept within a platted subdivision or site condominium.
2. Medium Livestock:
  - a. The keeping of medium livestock shall occur only on parcels of two (2) acres or greater but in no case shall such livestock be kept within a platted subdivision or site condominium.
  - b. At no time shall the density of such livestock exceed one (1) animal per one-half acre comprising the parcel.
3. Large Livestock:
  - a. The keeping of large livestock shall occur only on parcels of five (5) acres or greater but in no case shall such livestock be kept within a platted subdivision or site condominium.
  - b. At no time shall the density of such livestock exceed one (1) animal for the first five (5) acres and one (1) animal per each additional acre comprising the parcel.
4. Regulations Applicable to All Livestock:
  - a. Livestock shall be managed by the occupants of the premises, and shall be maintained in a healthy condition.
  - b. Any building or structure housing livestock shall be set back no less than fifty (50) feet from a lot line.
  - c. Newly born horses, cows, donkeys, mules and other animals that exceed forty pounds (40 lbs.) in weight at birth may be maintained on said parcel for up to six (6) months irrespective of whether such maintenance would increase the permitted number of animals beyond the animal density limitations of this Section. Newly born animals that do not exceed forty pounds (40 lbs.) in weight at birth may be maintained on said parcel for no more than sixty (60) days if such maintenance would increase the permitted number of animals beyond the animal density limitations of this Section.
  - d. All livestock shall be completely enclosed by a fence of adequate height, design and construction to contain the animals.
  - e. The retention or storage of animal waste shall be managed so as not to create a nuisance due to odors or by other means, and in no case shall the storage of animal waste occur within one hundred fifty (150) feet of a lot line.
  - f. No living quarters shall be located in any stable.
  - g. The facility shall be constructed and maintained so that dust and drainage from a stable or other animal containment area shall not create a nuisance or hazard to adjoining property or uses.

## Section 21.14 Roadside Stands

Roadside stands shall comply with the most current Generally Accepted Agricultural Management Practices as published by the Michigan Agriculture Commission.

## Section 21.15 Fences and Walls

**A. Residential:** Fences and walls in association with single family and two-family dwellings shall comply with the following standards:

1. No fence or wall exceeding six feet (6') in height shall be erected in a side or rear yard.
2. No fence or wall exceeding three feet (3') in height shall be erected in a front yard of a lot in a platted subdivisions or site condominium.
3. A fence or wall exceeding three feet (3') in height, but no greater than six feet (6') in height, may be erected in a front yard of a lot outside of a platted subdivision or site condominium provided such fence meets the following standards:
  - a. The fence is set back from all road right-of-way lines a minimum distance equal to one-half the distance from the dwelling to such line but no greater than one-hundred (100) feet and no less than fifty (50) feet., and such fence does not extend across the width of the lot by more than fifty percent (50%) of the lot width dimension.
  - b. Such fence may extend across the width of the lot by more than fifty percent (50%) of the lot width dimension provided it is set back from all road right-of-way lines a minimum distance of one-hundred fifty (150) feet.
4. In addition to the limitations of subsection (2) and (3) above, no portion of a fence or wall in the front yard of a waterfront lot in a Residential District, the front yard being the yard adjacent to the water, shall extend into the front yard a distance greater than twenty (20) feet unless the height of the portion of the fence that exceeds this twenty (20) foot limitation shall not exceed three (3) feet and shall not be within twenty (20) feet of the ordinary high water mark.
  - a. Subsection (4) above shall not prohibit the erection of a fence or wall on a waterfront lot of up to six (6) feet in height, along any lot line that also serves as a public road right-of-way line, where such

road right-of-way terminates at the water's edge. Such a fence shall not extend closer than twenty (20) feet to the ordinary high water mark.

5. In the case where a proposed fence or wall is within forty (40) feet of a dwelling on an abutting lot, the finished side of the fence or wall shall face the abutting lot.
6. Fences and walls with barbs, spikes, nails, or other sharp or electrified devices shall be prohibited.
7. Fences and walls shall not be subject to setback requirements.

8. No fence or wall shall be erected along or near a road in such a manner as to obstruct safe, free and clear vision of oncoming traffic or vehicles attempting to access such road or negotiate movement through an intersection.
9. Fences and walls shall be constructed of materials designed and intended for such purposes. In no case shall a fence or wall be constructed of tires, vehicle parts, rotting lumber, slab wood, pallets, glare-producing materials, trash or any materials capable of providing habitat for pests or vermin.
10. All fencing and walls shall be maintained in good exterior and structural condition.

**B. Commercial, Industrial, Public, Institutional and Other Uses:** The location, height and character of all fences and walls proposed as part of the commercial, industrial, public and/or institutional use of a lot, or any other use of a lot requiring site plan approval pursuant to Article 15, shall be reviewed according to the site plan review provisions of Article 15.

