

# **ZONING ORDINANCE**

**FOR**

**RESORT TOWNSHIP**

**EMMET COUNTY, MICHIGAN**

Adopted: January 7, 2003

Effective Date: February 9, 2003

As amended through 12-22-2021

**READERS NOTES:**

The reader is cautioned that the provisions and map of the Resort Township Zoning Ordinance are subject to amendment and may, therefore, change from time to time as provided by law.

Anyone having questions on the final or pending zoning ordinance or any zoning amendments are hereby advised to contact Resort Township at the Township Hall, 2232 Resort Pike, Petoskey, MI 49770. Phone Number: 231.347.7915

# **TABLE OF CONTENTS**

<b>TITLE</b> .....	<b>8</b>
<b>INTENT</b> .....	<b>8</b>
<b>ENACTING</b> .....	<b>8</b>
<b>I - SHORT TITLE</b> .....	<b>9</b>
100. SHORT TITLE .....	9
<b>II - DEFINITIONS</b> .....	<b>10</b>
200. DEFINITIONS.....	10
201. CONSTRUCTION OF LANGUAGE .....	21
<b>III - ZONING DISTRICTS AND MAP</b> .....	<b>23</b>
300. DISTRICTS .....	24
301. BOUNDARIES.....	24
302. DISTRICT REQUIREMENTS.....	24
303. AREA AND BULK REQUIREMENTS FOR ALL DISTRICTS .....	25
304. ACCESSORY USES ASSUMED .....	25
<b>IV - R-1A and R-1B ONE FAMILY RESIDENTIAL DISTRICTS</b> .....	<b>25</b>
<b>INTENT</b> .....	<b>26</b>
400. PRINCIPAL USES PERMITTED.....	26
401. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.....	26
402. ADDITIONAL REQUIREMENTS FOR DWELLING UNITS .....	287
403. SPECIFIC DEVELOPMENT STANDARDS.....	28
<b>V - R-2A and R-2B GENERAL RESIDENTIAL DISTRICTS</b> .....	<b>30</b>
<b>INTENT</b> .....	<b>30</b>
500. PRINCIPAL USES PERMITTED.....	30
501. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.....	30
502. SPECIFIC DEVELOPMENT STANDARDS.....	32
<b>VI - RR RECREATIONAL RESIDENTIAL DISTRICT</b> .....	<b>35</b>
<b>INTENT</b> .....	<b>35</b>
600. PRINCIPAL USES PERMITTED.....	35
601. PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.....	35
602. ADDITIONAL REQUIREMENTS FOR DWELLING UNITS .....	38
603. SPECIFIC DEVELOPMENT STANDARDS.....	38

<b>VII - WATERFRONT RESOURCE OVERLAY AREAS AND HR HISTORIC RESOURCES OVERLAY AREA .....</b>	<b>40</b>
<b>INTENT.....</b>	<b>40</b>
700    WR RESOURCE OVERLAY AREA AND HR RESOURCE OVERLAY AREA BOUNDARIES.....	40
701.    PRINCIPAL USES PERMITTED FOR THE SR OVERLAY AREA .....	40
702.    REQUIRED CONDITIONS.....	41
703.    PRINCIPAL USES PERMITTED IN THE HR HISTORIC RESOURCE OVERLAY AREAS .....	41
704.    REQUIRED CONDITIONS AND STANDARDS FOR DEVELOPMENT.....	41
705.    SPECIAL LAND USE QUALIFICATIONS.....	43
<b>VIII - FF FARM AND FOREST DISTRICT .....</b>	<b>44</b>
<b>INTENT.....</b>	<b>44</b>
800.    PRINCIPAL USES PERMITTED.....	44
801.    PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL USE CONDITIONS AND APPROVAL .....	45
802.    SPECIFIC DEVELOPMENT STANDARDS.....	43
<b>IX - B-1 LOCAL-TOURIST BUSINESS DISTRICT .....</b>	<b>45</b>
<b>INTENT.....</b>	<b>45</b>
900.    PRINCIPAL USES PERMITTED.....	45
901.    PRINCIPAL USES SUBJECT TO SPECIAL CONDITIONS .....	46
902.    SPECIFIC DEVELOPMENT STANDARDS.....	48
<b>X - B-2 GENERAL BUSINESS DISTRICT .....</b>	<b>54</b>
<b>INTENT.....</b>	<b>54</b>
1000.    PRINCIPAL USES PERMITTED.....	54
1001.    PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.....	54
1002.    SPECIFIC DEVELOPMENT STANDARDS.....	57
<b>XI - I LIGHT INDUSTRIAL DISTRICT .....</b>	<b>57</b>
<b>INTENT.....</b>	<b>57</b>
1100.    PRINCIPAL USES PERMITTED.....	57
1101.    PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS.....	58
1102.    REQUIRED CONDITIONS.....	61
1103.    SPECIFIC DEVELOPMENT STANDARDS.....	61
<b>ARTICLE XII and ARTICLE XIII (saved for future ues).....</b>	<b>57</b>
<b>XIV - PUD PLANNED UNIT DEVELOPMENT DISTRICT .....</b>	<b>63</b>
<b>INTENT.....</b>	<b>63</b>
<b>1400.    DEFINITION, PRELIMINARY PROJECT MASTER PLAN.....</b>	<b>64</b>
1401.    DEFINITION, FINAL MASTER PLAN .....	64
1402.    PROCEDURES .....	64
1403.    LAND USE STANDARDS IN PUD-1 .....	71

1404.	LAND USE STANDARDS IN PUD-2 .....	72
1405.	DESIGN STANDARDS.....	73
<b>XV - SCHEDULE OF REGULATIONS.....</b>		<b>79</b>
1500.	NOTES TO ARTICLE 1500 SCHEDULE OF REGULATIONS .....	80
1501.	SUBDIVISION and SITE UNIT CONDOMINIUM OPEN SPACE PLANS.....	84
1502.	RESIDENTIAL BUILDING CLUSTERING PLAN.....	85
<b>XVI - GENERAL PROVISIONS: NONCONFORMITIES.....</b>		<b>87</b>
<b>INTENT.....</b>		<b>87</b>
1600.	NONCONFORMING USE OF LAND AND/OR STRUCTURES .....	87
1601.	DIMENSIONAL NONCONFORMITIES .....	87
1602.	NONCONFORMING LOTS.....	87
1603.	SUBSTITUTION OR DISCONTINUANCE OF USE .....	88
1604.	RECONSTRUCTION OF DAMAGED NONCONFORMING STRUCTURES.....	88
1605.	REPAIR OR RESTORATION ON NONCONFORMING USE.....	88
1606.	ZONING BOARD OF APPEALS MODIFICATIONS OF NONCONFORMITIES.....	88
1607.	USES UNDER EXCEPTION PROVISIONS - NOT NONCONFORMING.....	89
<b>XVII - GENERAL PROVISIONS: SPECIAL AND CONDITIONAL LAND USES .....</b>		<b>90</b>
<b>INTENT.....</b>		<b>90</b>
1700.	SPECIAL APPROVAL USE AND CONDITIONAL USE REVIEW STANDARDS .....	90
1701.	SPECIAL USE AND CONDITIONAL USE PERMIT - TERMINATION .....	92
1702.	SPECIAL USES AND CONDITIONAL USES AUTHORIZED BY SPECIAL PERMIT.....	93
<b>XVIII - GENERAL PROVISIONS: PERFORMANCE USES.....</b>		<b>120</b>
<b>INTENT.....</b>		<b>120</b>
1800.	ACCESSORY BUILDINGS .....	120
1801.	PARKING REQUIREMENTS.....	123
1802.	OFF-STREET LOADING AND UNLOADING .....	131
1803.	PERFORMANCE USES PERMITTED BY SPECIAL PERMIT .....	131
1804.	SANITARY PROVISIONS - SEWERAGE AND WATER FACILITIES .....	133
1805.	PLANT MATERIALS.....	133
1806.	SIGNS AND BILLBOARDS .....	138
1807.	HIGH RISK EROSION AND ENVIRONMENTAL AREAS.....	148
1808.	WATERFRONT REGULATIONS, SETBACKS AND GREENBELTS .....	151
1809.	SUPPLEMENTARY HEIGHT AND AREA REGULATIONS.....	154
1810.	PRIVATE ROADS AND DRIVEWAYS .....	154
1811.	HOME OCCUPATIONS.....	162
<b>XIX - GENERAL EXCEPTIONS.....</b>		<b>163</b>
1900.	HEIGHT, AREA, AND USE EXCEPTION .....	163

<b>XX - ADMINISTRATION .....</b>	<b>165</b>
2000. DUTIES OF ZONING ADMINISTRATOR.....	165
2001. PLOT PLAN.....	165
2002. ZONING PERMIT .....	166
2003. FEES .....	166
2004. INTERPRETATION .....	167
2005. SITE PLAN REVIEW .....	167
2006. BOARD APPROVAL .....	173
2007. CONDITIONAL and SPECIAL USE REVIEW PROCEDURES .....	173
2008. CHANGES AND AMENDMENTS.....	175
2009. ENFORCEMENT.....	175
2010. VIOLATIONS AND PENALTIES .....	176
2011. STOP WORK ORDER.....	177
<b>XXI - BOARD OF APPEALS .....</b>	<b>178</b>
2100. CREATION AND MEMBERSHIP.....	178
2101. MEETINGS .....	178
2102. APPEAL .....	178
2103. STAY .....	179
2104. JURISDICTION .....	179
2105. EXERCISING POWERS .....	182
2106. NOTICE OF HEARING.....	182
2107. MISCELLANEOUS .....	182
<b>XXII - VESTED RIGHTS .....</b>	<b>184</b>
2200. PREVIOUSLY PERMITTED OR APPROVED USES OR STRUCTURES.....	184
2201. UNLAWFUL STRUCTURES AND USES .....	184
<b>XXIII - CONDITIONAL REZONING .....</b>	<b>185</b>
2300. APPLCAITON AND OFFER OF CONDITIONS .....	185
2301. PLANNING COMMISSION REVIEW .....	186
2302. TOWNSHIP BOARD OF REVIEW .....	186
2303. APPROVAL OF CONDITIONAL REZONING .....	187
2304. COMPLIANCE WITH CONDITIONS.....	188
2305. TIME PERIOD FOR ESTABLISHING DEVELOPMENT OR USE .....	188
2306. REVERSION OF ZONING.....	189
2307. SUBSEQUENT REZONING OF LAND.....	189
2308. AMENDMENT OF CONDITIONS .....	189
2309. TOWNSHIP RIGHT TO REZONE .....	189
2310. FAILURE TO OFFER CONDITIONS .....	190
2311. STANDARDS AND CONSIDERATIONS FOR CONDITIONAL REZONING.....	190
<b>XXIV - SEVERANCE CLAUSE.....</b>	<b>192</b>

**XXV - CONFLICTING REGULATIONS.....192**  
**XXVI - EFFECTIVE DATE .....192**  
**INDEX.....193**

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# **TOWNSHIP OF RESORT STATE OF MICHIGAN**

## **TITLE**

This ordinance shall be known and may be cited as the “Resort Township Zoning Ordinance”

## **INTENT**

This ordinance was adopted Pursuant to the authority conferred by the Public Acts of the State of Michigan under Act 184, Public Acts of 1943, as amended, and by the Public Acts of the State of Michigan under Act 110, Public Acts of 2006, as amended to promote and preserve the health, safety, security, and general welfare; to provide for the orderly development of the township; to encourage the use of lands and resources in accordance with their character and adaptability; to limit and discourage the improper use of lands, buildings and other structures; to create and maintain safe and favorable conditions for living, economic activity, and recreational activities; to reduce hazards to life and property; to provide, in the interests of health and safety, standards under which buildings and structures may be erected and used; to stabilize and enhance property values; to provide safety for vehicular traffic on public roadways and in public and private parking areas; to establish minimum standards and regulations applicable to open spaces, lot and parcel size, the location and use of buildings and structures, and the development of land for residential, commercial, recreational, industrial, institutional, public and other purposes; to facilitate the development of adequate systems of



transportation, fire protection, education, recreation, sewage disposal, safe and adequate water supplies, and other public requirements; and the use of public funds for public services and improvements to conform with the most advantageous use of land, resources and properties; and to provide standards and regulations intended to assist with implementation of the Resort Township Land Use Plan.

## **ENACTING CLAUSE**

Resort Township Ordains that Ordinance # 30 is enacted by Resolution dated January 7, 2003

## **ARTICLE I - SHORT TITLE**

### **SECTION 100.**

This ordinance shall be known as the ***“RESORT TOWNSHIP ZONING ORDINANCE”***.

## **ARTICLE II - DEFINITIONS**

### **SECTION 200. DEFINITIONS**

(For the purpose of this Ordinance)

**ACCESSORY USE:** A use of land that is incidental and subordinate to the principal use of a lot, and customarily found in connection with and located on the same lot as, the principal use to which it is related.

**ACCESSORY BUILDING:** Any freestanding building or structure that is physically detached and separate from the principal building or structure, located on a lot where a principal use and/or principal building is located, and subordinate to the principal building and use. An accessory building shall not be used as a dwelling and shall not contain sleeping facilities. An Accessory building of 150 square feet or less and no greater than 10 feet in height shall not require a zoning permit provided that all applicable setbacks are met. (Adopted 9-9-14)

**AGRICULTURAL BUILDING:** A building designed, constructed, and used for an agricultural use and/or for the storage and maintenance of agricultural equipment.

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

**APARTMENTS:** A suite of rooms or a room in a multiple-family building arranged and intended for a place of residence of a single-family or a group of individuals living together as a single housekeeping unit.

**BASEMENT:** That portion of a building which is partly or completely below grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.

**BED & BREAKFAST ESTABLISHMENT:** A private residence that offers sleeping accommodations to the traveling public in six (6) or fewer bedrooms within the residence, and that offers breakfast to its lodgers for no additional cost. For the purpose of this Ordinance, the term tourist home also includes bed a breakfast facility.

**BUILDABLE AREA:** That portion of a lot excluding required yards and open areas.

**BUILDING:** Any structure, either temporary or permanent, having a roof supported by columns or walls, or other supports, which is used or intended to be used for housing, storing, enclosing or sheltering persons, animals, or personal property, or for conducting business activities or similar uses.

**BUILDING HEIGHT:** The vertical distance measured from the uniform finished grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs, and to the average height between the highest eaves and ridge for gable, hip and gambrel roofs. Where a building is located on sloping terrain the height shall be measured from the average ground level of the grade at the building wall. Average ground level shall be determined by locating the mean between the extreme upper and lower finished grades

per building elevation. Final building height shall be the result of averaging the combined building heights for each building elevation, i.e., the entire length of each side of the building.

**BUILDING SETBACK:** The distance between a lot line and the nearest portion of a building or structure located on a lot.

**CHILD CARE ORGANIZATION:** A facility for the care of children under 18 years of age, as licensed and regulated by the State under Act 116 of the Public Acts of 1973 and the associated rules promulgated by the State. Such organizations shall be further defined as:

(1) “**CHILD CARE CENTER**” or “**DAY CARE CENTER**” means a facility other than a private residence, receiving more than 6 pre-school or school children for group care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. It includes facilities which care for not less than 2 consecutive weeks regardless of the number of hours per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative pre-school, play group or drop-in center. “Child care center” or “day care center” does not include a Sunday school conducted by a religious institution or a facility operated by a religious institution where children are cared for during short periods of time while persons responsible for such children are attending religious services.

(2) **FAMILY DAY CARE HOME:** A private home which 1 but fewer than 7 minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. The operation of a Family Day Care Home shall be considered a residential use of property for the purposes of zoning and a permitted use in all residential zones, including those zoned for single family dwellings, and shall not be subject to special use permit or procedure different from those required for other dwellings of similar density in the same zone.

(3) **GROUP DAY CARE HOME:** A private home in which more than 6 but not more than 12 minor children are given care and supervision for periods less than 24 hours a day unattended by parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption.

**CONDOMINIUM:**

For the purpose of this ordinance, condominiums, as defined by the Condominium Act (PA 59 of 1978 as amended) are subject to the same zoning regulations as subdivisions created under Act 288 of 1967, the Subdivision Control Act. Where the terms recorded plat, subdivision, lot and/or parcel is referred to in this ordinance that reference shall also apply to condominiums on lands dedicated for permitted uses with a condominium project, development, or building site plan. Condominiums are a form of ownership that may apply to detached building units and/or to attached building units, either residential and/or non-residential.

**CONVALESCENT OR NURSING HOME:** A structure with sleeping rooms where persons are housed and furnished with meals, nursing and medical care.

DEVELOPMENT: The creation of new building sites, construction of any new building or other structure on a lot, the relocation of an existing building, or the use of open land for any new use.

DISTRICT: An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height limitations.

DRIVEWAY, RESIDENTIAL: A driveway providing access from a public or private road to not more than (two) 2 single family dwellings.

DRIVE-IN ESTABLISHMENT, DRIVE-THROUGH ESTABLISHMENT: A business which offers goods or services to customers while in motor vehicles.

DRIVE-IN RESTAURANT: A business establishment which by design of physical facilities permits or encourages the purchase of prepared ready-to-eat foods to customers while remaining in their motor vehicles.

DWELLING: Any building or structure designed and used in whole or part as a permanent or temporary residence for one or more individuals. (Adopted 9-9-14)

DWELLING, ONE-FAMILY: A building designed, occupied and used by one (1) family.

DWELLING, TWO FAMILY: A building designed, occupied and used by two (2) families living independently of each other in separate dwelling units.

DWELLING, MULTIPLE-FAMILY: A building designed, occupied and used by three (3) or more families living independently of each other in separate dwelling units.

DWELLING UNIT: One or more rooms designed and used as a self-contained, independent housekeeping unit for one family, including kitchen, sleeping and sanitary facilities.

ERECTED: Built, constructed, altered, reconstructed, moved upon, or any "physical" operations on the premises which are required for construction. Excavation, fill, 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 or other governmental agencies of underground, surface, or overhead; gas, electrical, steam, fuel or water transmission or distribution system, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, and similar equipment in connection herewith, but not including buildings, which are necessary for the furnishing of adequate service by such utilities or agencies for the general health, safety or welfare. Telecommunication towers or facilities, alternative tower structures, wireless communication antennas, and windmills are not included within this definition.

EXCAVATION: Any breaking of ground, except common household gardening, ground care, and soil tilling related to agricultural production or tree plantations.

FAMILY: An individual, or two (2) or more persons related by blood, marriage or adoption, or a group not to exceed four (4) persons not related by blood, marriage, living together as a single non-profit housekeeping unit with single kitchen facilities. This is

different than a group occupying a boarding or lodging house, hotel, club, fraternity, or similar dwelling for group use.

**FARM ANIMAL UNIT:** A unit of measure used to compare differences in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by a 1,000 pound steer or heifer. The following units of measure apply only to Domestic Farms:

<u>ANIMAL</u>	<u>UNIT</u>
One horse	1.0
One steer or heifer	1.0
One mature dairy cow	1.4
One swine	0.4
One sheep or goat	0.1
One chicken	0.01

For animals not listed, the number of animal units shall be defined as the average weight of the animal divided by 1,000 pounds.

**FARM, DOMESTIC:** A parcel of land used or intended to be used for agricultural purposes on properties other than Commercial Farms. Domestic farming includes keeping farm animals as pets and raising animals for educational experience (regulated per Section 1702, sub15), raising crops, vegetable, flowers and general gardening activities. Dogs, cats and other typical household pets are not regulated as a Domestic Farm (see Definition of Kennel).

**FARM, COMMERCIAL:** Structures, buildings and lands for carrying on of any agricultural activity or the raising of livestock or small animals as a source of income. To be considered a Commercial Farm, the farm must meet one of the following requirements: 1) 40 acres or more in size, or 2) a Specialty Farm, as defined by the Michigan Department of Agriculture, on 15 or more acres and producing an annual gross income of at least \$2,000 from agricultural use.

**FARM USE BUILDING:** For a building to be considered a "Farm Use Building" the property must be actively farmed and considered a Commercial Farm by definition and over half the land of the contiguous parcel must be tillable and/or an improved pasture.

**FLOOR AREA, USEABLE (FOR THE PURPOSE OF COMPUTING PARKING):** That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers. Floor area used or intended to be used for the storage or processing of merchandise, hallways or for utilities or sanitary facilities, shall be excluded for the computation of "Usable Floor Area". All floor levels shall be counted.

**GARAGE, ATTACHED:** An accessory building designed and constricted so as to be an integral architectural feature of the main residence, i.e. structurally attached and of the same or equivalent building materials.

**GASOLINE SERVICE STATION:** A place primarily operated and designed for the dispensing, and sale of vehicular fuels may offer automobile maintenance, (including washing & waxing) service or repair by the business owner, of owner's representatives and may sell merchandise, such as convenience foods, and sundries not related to the maintenance, service or repair of vehicles.

GREENBELT, SCREENING: A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of the Zoning Ordinance.

GREENBELT, SHORELINE: When bordering bodies of water, an undisturbed area of land paralleling the water's edge to a depth of (forty) feet 40', which is retained in a natural condition and is essentially void of any structural improvements.

HISTORIC RESOURCE OVERLAY AREA: An area that contains any privately owned building, structure, site, object, feature, open space or the are of any such structure and connected property that is significant in the history architecture, archeology or culture of the Township, State, or Nation and that is on or has been determined to be eligible for the National Register of Historic Places on or after the effective date of this Ordinance. The fact that a state or federal agency subsequently modifies the eligibility of any such structure or property shall not disqualify the property of a landowner for any development options he or she may have as provided in this Ordinance. A Historic Resource Area is not a land use district but is designated an "Historic Resource Overlay Area" for the purpose of encouraging property owners to select additional development and density options for the development of their property as provided in this Ordinance.

HOME BASED BUSINESS: A business carried on either within a dwelling or an accessory structure.

HOME OCCUPATION:

An occupation or profession conducted entirely within a dwelling by a member of the family residing on the premises and which is clearly incidental and secondary to the use of the lot and dwelling for residential purposes, and will not create any adverse effects.

HOTEL: See definition "Motor Inn".

INDUSTRIAL PARK: a special or exclusive type of planned industrial area designed and equipped to accommodate a community of three (3) or more industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors.

JUNK YARD: An open area where waste, used or second hand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled including, but not limited to scrap and other metals, paper, rags, rubber tires, and bottles. A "Junk Yard" includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

KENNEL, COMMERCIAL: Any lot or premise on which three (3) or more household pets of the same species which are over six (6) months old are either permanently or temporarily boarded and/or where household pets are bred or sold.

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. Off-street loading space is not to be included as off-street parking for computation of required off-street parking.

LOT: A measured parcel of land separated from other parcels of land by description on a recorded plat, condominium subdivision plan, or metes and bounds description.

LOT, CORNER: A lot which has frontage on two intersecting public or private roadways, or which has frontage on a curving roadway, provided that such frontage has an interior angle of less than 135 degrees.

LOT, THROUGH: Any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of said lots adjacent to streets shall be considered frontage and front yards shall be provided as required.

LOT, ZONING: A contiguous tract of land which at the time of filing for a Zoning Permit is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control. A Zoning Lot may not coincide with a lot of record, but may include one or more lots of record.

LOT COVERAGE: That portion of the lot occupied by main and accessory buildings.

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

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

- 1) Front Lot Line: Is that line which separates a lot from the public or private road right-of-way. A road right-of-way is presumed to be at least 66 feet in width unless a recorded deed, easement or other instrument of conveyance provides otherwise.
- 2) Rear Lot Line: That lot line opposite the front lot line. In the case of a lot pointed at the rear (pie shaped), the rear lot line shall be an imaginary line at least ten (10) feet long, parallel to the front lot line but inside the side lot lines.
- 3) Side Lot Line: Any lot line other than the front lot line or rear lot line.
  - a) Side lot lines on properties in RR and/or WR Districts shall be constructed as continuous straight lines from the waters edge or from the access road, on a perpendicular or radial configuration. No such lot line shall be jogged or meandered to circumvent the minimum lot width requirement.
  - b) Side lot lines may deviate from straight or radial in recognition of limitations related to topography, critical dunes, wetlands; or for planned developments where open spaces, greenbelts, and common areas would result in a more satisfactory property use plan.

LOT OF RECORD: A parcel of land, which is part of a subdivision shown on a plat, or map which has been recorded with the Emmet County Register of Deeds or a tract land described by metes and bounds, which is the subject of a deed or land contract, which is likewise recorded in the Office of the Emmet County Register of Deeds.

LOT WIDTH: The horizontal distance between the side lot lines, measured at the two points where the front building line, or setback line intersects the side lot lines, determined as follows:



- 1) For rectangular, square and/or parallelogram lots, the width shall be measured on a line constructed perpendicular to the side lot lines, which is not necessarily parallel to the road right-of-way line.
- 2) For Pie shaped lots, either increasing or decreasing in width toward the rear, the lot width measurement shall be essentially on a line parallel with the road right-of-way line, or if on a curve, parallel with the chord of the arch between lot lines.
- 3) For other irregularly shaped properties, the lot width shall be determined by the Zoning Administrator by applying a combination of the measuring rules above, or if otherwise not determinable, by a ruling of the Zoning Board of Appeals.

In cases where the side lot line is not at a right angle to the abutting road right-of-way line, then the lot width shall be measured on a line constructed perpendicular from the side lot line.

MAIN BUILDING: A building in which is conducted the principal use of the lot upon which it is situated.

MAIN USE: The principal use to which the premises are devoted and the principal purpose for which the premises exist.

MANUFACTURED HOME: Factory-built single-family structure that is manufactured under the authority of 42 U.S.C., Sections 5401 to 5426 (National Manufactured Home Construction and Safety Standards Act 1974) as amended, is transportable in one or more section, is built on a permanent chassis and does not have hitch, axles, or wheels permanently attached to the body frame. May also be referred to as a mobile home.

MANUFACTURED HOME SITE: A plot of ground within a manufactured housing development designed for the accommodation of one manufactured home.

MANUFACTURED HOUSING DEVELOPMENT: A parcel of land that has been planned and improved for the placement of three (3) or more manufactured homes for residential dwelling use.