### Section 21.16 Outdoor Residential Swimming Pools

**A. Permit/Application:** No outdoor swimming pool on a residentially-used lot shall be erected prior to the issuance of a zoning permit from the Zoning Administrator, and the necessary building permits from the Building Inspector. Application for a zoning permit shall be made to the Zoning Administrator on a form for such purpose, and shall be accompanied by a plot plan (Section 4.4(B)) that identifies the location of the pool, pool decks, adjacent buildings, fencing, and gates.

#### **B. Standards**

1. No pool or pool fencing shall be located in a front yard.
2. Pools shall comply with the minimum side and rear yard setbacks for the dwelling, as measured from the interior wall surface. Pool deck areas shall comply with Section 21.11.
3. No pool shall be located under electrical wires and similar utility devices.
4. All swimming pools shall be designed, constructed and maintained in compliance with all building codes and the rules and regulations of county and state health departments, including fencing and other safety measures.
5. No swimming pool shall be occupied prior to receiving approval from the Building Inspector.

### Section 21.17 Outdoor Display, Sales and Storage

**A. Definition of Materials and Products:** For the purpose of this Section, "materials and products" shall include lumber piles, crates, boxes, building materials, discarded materials, trash, junk, and similar items; finished or partially finished items intended for subsequent use or sale including pipes, logs, fire wood, and figurines; and motor vehicles, items intended for tow, landscape supply materials, and other items customarily requiring outdoor storage.

**B. Commercial Display and Sales:** Outdoor display or sales of materials and products in association with a commercial or industrial use is prohibited except where expressly authorized pursuant to an approved site plan. Such display or sales area shall not extend into a required setback for the principal building according to Table 4-4. The maximum permitted outdoor display or sales area shall be ten percent (10%) of the uses indoor retail sales floor area except that this limitation shall not apply to the display and sales of plant nursery stock, motor vehicles, items intended for tow, or other items customarily requiring outdoor display.

**C. Commercial and Industrial Storage:** The outdoor storage of materials and products in association with a commercial or industrial use, not otherwise comprising outdoor display and sales as determined by the site plan approving body, is prohibited except where the site plan approving body finds that proposed screening or enclosure of such storage area adequately minimizes negative impacts upon existing and planned surrounding land uses. Such enclosure or screen shall be subject to site plan approval. No outdoor storage of materials and products shall be located in a front yard.

## Section 21.18 Site Condominiums

**A. Intent:** The intent of this Section is to provide regulatory standards for site condominium projects similar to those required for projects developed under other forms of ownership. This section is not intended to prohibit or treat proposed or existing condominium projects different than similar projects developed under another form of ownership.

**B. Applicability of District Regulations:** A site condominium project, including single family detached units, shall comply with all standards of the district within which it is located including use, setback, height, lot coverage, lot area, and lot width requirements, and all other provisions of this Ordinance. A condominium unit in a site condominium is that portion of the project intended to function generally similar to a platted subdivision lot and shall comply with the use, setback, height, lot coverage, lot area, and lot width requirements of the District within which it is located and all other provisions of this Ordinance.

### C. Review and Approval Procedures:

1. Zoning Permit Required: No grading or any other form of construction shall be initiated for a site condominium prior to the approval of a final site plan and issuance of a zoning permit. The future erection of any dwelling or other structure or building in the site condominium, not expressly approved as part of the final site plan, shall require an additional zoning permit prior to erection.
2. Site Plan Approval Required: The issuance of a zoning permit shall require the submittal and approval of a preliminary and final site plan pursuant to Article 15, Site Plan Review, and master deed and bylaw documents.
  - a. In addition to the preliminary and final site plan information required by Article 15, the applicant shall also submit information constituting a condominium subdivision plan, including the size, location, area, width, and boundaries of each condominium unit; building locations; the nature, location, and approximate size of common elements; and other information required by Section 66 of Michigan Public Act 59 of 1978, as amended.
3. Master Deed/Bylaws Approval Required: The applicant shall include as part of the Zoning Permit application a copy of the proposed master deed and bylaws. These shall be reviewed for compliance with Township ordinances and to ensure that an assessment mechanism has been included to guarantee adequate funding for maintenance of all common elements. The common area funding responsibility of the association shall include any necessary drainage-ways and the cost to periodically clean out such drainage ways to keep them functioning as intended in the approved plans. The master deed shall clearly state the responsibility of the owner and co-owners and shall state that all amendments to the master deed must conform to Township, County, and state laws and regulations. The Master Deed shall also include any variances granted by Township, County, or State authorities and include a hold harmless clause from these variances. All provisions of the condominium subdivision plan that are approved by the Township Board shall be incorporated, as approved, in the master deed for the condominium subdivision.
4. Issuance of Zoning Permit: Upon approval of the final site plan, by-laws and master deed, the applicant shall furnish the Zoning Administrator a copy of the final bylaws and master deed, and a copy of the approved site plan. Upon the satisfactory submittal of these documents, the Zoning Administrator shall issue a zoning permit.
5. Changes: Any changes to an approved site condominium including changes in the by-laws, master deed, or site plan, including changes in lot line or road configuration and the addition or relocation of buildings, shall require approval by the Planning Commission prior to such change.