MASTER PLAN: The Township Comprehensive Plan as may be amended or updated, including graphic and written proposals indicating the general location for streets, parks, schools, public buildings and other physical development features. During the effective time period of the Zoning Ordinance, the text of this Zoning Ordinance and the Zoning or Land Use Map will be deemed part of the Comprehensive Plan.

MOBILE HOME: See Manufactured Home.

MOBILE HOME OR TRAVEL TRAILER PARK: See Manufactured Housing Development.

MOTOR INN OR HOTEL: A building or part of a building with a common entrance or entrances in which the dwelling units or rooming units are used primarily for transient occupancy. The hotel or motor inn is distinguishable from a motel in that it is more than two (2) stories above the surface of the ground. A hotel or motor inn may contain a restaurant, cocktail lounge and conference center facilities.

**NON-CONFORMING BUILDING:** A building or portion thereof that lawfully existed at the effective date of this Ordinance or later amendment and that does not conform to the provisions of the Ordinance in the district in which it is located.

**NON-CONFORMING USE:** A use that lawfully existed before the date of this ordinance or later amendment that does not conform to the use regulations of the zoning district in which such use is located.

**NURSERY, PLANT MATERIALS:** A space, building or structure or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises including products used for gardening or landscaping. The definition of nursery does not include space used for the sale of fruits, vegetables, gifts, lawn furniture and gardening or farm equipment.

**NUISANCE FACTORS:** An offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeated invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as: noise, dust, smoke, odor, glare, fumes, flashes, vibration, heat, electronic or atomic radiation, objectionable effluent, noise of congregation of people, particularly at night, and passenger traffic.

**OFF-STREET PARKING LOT:** A parking area off the street, which may require drives and aisles for maneuvering, for the parking of four (4) or more vehicles.

**PARKING SPACE:** An area of definite length and width, exclusive of drives, aisles or entrances giving access to and fully accessible for the storage or parking of permitted vehicles.

**PLANNED UNIT DEVELOPMENT:** Land under unified control which allows a development to be planned and built as a unit and which permits, upon review and approval variations in many of the traditional regulations related to density, land use, setbacks, open space and other design elements and the timing and sequencing of the development

A form of development guided by a comprehensive site plan usually characterized by larger site areas, and which emphasizes residential use, provides for cluster building, includes dedicated common open space, and promotes an efficient layout of public utilities, all in accordance with a unified land design plan and architectural theme.

The PUD permits the planning of a project and the calculation of densities over the entire development rather than on an individual lot-by-lot basis.

PUD is also a process, in part revolving around site plan review, in which public officials share involvement in determining the nature of the development. It includes aspects of subdivision and zoning regulation and may be implemented through a Special Use Permit or by District rezoning. PUD standards are commonly used for housing developments, but may also be applied to other forms of development such as shopping centers, industrial and office parks, and to mixed-use developments which may be in any combination, depending on ordinance standards. Planned Unit Development encourages a more desirable and attractive development based on comprehensive site planning principles, and the protection and conservation of air, water, open space, farmland, historic, or other natural resources from impairment, pollution, or destruction.

PLANNED UNIT DEVELOPMENT PUD-1: Planned Unit Development -1 designation shall be applied to residential uses, or applied for purposes of coordinating the locations and uses of an area already zoned commercial by permit or Special Use Permit. PUD-1 may accommodate single family, and/or a mix of multiple family housing types in residential or FF Zones. PUD-1 may accommodate a mix of commercial uses already authorized by existing zoning in commercial or Business Zones.

PLANNED UNIT DEVELOPMENT PUD-2: Planned Unit Development -2 shall be considered "mixed use" if it portrays a variety of use types or classifications, such as one-family use types or classifications, such as one-family residential, multiple family residential, institutional, commercial and /or industrial. Mixed Use PUD shall be implemented by rezoning.

PORCH - ENCLOSED: A covered entrance to a building or structure which is totally enclosed, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

PORCH - OPEN: A covered entrance to a building or structure which is not enclosed except for columns supporting the porch roof, and projects out from the main wall of said building or structure and has a separate roof or integral roof with principal building or structure to which it is attached.

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

PROFESSIONAL OFFICE: The office of a professional person such as a doctor, dentist, engineer, architect, attorney, accountant, surveyor, insurance or real estate agent, or other similar professionals.

PUBLIC UTILITY: A person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under Federal, State or municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation or water. (For the purposes of this ordinance, personal wireless communication facilities are not included in the definition of a Public Utility.)

RECREATION CAMPS, LODGES & RESORTS: A recreational facility normally operated for gain, which provides overnight lodging and one or more of the following activities: golf, skiing, dude ranching, so called, recreational farming, snowmobiling, pack trips, boating and related. A resort has a minimum site of ten (10) acres.

ROAD, PRIVATE: Any easement or right-of-way that provides motor vehicle access to three or more lots, parcels or condominium site units.

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

ROADSIDE STAND: An accessory and temporary farm structure used for the purpose of selling agricultural products raised or produced on the farm on which the stand is located.

ROOM: For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room or bedroom equal to at least eighty (80) square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways and storage.

SETBACK: The distance required to obtain front, side or rear yard open space provisions of this Ordinance.

SHOPPING CENTER: A group, cluster or complex of retail stores within a single architectural plan, and occupying a site under single ownership, management or control. At least three (3) retail stores and services, so arranged or planned, shall qualify as a shopping center for zoning purposes.

SIGN: The use of any words, numerals, figures, devices, designs or trademarks by which anything is made known such as are used to show an individual, firm, profession or business and are visible to the general public.

SIGN, ACCESSORY: A sign which is accessory to the principal use of the premises.

SIGN, NON-ACCESSORY: A sign that identifies or communicates a message relating to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

SITE PLAN: A scaled drawing(s) and documents illustrating existing conditions and containing all elements required herein as applicable for a proposed development so that it may be evaluated according to the procedures set forth in this ordinance, to determine if the proposed development meets the requirements of this zoning ordinance.

STORY: That part of a building, between the surface of one floor and the surface of the next floor, or if there is no floor above, than the ceiling next above. A story shall not be counted as a story when more than fifty (50) percent, by cubic content, is below the grade level of the adjoining ground.

STORY, HALF: An uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven feet six inches (7'6"). For the purposes of this Ordinance the useable floor area is only that area having at least four feet (4') clear height between floor and ceiling.

STREET, HIGHWAY OR ROAD: A public dedicated right-of-way, affording the principal means of access to abutting property (excludes alleys).

STRUCTURE: Anything constructed, erected or altered, the use of which requires location on the ground or attachment to something having location on the ground. This includes the excavation or filling of earth necessary for the construction, erection or alteration of a structure. But excluding fences, sidewalks, driveways and roads.

TEMPORARY USE OF BUILDING: A use or building permitted to exist during periods of construction of the main building or use, or for special events.

TOURIST HOME: See "Bed & Breakfast Establishment".

TRAVEL TRAILER AND CAMPER: Any trailer coach, motor home, tent camper, demountable camper or unit designed as a vacation unit for short-term seasonal occupancy, which measures eight (8) feet or less in width and designed to be operated on highways.

USE: Any purpose for which a building or structure or lot may be designed, arranged, intended, maintained, or occupied, or any activity, occupation, or business enterprise carried on or intended to be carried on in a building, structure or upon a lot.

WIND ENERGY CONVERSION UNITS (Wind turbine generators) (WTG) shall mean a combination of:

1. A surface area, either variable or fixed for utilizing the wind for electrical powers, and;
2. A shaft, gearing, belt, or coupling utilized to convey the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity producing device, and;
3. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and
4. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.

Survival Wind Speed: The maximum speed, as designated by the WTG manufacturer, at which a WTG, in an unattended operation (not necessarily producing power) is designed to survive without damage to any structural equipment or loss of the ability to function normally.

Interconnected WTGs: A WTG, which is electrically connected to the local electrical power utility system could feed power back into the local electrical and power utility system.

WIRELESS COMMUNICATION FACILITIES: Includes transmitters, antenna structures, towers and other types of equipment necessary for providing wireless services and all commercial mobile services, including all those that are available to the public (for-profit or not-for-profit) which give subscribers the ability to access or receive calls from the public switched telephone network. Common examples are Personal Communications Systems (PCS), cellular radiotelephone services, and paging. Also included are services that are non-licensed, but are deployed through equipment authorized by the FCC and common carrier wireless exchange services designed as competitive alternatives to traditional wire line local exchange providers.

YARD: The open space that lays between the principal building or buildings and the nearest lot line. Unobstructed from the ground upward except as otherwise provided in this Ordinance, and as further defined:

- 1) Front Yard: An open space extending the full width of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.
- 2) Rear Yard: An on 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 main building. In the case of a corner lot, the rear yard may be opposite either street frontage.
- 3) Side Yard: An open space between a main building 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 on the side lot line to the nearest point of the main building.

ZONING ADMINISTRATOR: The administrator of the ordinance, appointed by the Resort Township Board.

ZONING PERMIT: Written authority as issued by the Zoning Administrator on behalf of Resort Township permitting the construction, moving, alteration or use of a building in conformity with the provisions of this ordinance.

ZONING VARIANCES AND EXCEPTIONS:

1) Variance: A modification of the literal provision of the Zoning Ordinance related to area or dimension which would cause practical difficulty owing to circumstances unique to the individual property on which the variance is granted.

2) Exception: An exception is a use permitted only after review of the Legislative Body, the Planning Commission, or the Administrative Officer, such review being necessary because the provisions of the Ordinance covering conditions, precedent or subsequent, are not precise enough to all applications without interpretation, and such review is required by this Ordinance.

The exceptions that are found in this Ordinance appear as "special approval" uses or "special use permit" by the Planning Commission, Legislative Body or Administrative Officer. These land uses could not be conveniently allocated to one district or another, or the affects of such uses could not be definitely foreseen as of a given time because of one or more of the following:

- a) Large area
- b) Infrequency
- c) Unusual traffic volume
- d) Obnoxious or hazardous character
- e) Necessity for public safety and convenience

**SECTION 201. CONSTRUCTION OF LANGUAGE**

In case of a difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.

Words used in the present tense shall include the future; and words used in the singular shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

Any word or term not defined shall be defined by common or standard usage.

The particular shall control the general.

The term "shall" is always mandatory and is not discretionary or directory.

The term "the Township" shall mean Resort Township, Emmet County, Michigan.

The words "building" or "structure" includes any part the building or structure.

The word "lot" includes the words "tract" or "parcel".

The words "used" or "occupied" when applied to any land or building shall be construed to include the words "intended," "arranged," or "designated to be used or occupied."

The word “person” includes any individual, partnership, association, trust, or corporation or any other legal entity or combination of legal entities.

## **ARTICLE III - ZONING DISTRICTS AND MAP**

### **SECTION 300. DISTRICTS**

For the purpose of this Ordinance, Resort Township is hereby divided into the following Districts:

#### **RESIDENTIAL DISTRICTS**

- R-1A One Family Residential
- R-1B One Family Residential
- R-2A General Residential
- R-2B General Residential
- RR Recreational Residential

#### **NON-RESIDENTIAL DISTRICTS**

- B-1 Local-Tourist Business
- B-2 General Business
- I Light Industrial

#### **OTHER DISTRICTS**

- FF Farm and Forest
- PUD Planned Unit Development

#### **WATERFRONT AND HISTORIC OVERLAY AREAS**

- WR Waterfront Resource
- HR Historic Resource

### **SECTION 301. BOUNDARIES**

The boundaries of these Districts are hereby established as shown on the Resort Township Zoning Map, which accompanies this Ordinance, and which map with all notations, references and other information shown thereon shall be as much a part of this Ordinance as if fully described herein. If there are any questions as to the interpretation of District Boundaries, the Board of Appeals shall determine same.

### **SECTION 302. DISTRICT REQUIREMENTS**

All buildings and uses in any district shall be subject to the provisions of General Provisions and General Exceptions.



### **SECTION 303. AREA AND BULK REQUIREMENTS FOR ALL DISTRICTS**

For each District in this Ordinance, see also the Article XV - SCHEDULE OF REGULATIONS, limiting the height and bulk of buildings, the minimum size of the lot permitted, the maximum density permitted and minimum yard requirements (setbacks).

### **SECTION 304. ACCESSORY USES ASSUMED**

For each District established in the Ordinance it shall be assumed that customary accessory buildings and uses, which are incidental to any Principal Uses or Principal Uses Permitted Subject to Special Conditions, are permissible as part of the main use.

**ARTICLE IV - R-1A and R-1B ONE FAMILY RESIDENTIAL DISTRICTS** (Amended 9-9-14)

**INTENT**

This residential district is designed to provide for one-family dwelling sites and the residentially related uses in keeping with the Comprehensive Plan of residential development in Resort Township. The uses permitted are intended to promote a compatible arrangement of land uses for homes, with the intent to keep residential areas relatively quiet and free from detrimental use influences.

**SECTION 400. PERMITTED USES**

No building or land shall be used and no building shall be erected except for one or more of the following specified uses:

1. One-family detached dwellings.
2. Permanent manufactured homes may be used for dwelling purposes in the R-1B District, but not in the R-1A District. (See SEC. 402)
3. Domestic Farms, per the standards in Section 1702-15.
4. Commercial Farms.
5. Publicly owned recreational lands and facilities.
6. Accessory buildings which are customary and incidental to any of the above uses. Accessory buildings shall not be used as a dwelling and shall not contain any sleeping facilities.