**D. Building Permit:** No building shall be erected prior to the issuance of a zoning permit by the Zoning Administrator, and a building permit by the Building Inspector.

**E. Utilities:** The site condominium shall provide for dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains and other installations of a similar character for the purpose of providing public utility services, including conveyance of sewage, potable water and storm water runoff across, through and under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations.

**F. Roads:** All roads within a site condominium shall be designed and constructed in conformance with the standards of the Clare County Road Commission unless otherwise approved for private road construction pursuant to this Ordinance.

**G. As-Built Plan and Occupancy:** Submission of as-built plans of a condominium subdivision is required. The Township Board may allow occupancy of the project before all required improvements are installed provided that a financial performance guarantee is posted pursuant to Section 3.6.

**H. Monuments:** All condominium units that are building sites shall be marked with monuments as if such units were lots within a platted subdivision, and such monuments shall comply with the requirements of the P.A. 591 of 1996, the Land Division Act, as amended.

### Section 21.19 Outdoor Furnaces

**A. Outdoor Furnace Defined:** For the purpose of this Section and Ordinance, “outdoor furnace” shall be defined as an accessory structure or appliance intended not to be located within a building occupied by humans or domestic animals, which is designed for heating spaces or liquids within such occupied buildings through the burning of fuel.

**B. Approval Procedure:** Outdoor furnaces are classified as an accessory structure and shall be subject to Zoning Administrator approval according to Section 2.4. The Zoning Administrator shall issue a zoning permit for such furnace upon finding that the application complies with the standards and regulations of this Section and Ordinance.

**C. Standards:** An outdoor furnace shall be installed and used only in accordance with the following provisions:

1. **Construction:** An outdoor furnace shall comply with all building codes of the Township and all other regulations and requirements of county, state and federal agencies. An outdoor furnace shall meet the manufacture’s specification for erection and operation and shall exceed such specifications where local codes, state or federal regulations require so
2. **Lot Area, Yards and Setbacks:** An outdoor furnace shall be located on a lot of no less than one (1) acre in area and shall not be located in a front yard. No outdoor furnace shall be located within fifty feet (50’) of a lot line.
3. **Chimney Height:** The furnace shall have a chimney that meets manufacturer’s specifications for height and in no case shall the chimney be less than two (2) feet above the peak of all buildings within one-hundred fifty feet (150’) of the furnace.
4. **Fuel:** No outdoor furnace shall rely on any fuel except wood, wood pellets, corn, and agricultural seeds, provided such materials include no additives such as paints, varnishes, preservatives, resins, and glues. For clarification purposes, prohibited fuels include, but are not limited to, rubbish or garbage including but not limited to food wastes, food wraps, packaging, animal carcasses or waste, paint or painted materials furniture, composite shingles, construction or demolition debris or other household or business wastes, asphalt and products containing asphalt; plywood, composite wood or pressure treated woods; any plastic material including but not limited to nylon, PVC, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers; rubber including tires and synthetic rubber-like products, and newspaper, corrugated cardboard, container board, office paper and other similar materials. This provision shall not prohibit the burning of other fuel not otherwise prohibited above, as may be specified by the manufacturer.

### Section 21.20 Farm-Based Biofuel Production Facilities

**A. Definitions:** For the purpose of this Section, the following terms and phrases shall have the following meanings:

1. **Biofuel:** Any renewable fuel product, whether solid, liquid, or gas, that is derived from recently living organisms or their metabolic by-products and meets applicable quality standards, including, but not limited to, ethanol and biodiesel. Biofuel does not include methane or any other fuel product from an anaerobic digester.
2. **Ethanol:** A substance that meets the ASTM international standard in effect on July 19, 2011 as the D-4806 specification for denatured fuel grade ethanol for blending with gasoline.
3. **Farm:** That term as defined in section 2 of the Michigan Right to Farm Act, 1981 PA 93, MCL 286.472.
4. **Proof gallon:** That term as defined in 27 CFR 19.907.