**SECTION 401. USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

The following uses may be permitted upon approval of the Planning Commission, subject to the conditions imposed for each use, the Conditional Use Review Standards in Section 1700, and the Site Plan Review requirements in Section 2005:

1. Public Utility and public service facilities and uses except open storage, when operating requirements necessitates the locating of said facilities within the district, and except for electrical or heat generation plants or facilities.

2. Public buildings (except public works garages and storage yards), churches, public schools, private schools and their local supporting service uses, provided that, at a minimum, all criteria listed below are met:
  - a) All sites for uses permitted, herein, shall maintain a minimum open space area equal to sixty (60%) percent of the site area (excluding road right-of-way). Open spaces shall not include buildings, parking lots, pedestrian walks, and/or driveways, and other paved or blacktop surfaces.
  - b) The arrangement of property uses shall consider the impact on natural resources, scenic views, and historic resources. If feasible, the site design shall endeavor to prevent and mitigate negative impacts related to building size, noise, lighting and traffic, or other impacts associated with such use.
  - c) No such use shall locate on or have vehicle access from a subdivision street unless the subdivision (or similar type of development) contains dedicated sites for such uses.
  - d) Any uses of church structures or properties for such other purposes as recreation, day care centers, group housing, and the like, shall be separately considered as part of the conditions to granting or denying a special permit in residential districts.
3. Cemeteries when developed on sites of ten (10) acres or more.
4. Golf Courses and Country Clubs, except mini golf, provided any accessory pro-shops and/or clubhouses are clearly incidental to the golf use, and no commercial driving range or mini-golf facility is included.
5. Non-public recreational areas and facilities when not operated for a profit.
6. Nursery schools, day nurseries and child care centers.
7. Authentic historical restoration or renovation projects including historic communities, archaeological excavations and displays of historical artifacts related to the premises; provided said restoration is not used to circumvent the use intent of the District or the nonconforming status of properties.
8. Accessory buildings which are customary and incidental to any of the above conditional uses. Accessory buildings shall not be used as a dwelling and shall not contain any sleeping facilities.

## **SECTION 402. ADDITIONAL REQUIREMENTS FOR DWELLING UNITS**

The following performance standards shall apply to all dwelling units constructed in or placed in the R-1A One-family Residential District, RR Recreational District, and the WR Waterfront Resource Overlay Area or HR Historic Resource Overlay Area, and shall be in addition to the requirements of other codes, ordinances, or provisions of this Ordinance. These requirements are to assure a degree of structural comparability between site built dwellings and pre-constructed or factory built housing intended for one (1) family occupancy. On-site construction modifications may be necessary and shall be permitted to attain the standards of comparability.

1. The minimum building width across any front and any side elevation shall be twenty (20) feet on an unbroken building line, excluding garages and accessory buildings.
2. Every detached dwelling unit shall provide useable accessory storage space in the amount of ten percent (10%) of gross floor area, but not less than 100 sq. ft. of storage space. Basements, attics, closets, or separate accessory structures shall count as storage space.
3. Foundation supports shall extend below the prevailing frost line.
4. Dwellings units moved onto any lot in the District shall have its wheels removed. Towing devices or hitches shall be removed or be totally obscured from view.
5. Modular or manufactured home units shall not be structurally attached to one another or placed together unless specifically designed and engineered at the site of manufacture to be attached.
6. All factory assembled dwelling units constructed prior to June 15, 1976 shall not be placed on or moved upon a lot or parcel unless all minimum code requirements for site built housing are in compliance.

The requirements of paragraphs 1 thru 6 of this Ordinance Section shall not apply to factory built housing or manufactured homes sited within legally established manufactured home developments.

**SECTION 403. SPECIFIC DEVELOPMENT STANDARDS in R-1A and R-1B District**

1. **Parcel Size** 45,000 sq. feet minimum
2. **Lot Width** 100 feet minimum
3. **Maximum Height** Principal Use – 30 ft. maximum from uniform finished grade to average height between eaves and ridge  
Accessory Use – 10 ft. maximum height to eave in front and side yard; 14 ft. maximum height to eave in rear yard
4. **Minimum Floor Area** Principal Use – 720 square ft.
5. **Max Ground Floor Area** Accessory Use – 1,000 sq. ft. if in front or side yard; 1,400 sq. ft. if in rear yard
6. **Maximum Percent of Lot Coverage by the area of buildings** 30%
7. **Minimum Yard Setback**
  - a. Front (faces road) 30 feet
  - b. Sides 10 feet
  - c. Rear 25 feet, except for non-waterfront accessory buildings 600 sq. ft. or less need not be farther from rear lot line than 10 ft.
8. **Accessory Buildings** Shall not be used as a dwelling and shall not contain any sleeping {Section 1800} facilities
 

One (1) detached accessory residential building up to the maximum allowable size per zoning lot of five (5) acres or less. For each additional five (5) acres of zoning area, above five (5), one (1) additional accessory building up to the maximum allowable size may be permitted, but not more than a total of four (4) such buildings.

In addition to the above allowed residential accessory buildings,

one detached accessory building not exceeding 200 square feet may be permitted for such use as tool shed, wood storage equipment housing, animal shelter and the like.

Residential accessory building sizes shall be regulated as follows:

<u>Location on Property</u>	<u>Max Ground Floor Area</u>	<u>Max Height to Eave</u>
Front Yard	1,000 Sq. Feet	10 Feet
Side Yard	1,000 Sq. Ft	10 Feet
Rear Yard	1,400 Sq. Ft	14 Feet

**ARTICLE V - R-2A and R-2B**  
**GENERAL RESIDENTIAL DISTRICTS**

(Amended 9-9-14)

**INTENT**

The General Residential Districts are designed to provide for structures that are needed to house more than one-family, in order to meet the needs of the apartment dwelling. The R-2B District is further intended to serve a transition use function, and is particularly applicable to areas that already have a degree of residential and non-residential use mix, or in areas where such a mix would be desirable.

**SECTION 500. PERMITTED USES**

No building or land shall be used and no building shall be erected except for one or more of the following specified uses:

1. All principal uses permitted and as regulated in the R-1 Districts:
  - a. One-family detached dwellings.
  - b. Permanent manufactured homes may be used for dwelling purposes.
  - c. Domestic Farms, per the standards of Section 1702-15.
  - d. Commercial Farms.
  - e. Publicly owned recreational lands and facilities.
2. Two-family Dwellings and duplexes
3. Multiple family dwellings, townhouses and housing for the elderly.
4. Accessory buildings which are customary and incidental to any of the above uses. Accessory buildings shall not be used as a dwelling and shall not contain any sleeping facilities.

**SECTION 501. USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

The following uses may be permitted upon approval of the Planning Commission, subject to the conditions imposed for each use, the Conditional Use Review Standards in Section 1700, and the Site Plan Review Requirements in Section 2005:

1. All Special approval uses permitted and as regulated in the R-1 Districts:

- a) Public Utility and public service facilities and uses except open storage, when operating requirements necessitates the locating of said facilities within the district, and except for electrical or heat generation plants or facilities.
  - b) Public buildings (except public works garages and storage yards), churches, public schools, private schools and their local supporting service uses, provided that, at a minimum, all criteria listed below are met:
    - 1) All sites for uses permitted, herein, shall maintain a minimum open space area equal to sixty (60%) percent of the site area (excluding road right-of-way). Open spaces shall not include buildings, parking lots, pedestrian walks, and/or driveways, and other paved or blacktop surfaces.
    - 2) The arrangement of property uses shall consider the impact on natural resources, scenic views, historic resources, and if feasible, the site design shall endeavor to prevent and mitigate negative impacts related to building size, noise, lighting and traffic, or other impacts associated with such use.
    - 3) No such use shall locate on or have vehicle access from a subdivision street unless the subdivision (or similar type of development) contains dedicated sites for such uses.
    - 4) Any uses of church structures or properties for such other purposes as recreation, day care centers, group housing, and the like, shall be separately considered as part of the conditions to granting or denying a special permit in residential districts.
  - c) Cemeteries when developed on sites of ten (10) acres or more.
  - d) Golf Courses and Country Clubs, except mini golf, provided any accessory pro-shops and/or clubhouses are clearly incidental to the golf use, and no commercial driving range or mini-golf facility is included.
  - e) Non-public recreational areas and facilities when not operated for a profit. Nursery schools, day nurseries and child care centers.
  - f) Authentic historical restoration or renovation projects including historic communities, archaeological excavations and displays of historical artifacts related to the premises; provided said restoration is not used to circumvent the use intent of the District or the nonconforming status of properties.
2. Rooming houses, apartment houses and group quarters, subject to County Health Department approval and compliance with the construction code standards.



3. The following uses may be permitted in R-2B Districts, provided there is direct access to a County Primary or State Trunk line Highway, as opposed to a County local road, as defined by the County Road Commission:
  - a) Motels, tourist homes, motor inns provided there is a minimum lot width of 150 feet at the road line.
  - b) Professional offices, real estate sales offices, banks and other financial institutions
  - c) Fraternal lodge halls, sportsmen's associations, athletic clubs and related uses.
  - d) The personal services of hairdressers, barbers, tailors, dressmakers, and/or photographers, studios for instructing dance, physical exercise, or musical arts.
  - e) Funeral home or mortuary, provided; there is at least 150 feet of lot width, all uses, off-street parking areas, and loading areas are within the setback requirements of the District, and the service entrance to the building shall be screened from view of adjoining residential properties, or contained within the confines of the building.
  - f) Studio Art services and/or handcrafted products, including artists, potters, leather workers, and similar crafts, when operated in the character of a home occupation in that the primary service or product is produced or provided on the same premises, and that there is no visible outdoor display.
4. Accessory buildings which are customary and incidental to any of the above conditional uses. Accessory buildings shall not be used as a dwelling and shall not contain any sleeping facilities.

**SECTION 502. SPECIFIC DEVELOPMENT STANDARDS  
in R-2A and R-2B District**

- |                                  |  |
|----------------------------------|--|
| 1. <b>Parcel Size</b><br>Section | 22,000 sq. feet minimum (refer to Article XV, notes to 1500, paragraph c.)   |
| 2. <b>Lot Width</b>              | 100' for one-family detached dwellings; no minimum for other allowed uses (refer to Article XV, notes to Section 1500, paragraph c.) |

3. **Maximum Height** Principal Use – 30 ft. maximum from uniform finished average height between eaves and ridge  
grade to
- Accessory Use – 10 ft. maximum height to eave in front and side yard; 14 ft. maximum height to eave in rear yard
4. **Minimum Floor Area** 720 sq. ft. one-family detached dwellings; no minimum for other allowed uses
5. **Max Ground Floor Area** Accessory Use – 1,000 sq. ft. if in front or side yard; 1,400 sq. ft. if in rear yard
6. **Maximum Percent of Lot Coverage by the area of buildings** 35%
7. **Minimum Yard Setback** (refer to Article XV, notes to Section 1500, paragraphs b, c & g)
- a. Front (faces road) 30 feet
  - b. Sides 20 feet
  - c. Rear 35 feet
8. **Accessory Buildings** Shall not be used as a dwelling and shall not contain any sleeping {Section 1800} facilities
- One (1) detached accessory residential building up to the maximum allowable size per zoning lot of five (5) acres or less. For each additional five (5) acres of zoning area, above five (5), one (1) additional accessory building up to the maximum allowable size may be permitted, but not more than a total of four (4) such buildings.
- In addition to the above allowed residential accessory buildings,  
one detached accessory building not exceeding 200 square feet may be permitted for such use as tool shed, wood storage, equipment housing, animal shelter and the like.

Residential accessory building sizes shall be regulated as follows:

<u>Location on Property</u>	<u>Max Ground Floor Area</u>	<u>Max Height to Eave</u>
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Front Yard	1,000 Sq. Feet	10 Feet
Side Yard	1,000 Sq. Ft	10 Feet
Rear Yard	1,400 Sq. Ft	14 Feet

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## **ARTICLE VI - RR, RECREATIONAL RESIDENTIAL DISTRICT**

(adopted 9-9-14)

### **INTENT**

The Recreation Residential District is designed to accommodate cottage and seasonal home developments. It is intended that the seasonal home areas be reasonably homogeneous by discouraging the mixing of recreation home areas with commercial resorts, business services and major institutional or community services.

### **SECTION 600. USES PERMITTED**

No building or land shall be used and no building shall be erected except for one or more of the following specified uses:

1. One-family detached dwellings. Permanent manufactured homes may be used for dwelling purposes in RR District, per Sec. 602. House cars, campers, tents and/or R.V.'s shall not be occupied for seasonal or second home purposes.
2. Public parks, parkways, scenic trails, playgrounds, recreation lands, and forests, including accessory shelters and apparatus.
3. Authentic historical restoration or renovation projects including historic communities, archaeological excavations and displays of historical artifacts related to the premises.
4. Domestic Farms, per the standards in Section 1702-15.
5. Commercial Farms.
6. Accessory buildings which are customary and incidental to any of the above uses. Accessory buildings shall not be used as a dwelling and shall not contain sleeping facilities.

### **SECTION 601. USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

The following uses may be permitted upon approval of the Planning Commission, subject to the conditions imposed for each use, the Conditional Use Review Standards in Section 1700, and the Site Plan Review requirements in Section 2005:

1. Utility and public service facilities as regulated in the R-1A & R-1B Districts.
2. Boat launching pads and minor accessory facilities other than marinas and enclosed storage buildings.
3. Golf Courses and Country Clubs as regulated in the R-1A & R-1B Districts.
4. Private, semi-private, and other non-public recreation lands and/or facilities, subject to findings that the uses are compatible with the surrounding residential area, the uses respect the environmental qualities of the site, and no inordinate obstructions to scenic views are established. Recreational uses permitted herein include parks, playgrounds, and common access sites. No such facilities shall have a commercial appearance or be of a commercial character.

These provisions for private, semi-private and other non-public recreational lands and facilities (Section 601. 4.) shall NOT apply to accessory shoreline recreational uses on single lots serving individual occupant families.

For recreational uses defined in this Section, which have inland lake frontage, limitations on the extent, number and location of uses or facilities shall be established as follows:

- a) Camping: Not permitted except as an accessory use to a larger resort complex as may be permitted by prevailing zoning regulations.
- b) Vehicle Parking: Permitted only as necessary to afford a reasonable level of access convenience for the type of uses approved per Site Plan, and when in scale with uses on adjacent properties.
- c) Docks: 1-Per 150 ft. of horizontal lot width (not shoreline distance). Location to respect swimming beaches and docks on the same property or on adjoining properties.
- d) Boat slips/Mooring: Not more than three watercraft per 150 ft. of horizontal property width, up to a maximum of fifteen (15) total watercraft. No facilities for launching watercraft from the site shall be permitted.
- e) Swim Raft: One (1) raft up to 150 sq. ft. in floor area per recreation or park site.

- f) Recreation Apparatus: As approved per site plan, but not permitted in a required setback or greenbelt area.
  - g) Club House/Gazebo: Only as an accessory use to a larger development and only when there is at least 600 ft. of horizontal lot width, a minimum setback of 150 ft. from any property boundary, and only for the exclusive use of occupants and their guests.
5. Public, private or semi-private schools or educational programs offering courses in general, graduate, or professional education and such schools or education programs shall be conducted only on a non-profit basis with no such use to be established on sites measuring less than 150 acres in area. The Planning Commission may require the applicant to establish the educational value of the school or program by producing documentation from a state or local educational department or an accredited department or an accredited educational institution.
6. Churches provided the site does not front on a lake or river that appears on the Zoning Map.
7. Accessory buildings which are customary and incidental to any of the above conditional uses. Accessory buildings shall not be used as a dwelling and shall not contain any sleeping facilities.

## **SECTION 602. ADDITIONAL REQUIREMENTS FOR DWELLING UNITS**

All dwelling units constructed in RR Districts shall comply with the ADDITIONAL REQUIREMENTS FOR DWELLING UNITS in the R-1A District as stated under Section 402.

The following performance standards shall apply to all dwelling units constructed in or placed in the R-1A One-family Residential District, RR Recreational District, and the WR or HR Overlay Areas, and shall be in addition to the requirements of other codes, ordinances, or provisions of this Ordinance. These requirements are to assure a degree of structural comparability between site built dwellings and pre-constructed or factory built housing intended for one (1) family occupancy. On-site construction modifications may be necessary and shall be permitted to attain the standards of comparability.

1. The minimum building width across any front and any side elevation shall be twenty (20) feet on an unbroken building line, excluding garages and accessory buildings.
2. Every detached dwelling unit shall provide useable accessory storage space in the amount of ten percent (10%) of gross floor area, but not less than 100 sq. ft. of storage space. Basements, attics, closets, or separate accessory structures shall count as storage space.
3. Foundation supports shall extend below the prevailing frost line.
4. Dwellings units moved onto any lot in the District shall have its wheels removed. Towing devices or hitches shall be removed or be totally obscured from view.
5. Modular or manufactured home units shall not be structurally attached to one another or placed together unless specifically designed and engineered at the site of manufacture to be attached.
6. All factory assembled dwelling units constructed prior to June 15, 1976 shall not be placed on or moved upon a lot or parcel unless all minimum code requirements for site built housing are in compliance.

The requirements of paragraphs 1 thru 6 of this Ordinance Section shall not apply to factory built housing or manufactured homes sited within legally established manufactured home developments.

**SECTION 603. SPECIFIC DEVELOPMENT STANDARDS in RR district**

1. **Parcel Size:** 45,000 sq. feet minimum
2. **Lot Width:** 100 feet minimum
3. **Maximum Height:** Principal Use – 30 ft. maximum from uniform finished grade to average height between eaves and ridge  
Accessory Use – 10 ft. maximum height to eave in front and side yard; 14 ft. maximum height to eave in rear yard
4. **Minimum Floor Area:** Principal Building – 720 square ft.

5. **Max. Ground Floor Area:** Accessory Use – 1,000 sq. ft. if in front or side yard;  
1,400 sq. ft. if in rear yard

6. **Maximum Percent of Lot Coverage by the area of buildings:** 30%

**7. Minimum Yard Setback:**

- a) Front (faces road) 30 feet
- b) Sides 10 feet
- c) Rear houses, 35 feet non-waterfront; 60' waterfront, except for pump recreational docks, storm water and erosion measures, benches, picnic tables, stairways and walkways up to 4' wide.

8. **Waterfront Lots** 40' wide greenbelt yard or strip from the ordinary high water mark or edge of any wetland that is contiguous to any stream, river, creek or lake {See Section 1808 for more details}

9. **Accessory Buildings** Shall not be used as a dwelling and shall not contain any sleeping {Section 1800} facilities. One (1) detached accessory residential building up to the maximum allowable size per zoning lot of five (5) acres or above five (5), one (1) additional accessory building up to the maximum allowable size may be permitted, but not more than four (4) such buildings. In addition to the above allowed accessory buildings, one additional accessory building not exceeding 200 square feet may be permitted for such use as tool shed, wood storage equipment housing, animal shelter and the like, plus one pump house

Residential accessory building sizes shall be regulated as follows:

<u>Location on Property</u>	<u>Maximum Gd Floor Area</u>	<u>Maximum Height to Eve</u>
Front Yard	1,000 Sq. Feet	10 Feet
Side Yard	1,000 Sq. Ft	10 Feet
Rear Yard	1,400 Sq. Ft	14 Feet

10. **Pump Houses** and up One pump house up to a maximum size of 12 square feet to 3' in height is allowed per lot



**ARTICLE VII - WR WATERFRONT RESOURCE OVERLAY  
AREAS AND HR HISTORIC RESOURCES  
OVERLAY AREAS**

**INTENT**

Because there exists in Resort Township numerous and varied resources that should be protected for their scenic and significant national, state, and local historical values, environmental stability and character, the WR Waterfront Resource Overlay Area and HR Historic Resource Overlay Area are established to protect scenic and historical resources along rivers, highways and streets, lake shores and impounding waters, and connected to prime farmland. Because farming, tourism recreation and environmental control are major aspects of the Township's existing and future land use and development situation, it is deemed such protection shall be to the fullest extent that is prudent and feasible.

**SECTION 700. WATERFRONT RESOURCE OVERLAY AREA AND HR RESOURCE OVERLAY AREA BOUNDARIES**

1. Unless otherwise illustrated or indicated on the Zoning Map, the Waterfront Resource Overlay Areas shall be deemed to extend at right angles from the ordinary high water level of rivers, lakes, impoundments, etc, to a depth of four hundred (400) feet; and to a depth of four hundred (400) feet from the nearest right-of-way of any scenic highway, street or road, or to the depth of the abutting property, whichever is less.
2. Unless otherwise illustrated or indicated on a zoning map or overlay district map, the Historic Resource Overlay Areas shall be deemed to be those structures or properties on or eligible for the National Register for Historic Places, or otherwise extend to those areas of the Township identified on or eligible for the National Register of Historic Places.

**SECTION 701. PRINCIPAL USES PERMITTED FOR THE WATERFRONT RESOURCE OVERLAY AREA**

No buildings or land shall be used and no building shall be erected except for one or more of the following specified uses:

1. Permitted uses in the RR Recreation Residential Area shall be permitted in the WR Overlay Area.

## **SECTION 702. REQUIRED CONDITIONS**

Every Use in the WR Overlay Area shall abide by the requirements of section 1808 Waterfront Regulations, Setbacks, and Greenbelts.

## **SECTION 703. PRINCIPAL USES PERMITTED IN THE HR HISTORIC RESOURCE OVERLAY AREAS**

No buildings or land shall be used and no buildings shall be erected or occupied except for one or more of the following specified uses:

1. All principal uses and any special approved uses permitted in the underlying Land Use District within the Historic Resource Overlay Area, which is defined as buildings, structures, or land on or eligible for the National Register of Historic Places as updated.

## **SECTION 704. REQUIRED CONDITIONS AND STANDARDS FOR DEVELOPMENT IN HR AREA**

Except for any lot created for residential purposes in an HR area established by a land division as defined by the Land Division Act, Public Act 591 of 1996, as amended (MCL 560.101 et. seq.), a permitted use listed under Sec. 703 and located in a HR area shall require special use approval pursuant to Article XVII of this Ordinance or as a PUD pursuant to Article XIV whichever is applicable, and in addition to the standards and conditions contained in those Sections, shall comply with the following standards or conditions:

1. If a residential lot is allowed or established pursuant to the Land Division Act, Public Act 591 of 1996, then the minimum density of a lot for a dwelling unit shall be 45,000 square feet, notwithstanding the density standards in Sec. 1500 of this Ordinance.
2. If a residential land development is proposed, such as but not limited to a PUD, site condominium, or subdivision, then the minimum density for each

dwelling unit is one unit per 90,000 square feet as set forth in Sec. 1500 of this Ordinance.

3. If a residential land development is proposed, such as but not limited to a PUD, site condominium, or subdivision, and the entire development is within an HR area, then the minimum density for the area dedicated for residential land development may be reduced to 22,000 square feet as set forth in Sec. 1500, subject, however, to the standards for PUDs or Special Uses, as the case may be, and the following standards:
  - a. The project meets all the standards and requirements for residential clustering under Sec. 1502.
  - b. The area dedicated for residential development, including building, streets, and parking surfaces, shall not exceed thirty (30) percent of the total property; however, in no event shall the dedicated area for residential development be less than 5 acres; and an area equal to 3 times the area dedicated for residential use shall remain open for farming or such other open space uses as are permitted in the underlying FF or residential district. So long as this proportionality is met, the landowner is not precluded from proposing additional areas dedicated for residential development as provided in this Subsection 704(3).
4. The proposed use will be harmonious and compatible with and not otherwise impair the historic resources.
5. The proposed use if approved will, if required as a condition, implement a plan to mitigate any adverse impacts on historic resources.
6. The remaining 70 percent of the property will remain perpetually undeveloped by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land, except that the remaining portion may be used for farming or other related uses permitted within the HR District. The portion of any larger parcel or parcels of contiguous property that is not subject to either the 30 percent residential area or 70 percent undeveloped and farming or related use area is not required to be part of or subject to such conservation easement, dedication, restriction, or instrument that runs with the land.

**SECTION 705. SPECIAL LAND USE QUALIFICATIONS**

In addition to land within the HR area, an owner of farmland adjacent to or within the scenic view-shed of an Historic Resource Overlay Area may voluntarily qualify and apply for a PUD or special use permit subject to the standards and conditions applicable to land set forth in Sec. 704.

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## **ARTICLE VIII- FF FARM AND FOREST DISTRICT**

(Adopted 9-9-14)

### **INTENT**

The FF-Farm and Forest District is designed to promote the use of wooded and rural areas of the Township in a manner that will retain the basic attractiveness of the natural resources and provide enjoyment for both visitors and the community at large. The intent of the District is to hold the rural Township areas for agriculture and forestry purposes and to allow some multiple uses of marginal farm-forest lands.

### **SECTION 800. PERMITTED USES**

No building or land shall be used and no building shall be erected except for one or more of the following specified uses:

1. One-family detached dwellings or permanent manufactured homes that the parcel on which the structures are located is a legal lot of record.
2. Hunting and fishing cabins, trapper's cabins, summer homes and/or cottages, including temporary mobile homes.
3. Temporary manufactured homes or travel trailers maintained in sound running condition with a current vehicle license, provided occupancy is limited to not more than thirty (30) days in any calendar year.
4. Domestic Farms, per the standards of Section 1702-15
5. Commercial Farms.
6. Tree farms, forest production and forest harvesting operations including portable sawmills, log storage yards and related.
7. Public parks, playgrounds, recreation areas, camping grounds, hunting grounds, fishing sites and wildlife preserves.
8. Roadside stands for the sale of agricultural products raised on the premises when lawfully established with respect to vehicle access and parking off the street.

9. Portable and temporary uses including sawmills, mining operations, hot mix plants.

solid waste processing equipment and similar uses may be operated in any FF District; provided, the use: is active for periods of less than ninety (90) days on one parcel; is not nearer than 300 feet from any off premises dwelling; and is in compliance with State and Federal regulations governing pollution control and environmental protection.

10. Accessory buildings which are customary and incidental to any of the above uses. Accessory buildings shall not be used as a dwelling and shall not contain any sleeping facilities.