**B. Production Facilities Classified as “Accessory Uses”:** A biofuel production facility located on a farm with an annual production capacity of not more than 100,000 gallons of biofuel, is classified as an “accessory use” and is not subject to special land use approval, provided all of the following requirements are met:

1. The biofuel production facility is located not less than 100 feet from the boundary of any contiguous property under different ownership than the property on which the biofuel production facility is located and meets all other applicable setback requirements of this Ordinance.
2. On an annual basis, not less than 75% of the feedstock for the biofuel production facility is produced on the farm where the biofuel production facility is located, and not less than 75% of the biofuel or another product or by-product produced by the biofuel production facility is used on that farm.

**C. Production Facilities Classified as “Special Land Uses”:**

1. A biofuel production facility located on a farm with an annual production capacity of not more than 100,000 gallons of biofuel is classified as a “special land use” if the facility meets the requirements of subsection (B)(1) but that does not meet the requirements of subsection (B)(2).
2. A biofuel production facility located on a farm with an annual production capacity of more than 100,000 gallons but not more than 500,000 gallons of biofuel, is classified as a “special land use” if the facility meets the requirements of subsection (B)(1).

**D. Application Requirements:** An application for special land use approval for a biofuel production facility described in subsection (C) shall include the required information according to Article XIX in addition to the following:

1. A description of the process to be used to produce biofuel.
2. The number of gallons of biofuel anticipated to be produced annually.
3. An emergency access and fire protection plan that has been reviewed and approved by the appropriate responding police and fire departments.
4. For an ethanol production facility that will produce more than 10,000 proof gallons annually, completed United States department of the treasury, alcohol and tobacco tax and trade bureau, forms 5000.29 (environmental information) and 5000.30 (supplemental information on water quality considerations under 33 USC 1341(a)), or successor forms, required to implement regulations under the national environmental policy act of 1969, 42 USC 4321 to 4347, and the federal water pollution control act, 33 USC 1251 to 1387.
5. Information that demonstrates that the biofuel production facility will comply with the requirements of subsections (2) and (5).
6. Any additional information requested by the Planning Commission and relevant to compliance with this Ordinance.

**E. Special Land Use Public Hearing:** The Township shall hold a hearing on a special land use application for a biofuel production facility under subsection (C) not more than 60 days after the application is filed.

**F. Special Land Use Conditional Approval:** Special land use approval of a biofuel production facility described in subsection (C) shall be made expressly conditional on the facility meeting all of the following requirements before the facility begins operation and no additional requirements:

1. Buildings, facilities, and equipment used in the production or storage of biofuel comply with local, state, and federal laws.
2. The owner or operator of the biofuel production facility provides the local unit of government with proof that all necessary approvals have been obtained from the department of environmental quality and other state and federal agencies that are involved in permitting any of the following aspects of biofuel production:
  - a. Air pollution emissions.
  - b. Transportation of biofuel or additional products resulting from biofuel production.
  - c. Use or reuse of additional products resulting from biofuel production.
  - d. Storage of raw materials, fuel, or additional products used in, or resulting from, biofuel production.
3. The biofuel production facility includes sufficient storage for both of the following:
  - a. Raw materials and fuel.
  - b. Additional products resulting from biofuel production or the capacity to dispose of additional products through land application, livestock consumption, sale, or other legal use.

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**End of Article 21**

**Article 22**  
**INTERPRETATION, SEVERABILITY, VESTED RIGHT, REPEAL,**  
**and EFFECTIVE DATE**

**Section 22.1 Interpretation**

In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, prosperity and general welfare. Unless specifically provided for, it is not intended by this Ordinance to repeal, abrogate, annul or in any way to impair or interfere with the existing and unrepealed provision of law or ordinance or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of building or land, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or structures or land or upon the courtyards or other open spaces than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this Ordinance shall control.

**Section 22.2 Severance Clause**

Sections of this Ordinance and amendments thereto shall be deemed to be severable and should any section, paragraph, or provision thereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any other part thereof, other than the part so declared to be unconstitutional or invalid by court decree. Further, if any court shall declare invalid the application of any provision of this Ordinance to a particular parcel, lot, use, building or structure, such ruling shall not affect the application of said provision to any other parcel, lot, use, building or structure not specifically included in said ruling.

**Section 22.3 Vested Right**

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare, except as provided in Article 7, Nonconforming Lots, Uses and Structures.

**Section 22.4 Repeal**

The Hamilton Township Zoning Ordinance adopted on February 3, 2000, and amendments thereto, is hereby repealed as of the effective date of this Ordinance. The repeal of such ordinance and its amendments does not affect or impair any act done, offense committed or right accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time it was enforced, prosecuted or inflicted.

**Section 22.5 Effective Date**

This Ordinance shall take effect eight (8) days following adoption and upon publication of a notice of adoption in accordance with the provisions and procedures of the Michigan Zoning Enabling Act, PA 110 of 2006, as amended. Made and passed by the Township Board of the Township of Hamilton, Clare County, Michigan on November 7, 2013.

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**End of Article 22**