## **SECTION 801. USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

The following uses shall be permitted upon approval of the Planning Commission, subject to the conditions imposed for each use, the Conditional Use Review Standards in Section 1700 and the Site Plan Review Requirements in Section 2005:

1. One-family detached residential dwellings on parcels or lots, which are not a lot of record (i.e. zoning lot).
2. Private and semi-private recreation lands when not operated for profit, and when in the character of publicly owned and operated recreation areas.
3. Golf Courses, Country Clubs and Sportsmen Associations or Clubs.
4. Travel trailer courts, tenting areas and general camping grounds provided that:
  - a) The minimum State of Michigan health requirements governing travel trailer courts and camping areas are complied with.
  - b) The use is developed on a site of at least ten (10) acres and no less than 600 feet of lot width or property width.
  - c) No person shall occupy any travel trailer, tent or house car unit for more than six (6) months in any one year.

d) The use is effectively screened from public streets and thoroughfares with a natural or planted greenbelt protective buffer extending not less than 150 feet from streets and lot lines.

5. Sawmills, planing mills, veneer mills and accessory or incidental mill operations involving logs, unprocessed timber and/or rough sawn lumber, provided:

a) The use involves the processing of raw timber and/or rough lumber and shall not include retail lumberyard businesses or hardware supplies, paints, and the like. Log and lumber storage uses are permissible accessory uses as are the sale of wood products produced on the site.

b) The land area of the mill site shall be at least 10 acres with a minimum lot width of 660 feet.

c) Structures housing mechanical wood cutting devices (head saws, cut-off saws, planers, lathes, etc.), shall not be located closer to an off-premises residence than 1,000 feet,

d) Log storage and sawn timber or lumber shall not be located nearer than 500 feet from an off-premises residence

e) The location of a proposed mill shall be determined by the Planning Commission to be compatible with other uses in the general vicinity taking into account traffic flow, noise, scenic values, residential environments where applicable, and any Township Land Use Plans for the area. The mill location shall be determined to be good land use.

In considering applications for forest industries the Planning Commission may permit modifications to the standards in items (a) through (e), where owing to natural or man-made conditions, no good purpose would be served by requiring strict compliance. Such conditions may include, but need not be limited to, steep topography, intensely wooded areas, other natural barriers, existing uses, and the like.

Nothing in this Ordinance shall be interpreted to exclude temporary and itinerant sawmill operations on FF zoned property where the timber harvesting involves only those resources found on the same property. No permit shall be required where the operation involves a period of less than six (6) months on the same property or zoning lot.

6. Authentic historical restoration projects as regulated in the R-1A & R-1B One-Family Residential Districts and residential special uses as permitted within a Historic Resource area pursuant to Section 703 and 704.
7. Cluster Residential Dwellings, subject to Section 1502 and Special Use approval under Article XVII and other provisions of this Ordinance.
8. In the FF District, specified contractors uses may be permitted subject to the following standards including Planning Commission review:
  - a) Permitted Uses: The uses permitted pursuant to this section may include one or more of the following:
    - 1) Storage buildings for recreation vehicles, travel trailers, boats, water craft and similar items, but not sales and/or servicing, or commercial warehousing.
    - 2) Buildings to store equipment and materials associated with the following specific trades: landscapers, excavators, nurserymen, building contractors, plumbers, electricians, carpenters, pipe fitters, heating-cooling-refrigeration tradesmen, telephone and communication system installers, provided such individuals are fully licensed to operate in the State of Michigan if a license is required.
  - b) Outside Storage: All primary storage/use activity shall be in enclosed buildings. Any outside storage that may be permitted shall be in areas effectively screened from public view.
  - c) Owner Occupancy: Buildings and uses permitted herein shall only be approved on properties occupied by the owner and be the primary place of the owner's residence.
  - d) Site Size: The minimum property size shall be ten (10) acres or larger by description, having at least 600 ft. of lot width and at least 600 ft. of lot depth.
  - e) Building Limitations: The ground floor area of proposed buildings associated with the uses permitted herein shall not exceed an area of 2400 sq. ft. One additional 2400 sq. ft. building may be permitted on sites of 20 acres or more, by description, provided the two buildings are separated by at least forty (40) feet.



- f) Signs: Accessory identification signs associated with the uses permitted pursuant to this section shall not exceed an area of eight (8) sq. ft., and shall comply in all other respects with the sign section of this Ordinance.
- 11. Utility and public service facilities and uses, including public buildings and institutional or educational uses, except electrical or heat generation plants.
- 12. Accessory buildings which are customary and incidental to any of the above uses. Accessory buildings shall not be used as a dwelling and shall not contain any sleeping facilities.

**SECTION 802. SPECIFIC DEVELOPMENT STANDARDS in FF Farm and Forest District**

- 9. **Parcel Size** 90,000 sq. feet minimum
- 10. **Lot Width** 150 feet minimum
- 11. **Maximum Height** Principal Use – 30 ft. maximum from uniform finished grade to average height between eaves and ridge  
Accessory Use – 14 ft. maximum height to eave
- 12. **Minimum Floor Area** Principal Use – 720 square ft.
- 13. **Max Ground Floor Area** Accessory Use – 1,200 sq. ft. if in front or side yard;  
2,400 sq. ft. if in rear yard
- 14. **Maximum Percent of Lot Coverage by the area of buildings** 35%
- 15. **Minimum Yard Setback**
  - d. Front (faces road) 40 feet
  - e. Sides 20 feet
  - f. Rear 35 feet, except for non-waterfront accessory buildings 600 sq. ft. or less need not be farther from rear lot line than 10 ft., and 60 feet setback on waterfront lots
- 16. **Waterfront Lots** Minimum 40’ wide greenbelt yard or strip from the ordinary high water mark or edge of any wetland that is contiguous to any stream, river, creek or lake and Minimum 60’ setback from the waterfront {See Section 1808 for more details}
- 17. **Accessory Buildings** Shall not be used as a dwelling and shall not contain any sleeping {Section 1800} facilities

Residential accessory building sizes in the FF district shall be regulated as follows:

<u>Location on Property</u>	<u>Max Ground Floor Area</u>	<u>Max Height to Eve</u>
Front Yard	1,200 Sq. Feet	14 Feet
Side Yard	1,200 Sq. Ft	14 Feet
Rear Yard	2,400 Sq. Ft	14 Feet

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# **ARTICLE IX - B-1 LOCAL-TOURIST BUSINESS DISTRICT**

## **INTENT**

The B-1 Local-Tourist Business District is designed to give the Township a Business District that is somewhat more selective than a General Business District. The B-1 District to provide for the establishment of neighborhood shopping areas, personal services and professional office areas that are compatible with, and of service to, township residential uses. Tourist services are also included as being in character with the District.

## **SECTION 900. PERMITTED USES**

No building or land shall be used and no building shall be erected except on approval of a site plan under section 2005 for one or more of the following specified uses:

1. Office buildings for any of the following occupations: executive, administrative, professional, governmental and sales offices.
2. Medical and dental offices, clinics, funeral homes and mortuaries.
3. Banks and financial institutions.
4. Any generally recognized retail business which supplies commodities such as: groceries, restaurants or other foods and beverages, and dry goods.
5. Any personal service establishment which performs services such as: salons, barber shops, interior decorators, photographers, dry cleaners and self-service laundries, and personal instruction studios.
6. Churches, private clubs and lodge halls.
7. Motels, cabin courts, tourist-lodging facilities, travel trailer courts, gift shops, museums and any accessory residence.
8. Utility and public service facilities and uses when operating requirements necessitates the locating of said facilities within the District in order to serve the immediate vicinity.
9. Existing dwellings and dwellings structurally attached to a part of a B-1 District use.

10. Accessory building(s) which are customary and incidental to any of the above uses. Accessory buildings shall not be used as a dwelling and shall not contain any sleeping facilities.
11. Uses similar in character to the above listed uses.

## **SECTION 901. USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

The following uses may be permitted upon approval of the Planning Commission, subject to the conditions imposed for each use, the Conditional Use Review Standards in Section 1700, and the Site Plan Review requirements in Section 2005:

1. Businesses that sell fuel, petroleum products, and minor accessories or services, including vehicle washing. Fuel delivery systems, air and water hose stands and other appurtenances shall be set back not less than thirty (30) feet from all street right-of-way lines.
2. Business schools or private schools operated for profit. Charter schools or private schools intending to serve students in grades Kindergarten through 12, subject to same site standards as stated in Sec. 401-2 of the R-1A and R-1B Districts.
3. Offices and show rooms of plumbers, electricians, decorators or similar trades. The ground floor premises facing upon and visible from any abutting street shall be used only for entrances, offices or display. All storage of material or any incidental repair shall be within the confines of enclosed buildings or otherwise obscured from view.
4. Commercial printing shops, newspaper offices, and similar publishing enterprises.
5. Wholesale uses with accessory storage space, but not warehousing, provided:
  - a) All incident or accessory storage is within the confines of an enclosed building. Wholesale uses shall also include space for administrative offices, customer services, and interior display.
  - b) Any loading docks or semi-trailer sized overhead doors shall not face upon a public road. If no practical option is demonstrated, loading doors shall be setback at least seventy (70) feet from the front lot line or be structurally obscured from view.

c) Wholesale uses shall not occupy property bordering lakes, or rivers as defined by Act 451 of 1994 the Natural Resources and Environmental Protection Act (Part 301) Inland Lakes and Streams.

d) Sites proposed for wholesale uses may be rejected by the Planning Commission based on a determination that the use is improper or out of character with adjoining uses, by reason of:

- 1) Breaking the continuity of a planned retail shopping center.
- 2) Having direct visual exposure to tourist lodging facilities or other uses serving tourist markets.
- 3) Sharing common road frontage with residential uses.

6. Plant materials sales centers, greenhouses, and nurseries, including accessory garden equipment, primarily for use by home occupants on their residential lots.

7. Lawn and garden tractors along with accessory equipment but not farm implement dealers or contractors equipment sales.

8. Accessory buildings which are customary and incidental to any of the above conditional uses. Accessory buildings shall not be used as a dwelling and shall not contain any sleeping facilities.

**SECTION 902. SPECIFIC DEVELOPMENT STANDARDS in B-1 Local Tourist Business District**

1. Parcel Size	No minimum parcel size
2. Lot Width	100 feet minimum
3. Maximum Height	30 feet maximum from uniform finished grade to average height between eaves and ridge
4. Minimum Floor Area	None
5. Maximum Percent of Lot Coverage by buildings	None

- 6. Minimum Yard Setback
  - a. Front 25 feet
  - b. Sides 10 feet
  - c. Rear 20 feet

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**ARTICLE X - B-2 GENERAL BUSINESS DISTRICT** (Adopted 9-9-14)

**INTENT**

The B-2 General Business District is designed to provide sites for more diversified business types and are located so as to serve passer-by traffic.

**SECTION 1000. USES PERMITTED**

No building or land shall be used and no building shall be erected except on approval of a site plan under Section 2005 for one or more of the following specified uses:

1. All uses permitted by right in the B-1 Local Tourist Business District, except for dwelling units, attached or detached.
2. All uses permitted subject to Special Conditions in the B-1 Local Tourist Business District, subject to conditions contained in Section 900, the Conditional Review Standards in Section 1700, and Site Plan Review Requirements in Section 2005.
3. Wholesale uses when in a completely enclosed building.
4. Theaters, assemble halls and similar places of assembly.
5. Bottling works and food packaging.
6. Restaurants, supper clubs and taverns.
7. Bowling alleys, club, or pool / billiard parlor.
8. Commercial printing and newspaper offices.
9. Uses similar in character to the above listed uses.

**SECTION 1001. USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

The following uses may be permitted upon approval of the Planning Commission, subject to the conditions imposed for each use, the Conditional Use Review Standards in Section 1700, and the Site Plan Review Requirements in Section 2005:

1. Businesses that sell fuel, petroleum products, and minor accessories or services, including vehicle washing.
  - a) Major engine and body repair, steam cleaning and undercoating, vehicle laundries, when conducted on the site shall be within a completely

enclosed building. The storage of damaged or wrecked automobiles on the site shall be obscured from public view. No vehicle of any kind shall be stored in the open for a period exceeding one (1) week.

- b) Fuel delivery systems, air and water hose stands, and other appurtenances shall be setback not less than fifteen (15) feet from all street right-of-way lines.

2. Commercially used outdoor recreational space, subject to the following requirements:

- a) Recreational facilities must be fenced on all sides with a minimum four foot and six inch (4' 6") protective wall or fence.
- b) All manufacturers' specifications for safety are complied with as well as any additional safety measures that may be prescribed by the Planning Commission.
- c) When discontinued or abandoned, the site shall be left in a reusable condition, free of hazards related to dangerous structures, pits, pools, excavations, electric circuits and similar features.
- d) Compatibility with surrounding area.

3. Lumber yards for wholesale or retail markets, and including other building materials, along with accessory hardware, plumbing, and electrical supplies and/or equipment, provided:

- a) The site is of a configuration as to be compatible with adjoining uses, having at least 200 feet of frontage on a public road, or part of a planned development having 200 feet of frontage.
- b) Accessory outdoor storage shall be effectively obscured from public view by fences, greenbelts, structures, and/or other devices as approved by the Planning Commission.
- c) Storage uses, buildings, and parking lots, sidewalks, shall provide a minimum setback of 10 feet from one side yard and 40 feet from the side property line to afford transition space for storm water, snow storage, and/or landscaped buffers.
- d) The outdoor display of model homes, trusses, garages, storage sheds, etc, shall only be allowable upon Planning Commission approval of specific



location on the site, and may be prohibited where site characteristics and adjoining uses would be incompatible with such a display.

Building material centers may include, incidental operations involving fabrication and processing, but only within limits set forth on an approved Site Plan.

4. Outdoor sales lots for automobile, trucks, motorcycles, all-terrain vehicles, boats and marine craft, recreation vehicles, trailers, mobile homes, farm implements, contractors equipment/vehicles, and similar units, for new and/or used units, subject to the following:

- a) No display shall be permitted in the right-of-way of any abutting road or highway.
- b) Existing roadside trees and shrubs, shall be retained in a healthy growing condition to an extent determined by the Planning Commission to offer aesthetic value, contribute to shade, while offering reasonable visual access to the display lot.
- c) The use of racks, berms, platforms, or similar devices intended for the elevated display of units regulated herein shall be limited to not more than two, or one (1) per one hundred fifty (150) ft. of display lot road frontage, whichever is greater. No such display device shall elevate the under-frame of a vehicle more than five (5) feet above the ground.
- d) Display lot lighting shall comply with terms of Section 1803-3, which shall apply whether or not the lighting is projected from buildings, private poles, or from utility company poles, i.e. as yard lights.
- e) The display of units regulated herein shall only be in areas indicated or designated on the site plan, and areas shall be differentiated as to the display of new, used and/or inoperable units.
- f) The front setback line of the vehicle display area shall be marked by a permanent curb of sufficient height and stability to serve as a tire stop.

5. Storage uses, including mini-storage, provided one or more of the following conditions are satisfied:

- a) All proposed building nearest to the primary access road shall be site planned to be perpendicular to the road; landscape screening may be required by the Planning Commission per subparagraph c) of this paragraph.

- b) Proposed storage buildings are positioned to the rear of other approved non-storage or non-warehousing buildings, e.g. retail or office uses, or the storage buildings are set back at least three hundred (300) feet from public road right-of-way lines.
- c) Intense, all season landscape screening, to effectively shield storage buildings from bordering public roads, per an approved Landscape Planting Plan which achieves screening upon installation of proposed plant materials.

Nothing in this section shall prohibit or inhibit storage space as a necessary accessory use to any principal commercial use of the property, and these standards do not apply to internal roads within a planned industrial or commercial park.

6. Marinas and boating facilities, including docks, boat storage facilities, and/or space for selling water craft with accessory repair services.

7. Accessory buildings which are customary and incidental to any of the above conditional uses. Accessory buildings shall not be used as a dwelling and shall not contain any sleeping facilities.

**SECTION 1002. SPECIFIC DEVELOPMENT STANDARDS in B-2 General Business District**

- |   |   |
|---|---|
| 1. Parcel Size                                  | No minimum parcel size  |
| 2. Lot Width                                    | 100 feet minimum  |
| 3. Maximum Height                               | 30 feet maximum from uniform finished grade to average height between eaves and ridge |
| 4. Minimum Floor Area                           | None  |
| 5. Maximum Percent of Lot Coverage by buildings | None  |
| 6. Minimum Yard Setback                         |   |
| a. Front  | 25 feet   |
| b. Sides  | 10 feet   |
| c. Rear   | 20 feet   |

## **ARTICLE XI – I-LIGHT INDUSTRIAL DISTRICT** (Adopted 9-9-14)

### **INTENT**

The intent of the I Light Industrial District is intended to permit a mix of light manufacturing, warehousing and service uses. External physical effects are restricted to the area of the district that do not affect, in a detrimental way, any of the surrounding districts. The District permits, along with any specified uses, the manufacturing, compounding, processing, fabrication, packaging, assembly and/or treatment of materials that are in refined form. Furthermore, these materials do not, in their transformation, create smoke, gas, odor, dust, noise, vibration of earth, soot or lighting to a degree that is offensive when measured at the property line of subject property.

### **SECTION 1100. USES PERMITTED**

In the I Light Industrial District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance:

1. B-2 District uses, provided the site has access features suitable for offering retail services to the public and does not disrupt the continuity of development in any planned industrial park, so called, or the use is accessory to the industrial activity.
2. Laboratories and any use involving the function of basic research, design and pilot or experimental product development when conducted within a completely enclosed building, but excluding high risk products involving, radiation, explosives and the like.
3. Any of the following uses when the manufacturing, compounding or processing of products is conducted wholly within a completely enclosed building. That portion of the land used for open storage facilities for materials or equipment used in the manufacturing, compounding or processing shall be totally obscured by a wall, fence or greenbelt when adjoining a zoning district other than I or B Districts:
  - a) Warehousing, wholesale establishments, trucking facilities or terminals, meat lockers and/or freezer plants
  - b) The manufacture, compounding, processing, packaging, assembling or treatment of products
  - c) Manufacturing and repair of signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like

- d) Engine overhauling, vehicle body repair, undercoating and/or rust proofing when completely enclosed
  - e) Central dry-cleaning plants or laundries
  - f) All public utilities, including buildings, necessary structures, storage yards and other related uses.
4. Any of the following uses:
    - a) Warehouse, storage and transfer and electric and gas service buildings and yards.
    - b) Public utility buildings, telephone exchange buildings, electrical transformer stations and substations and gas regulator stations.
    - c) Water supply and sewage disposal plants.
    - d) Water and gas tank holders.
  5. Greenhouses, florists and plant materials.
  6. Trade or industrial schools specializing in auto mechanics, heavy equipment operations, engine repair and overhaul and uses with similar industrial type characteristics.
  7. Other uses of similar activities that the Planning Commission determines meet the intent of the I Light Industrial District.
  9. Accessory buildings and uses customarily incidental to any of the permitted uses.

**SECTION 1101. USES PERMITTED SUBJECT TO SPECIAL CONDITIONS**

The following uses may be permitted upon approval of the Planning Commission, subject to the conditions imposed for each use, the Conditional Use Review Standards in Section 1700 and the Site Plan Review requirements in Section 2005.

1. Lumbering mills when completely enclosed and located so that no property use is nearer than one-hundred (100) feet from the exterior boundary of the I District.
2. Junk storage and salvage materials when located within a completely enclosed building. Any open storage yards or areas shall be entirely enclosed by an obscuring eight (8) foot wall, fence or greenbelt, and no salvage yard facilities shall be nearer to the exterior boundary of the I-1 District than one-hundred (100) feet.

3. Metal buffing and polishing, subject to appropriate measures to control the type of process to prevent noxious results and/or nuisances.
4. Storage facilities for building materials, sand, gravel, stone, lumber, storage of contractor's equipment and supplies, provided such is enclosed within a building or within an obscuring wall or fence on those sides abutting all Residential Districts and on any yard abutting a public thoroughfare.
5. Mineral processing facilities and operations when the primary use is mining, quarrying, crushing, sorting, mixing, screening and/or handling activities.
6. Uses such as water treatment plants and reservoirs, sewage treatment plants, landfills, recycling operations, pyrolysis type incineration and similar uses.
7. Petroleum storage, gases and flammable liquids when accessory to any principal use permitted in the District, excluding tank farms or bulk storage, or when the storage capacity does not exceed the equivalent of 200,000 U.S. gallons of capacity; and provided that all tanks, equipment, and operations have been permitted under and are in compliance with all applicable standards of federal and state laws pertaining to hazardous substances and underground and above ground storage tanks.
8. Commercial kennel subject to compliance with the following standards or conditions:
  - a) Facilities for housing, treating and keeping of animals shall be located on a parcel at least 660 feet in width and at least five-hundred (500) feet from any residential district boundary or adjacent residence
  - b) Animals on the premises shall be housed within a completely enclosed building between the hours of 8:00 p.m. and 8:00 am
  - c) Noise from animals, such as barking from dog kennels, will not exceed 55 decibels within one-quarter mile of the kennel structure
  - d) Waste, wastewater, or other effluent shall be disposed of as required by federal, state, and county law or regulation and a plan for such disposal shall be presented with the site plan. If there is no such law or regulation regulating waste or effluent discharged or released into ground or on the surface, then the applicant must show, through sufficient study and evaluation of the hydrology and soils and waste, that septic and drain field, or other means of treatment or disposal will or is not likely to pollute, impair or destroy groundwater, surface water, wetlands or otherwise create a hazard to the public health

9. Other uses of similar activities that the Planning Commission determines meet the intent of the I Light Industrial District.

## **SECTION 1102. REQUIRED CONDITIONS**

For all uses permitted Subject to Special Conditions and for any industrial uses, which in the opinion of the Zoning Administrator, would constitute a special nuisance or danger because of the nature of the operation (fire, explosion, radiation, noise, air pollution, water pollution, emissions and the like), the applicant for a permit may be required to submit certified statements that the proposed industrial use meets at least the minimum safety-health environmental standards prescribed by state and/or federal standards pertaining to the specific use.

The extent of walls or fences in the I District, where required, and for all uses Subject to Special Conditions, shall be determined by the Planning Commission. Fences or walls shall not be less than four feet six inches (4' 6") in height, and may be required to be eight (8) feet in height. A chain link type fence, with heavy evergreen shrubbery inside of said fence, shall be considered to be an obscuring fence.

The Planning Commission may waive, or modify, any wall, fence, greenbelt or special setback provision in the I District, but only where in its determination the purpose of avoiding or mitigating negative impacts on adjacent property and land uses would not be met or advanced; this would include facts and reasons such as a large site area, natural isolation, and existing natural barriers.

## **SECTION 1103 SPECIFIC DEVELOPMENT STANDARDS IN THE I-Light Industrial District**

- |   |   |
|---|---|
| 1. Parcel Size                                  | No minimum parcel size  |
| 2. Lot Width                                    | 100 feet minimum  |
| 3. Maximum Height                               | 30 feet maximum from uniform finished grade to average height between eaves and ridge |
| 4. Minimum Floor Area                           | None  |
| 5. Maximum Percent of Lot Coverage by buildings | None  |

- 6. Minimum Yard Setback
  - a. Front 30 feet
  - b. Sides 10 feet
  - c. Rear 20 feet

**ARTICLE XII and ARTICLE XIII**

**(Reserved for future text additions)**

# **ARTICLE XIV - PUD PLANNED UNIT DEVELOPMENT**

## **DISTRICT**

### **INTENT**

The Planned Unit Development District (PUD) is structured and designed to advance the following goals.

1. To encourage a more imaginative planned community through the application of comprehensive land use planning techniques at the project level.
2. To provide for a controlled mix of compatible land use types when coordinated into an overall property use plan without the incidence of spot zoning.
3. To allow clustering of uses to reduce development costs and provide more protection for prime farmland, natural features, open spaces, historic resources, or the inhabitability of the community.
4. To coordinate development on larger tracts of land and encourage efficiency within the project with respect to roads, pedestrian-ways and utility services.
5. To encourage a necessary balance between physical improvements, community needs and inhabitability, and site amenities such as scenic views, open space, recreation areas, and environmentally sensitive areas.
6. To allow more flexibility in land development with respect to building setbacks, building densities and other standard zoning requirements.
7. To encourage a unified and hence potentially more desirable development of large areas of land based on a Project Master Plan.
8. Provide a forum for communication between the developer, community officials, and the public concerning PUD projects.

There are two PUD Planned Unit Development Districts. PUD-1 is for residential uses as allowed in the underlying district by permit or special use permit pursuant to Section 1403. It is also for the coordination and arrangement or location of uses that are permitted within a B-1 or B-2 Commercial District. PUD-1 is an Overlay Zoning District which when applied as the result of an approved project does not change the underlying district designations. PUD-2 is for mixed or residential uses as allowed by Sec. 1404.



PUD-2 is not an overlay District, but rather it is accomplished by an amendment to the Zoning Ordinance and the Zoning Map (rezoning). Unless otherwise noted, all the following text provisions apply to both PUD-1 and PUD-2.

## **SECTION 1400. DEFINITION, PRELIMINARY PROJECT MASTER PLAN**

A generalized Master Plan of the Project Area, drawn to scale, and indicating all lands under the control and/or ownership of the applicant or persons representing the owner, if he is not the applicant. The Preliminary Master Plan should be sufficiently detailed to show the arrangement of land uses over the entire project area in a clear and concise manner, but need not show specific building shapes or sizes. A Preliminary Master Plan should be detailed with respect to existing conditions and proposed land uses, property boundaries, delineation of natural features, roads, easements, utilities, a vicinity or location map, and other major interest features on or near the project that may impact the plan.

## **SECTION 1401. DEFINITION, FINAL MASTER PLAN**

The Final Master Plan shall contain all of the elements prescribed for the Preliminary Master Plan, as defined in this Ordinance, except that the Final Master Plan shall include details concerning the following: general building configurations and locations, the height of buildings, the specific arrangement of uses, public and/or private roads, identification of permanent open spaces, a contour map, recreation areas, and environmentally sensitive areas. An evaluation of the impact on public utilities including sewer, water, solid waste, and related community services such as schools, roads, fire and police protection. A description and evaluation of likely environmental impacts shall also be made, indicating other alternatives.

Detailed information concerning densities of all proposed uses shall be included, such as the number of single family and multiple family dwelling units, design capacities of hotels and/or motels, number of commercial units, and acreage of proposed open space/recreation areas.

## **SECTION 1402. PROCEDURES**

All applications for Planned Unit Development (PUD) projects shall be in accordance with the procedures outlined herein for: (1) Pre-application Conference, (2) Preliminary Master Plan, and (3) Final Master Plan.

### **1. PRE-APPLICATION CONFERENCE**

The applicant is urged to schedule a Pre-Application Conference with the Zoning Administrator to review the basic requirements of the Zoning Ordinance as well as to review the procedures and design standards for a PUD. As one option, the applicant may schedule an informal informational meeting with the Planning Commission, but no official action on the PUD may be taken at such meeting. The applicant is directed to obtain all pertinent code information from other agencies, including but not limited to the following responsibilities: sanitary sewers, drains, utilities, roads, soil erosion, wetlands, and construction codes (building, electrical, plumbing, mechanical).

## 2. PRELIMINARY PUD MASTER PLAN REVIEW

Following the Pre-Application Conference, the applicant may file a request with the Zoning Administrator seeking Planning Commission review of a Preliminary PUD Master Plan for the subject property.

Preliminary review shall not imply approval of the Final Master Plan, but is a directional step to show levels of agreement or disagreement under the existing conditions and with the information available at the time of preliminary review.

## 3. FILING REQUIREMENTS (Preliminary)

- a) Filing of the existing conditions map and the plan with the Zoning Administrator at least thirty (30) days prior to the date of the Planning Commission meeting, at which a Public Hearing on the plan is to be scheduled.
- b) At least twelve (12) full-sized and five (5) reduced sized copies of all maps, and graphic documentation shall be submitted at the time of filing.
- c) At least fifteen (15) days published notice shall be given in a newspaper of general circulation in the community.
- d) Map scale and identification information as prescribed for Site Plans under Sec. 2005 of this Ordinance.

## 4. PLAN REQUIREMENTS (Preliminary)

The Preliminary Master Plan must contain information concerning existing site conditions and proposed land uses, the rationale for the particular use arrangement selected, the identification of special site features recognized in the design, and pertinent density or quantity data to reflect demands on community services.

There are two graphic requirements for the preliminary step:

a) An Existing Conditions Map:

Includes a property location map, property dimensions and boundaries, major tree stands, water bodies (streams, rivers, lakes ponds), rock outcrops, wetlands both regulated and unregulated, drainage courses, steep slopes, generalized soil conditions, and other natural features. Also, human made features including existing roads within and bordering the project, buildings, easements and utilities.

b) The Preliminary PUD Master Plan Map, Per Sec 1401:

The applicant must submit copies of the preliminary plan to government review agencies, as applicable, to gain compliance with health laws, drain laws, environmental laws, as well as rules governing road construction. Local fire protection agencies must be contacted in the preliminary phase. Specific items to include on or with the plan include: total number of acres in the project for which PUD designation is being sought, the number of residential units, the type and character of nonresidential uses, the acreage to be allotted to each use type, any known deviations from ordinance provisions or items requiring a modification from the standards, the number of acres devoted to on-site open space and/or recreation uses, and any natural features or resources to be preserved.

5. REVIEW FOR DECISION (Preliminary)

The Planning Commission, upon a review of the Preliminary Master Plan and all supporting documentation, shall act to approve, conditionally approve or reject the plan. Any conditional approval shall include a listing of conditions necessary to attain approval, and any rejection shall enumerate the reason for rejection.

Approval of the Preliminary Master Plan authorizes the applicant to proceed with the preparation of the Final Master Plan.

6. FINAL MASTER PLAN REVIEW

- a) No PUD plan can be approved until a Final Master Plan has been reviewed and given final approval and recommendation by the Planning Commission to the Township Board, who shall be the final reviewing and approval agency.
- b) The Final Master Plan shall be in basic accord with the approved Preliminary Master Plan and shall be detailed with respect to the following:

- 1) A definitive Use Plan for the entire land area intended to be approved for a PUD project or for the known uses in the project area.
- 2) Use plans must show the general building configurations and locations, but need not show the exact dimension or shape of buildings, unless their detail for certain specific buildings is critical to the approval of the Final PUD Master Plan. Land allocations for each use area shall be defined.
- 3) All arrangements for design, construction, maintenance and operation of utility, septic or waste treatment systems, and soil erosion and storm water control shall have been finalized, although working drawings need not be completed for this element so long as they are filed and certified with the Zoning Administrator before issuance of the zoning permit.
- 4) The PUD's ownership, management, and construction have been determined and documented, and where to be phased, a plan to demonstrate development continuity shall be presented.
- 5) All common open space areas, greenbelts, transition areas, and setback areas shall be documented on the plan, and no use of these areas other than those identified on the plan shall be permitted without a formal revision of the plan.
- 6) On-site circulation routes for vehicles, pedestrians, parking lots, bicycles, and the like shall be included as specific elements of the plan as well as the ingress and egress points from bordering public/private roads.
- 7) Any existing or proposed deed restrictions, easements, or covenants pertinent to the project property shall be presented at this time. Actual filing of the documents need not occur until after site plan review, but before a zoning permit is issued.

## 7. FILING REQUIREMENTS (Final)

- a) The Final Master Plan shall be filed with the Zoning Administrator at least thirty (30) days prior to the date of the Planning Commission meeting, at which a public hearing on the Plan and PUD designation is to be scheduled.

- b) At least twelve (12) full-sized and five (5) reduced-sized copies of all maps and essential graphic documentation shall be submitted at the time of filing.
- c) Review procedures and graphic requirements shall be the same as that prescribed for the Preliminary PUD Project Master Plan.
- d) Map scale identification information as prescribed for site plans under Sec 2005-2 (a), (b), with allowable modification for parcels that are too large to practically map under those standards.

8. REVIEW FOR DECISION (Final)

- a) The Planning Commission, upon thorough review of the Final Master Plan, and all supporting documentation, or such other information as it may require, shall recommend to the Township Board its findings, to approve, conditionally approve, or reject the Final Master Plan.
- b) Following receipt of the Planning Commission recommendation, the Township Board shall hold a public hearing on the request. Prior to conducting a public hearing, public notice shall be posted, at least fifteen (15) days prior to the hearing date, in a newspaper of general circulation in the Township; and written notices, stating the time and place of Hearing, shall be mailed at least fifteen days (15) prior to the Hearing date, to all owners of property within 300 feet of the property, regardless of whether the property or occupant is located in the zoning jurisdiction. If the name of the occupant is not known, the notice may be addressed to "occupant".  
The public notice shall:
  - 1. Describe the nature of the request.
  - 2. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the 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, the notice may use other means of identification.
  - 3. State where and when the request will be considered.
  - 4. Indicate when and where written comments will be received concerning the request.
- c) The Township Board, upon review of the Final Master Plan and the supporting documentation, or such as other information as it may require, shall act to approve, conditionally approve, or reject the Final Master Plan. The board shall prepare a report stating its conclusions, its decision, the basis for its decision, and any conditions imposed on an affirmative decision. Approval of the Final Master Plan by the Township Board for a

PUD-1 shall not constitute an amendment to the zoning ordinance. Approval for a PUD-2 shall constitute an amendment to the zoning ordinance and zoning map.

- d) With the approved Final Master Plan the Applicant may proceed with the preparation of Site Plans as provided for in Ordinance (Section 2005), and subsequent to approval of the Site Plans, seek the necessary Zoning permit and Building and Environmental Permits for Construction.

#### 9. PUD PLAN REVISIONS (Final)

- a) The project must be constructed as indicated on the approved Final Master Plan with respect to lot configurations, uses, density, and all other details as illustrated, unless a formal request for revision is made.
- b) Changes or revisions to an approved Final Project Master Plan may be initiated by the applicant. Requests for revisions shall follow the procedures as set forth for Final Master Plan approval, including the filing, hearing, and graphic requirements.
- c) To add flexibility, the Zoning Administrator, with the approval of the Resort Township Planning Commission, may approve minor working changes to the PUD Master Plan as follows:
  - 1) Reorientation of buildings provided; no such structure is moved more twenty five (25) feet from the original plan location, the move is determined to be necessary based on site conditions not previously known, and the intent, concept, and objectives of the PUD are not circumvented, and no greater impact is exerted on adjacent properties.
  - 2) Redistribution of the dwelling units among the proposed structures, provided building height is not increased, and the dwelling unit density is not increased.
  - 3) Realignment of roads, pedestrian ways, and/or parking lots based on the need to respect site features (topography, soils, bedrock, vegetation); or respond to minor reorientations of buildings.

#### 10. SHORT PROCEDURE ALTERNATIVE

It is recognized that smaller and/or less complicated PUD project plans may benefit from a more simplified procedural alternative. Projects deemed to qualify as smaller and less complicated by the applicant, may elect to by-pass the

Preliminary Master Plan step, and proceed directly to Final Master Plan review. In exercising this election, the applicant shall schedule a Pre-Application Conference with the Zoning Administrator, and given the presentation of sufficient detailed information and documentation, the Zoning Administrator shall advise the applicant as to whether or not the preliminary procedural step may be waived.

The Planning Commission may overrule the Zoning Administrator if in its opinion; it feels the Preliminary Master Plan step should not be waived.

11. THE SITE PLAN

Following the approval of the Final PUD Master Plan, the applicant shall prepare a site plan pursuant to Sec. 2005 Site Plan Review. Approval of the site plan shall be necessary before zoning and construction permits can be issued. Site Plans may be for all or part of the project as elected by the applicant and as approved by the Planning Commission. If sufficiently detailed, a Final PUD Project Master Plan may also be submitted as the Site Plan.

12. MUTUAL CONSENT

No Preliminary or Final PUD shall be approved unless the proposed project, the plan for the project and the land uses(s) are mutually agreeable to the applicant, and the Township.

13. PUD PLAN EXPIRATION AND RENEWAL

The expiration, repeal and renewal of a PUD Master Plan, whether Preliminary or Final shall be in accord with the following standards:

a) Plan Expiration

An approved PUD Master Plan shall automatically expire after 24 months, following the effective approval date, if one or more of the following apply:

- 1) In the case of a Final Master Plan no earthwork or construction activities are in evidence, and no valid construction permits are in effect.
- 2) The project appears to be abandoned, there is no apparent interest in continuing the PUD as established, and no applications for renewal have been received.
- 3) No apparent effort is being made to market the PUD project or operate it as an active development.
- 4) In the case of a Preliminary Master Plan, the use proposals are different from the approved Preliminary Master Plan.

In the PUD-1, the PUD Master Plan may expire, but the underlying zoning remains the same, but the PUD-2 District remains with the property unless formally rezoned to another classification.

b) Plan Renewal

To forestall automatic expiration, the PUD owner shall request renewal of the PUD prior to the expiration date. Renewal requests shall be filed at least seven (7) days prior to the scheduled meeting date of the review body, but no formal public hearing is required. Renewals shall be for periods not to exceed 12 months, and only two such renewals shall be permitted.

14. FEES

Fees to cover the costs for PUD Plan review and revisions, including the costs of experts or professional consultants, shall be set from time to time by the Township Board.

15. All PUD Projects shall include only those uses and services identified on or in the approved Final Master Plan. The permitted uses, therefore, are Special Permit Uses and may be approved in a PUD, as follows:

- a) The applicant can demonstrate by plan or by supporting documentation that there are sound functional reasons for all of the identified uses. If a shopping center is proposed, it is necessary not only to identify the use as "shopping center", but the applicant must also state the intended market and level of service (PUD area, local community, regional area). Similar use group identification may be made for other functional complexes within a PUD, so long as there is a full identification of the usage.
- b) The applicant can demonstrate that specific uses or use complexes are desired or necessary to the project's success and would have a desired benefit to Resort Township such as implementing elements of the comprehensive plan.
- c). All essential services, public buildings, public or private utilities, and related facilities needed to support the project or Resort Township are available.

**SECTION 1403. LAND USE STANDARDS IN PUD-1**

The Planned Unit Development PUD-1 shall permit uses and services on lands and in buildings according to the following standards.



1. The uses permitted in PUD-1 are limited to residential except as otherwise authorized by this Sec. 1403, and shall include those residential uses permitted in the underlying residential or FF District. If the regulations of the PUD-1 are more restrictive, then the standards of the PUD-1 District shall apply.
2. The PUD-1 District is a Special Use Permit overlay zoning classification and only those uses and services identified on or in the approved final "Project Master Plan" shall be permitted in the PUD District even though other uses may be listed as permitted in the underlying district.
3. Non-residential uses which are permissible in a PUD-1 include: (1) accessory site services, pools, recreation buildings and grounds, accessory maintenance garages and yards, essential services, and accessory utility buildings and structures; or, (2) commercial uses permitted in an underlying B-1 or B-2 Commercial District provided that the property is already zoned B-1 or B-2.
4. The proposed uses are determined to be in compliance with the Project Master Plan, and would not be contrary to the goals or objectives of any Comprehensive Land Use Plan.

#### **SECTION 1404. LAND USE STANDARDS IN PUD-2**

An applicant for the Planned Unit Development PUD-2 may apply for a Mixed Use PUD-2 that provides for a combination of residential or commercial use permitted in the Zoning Ordinance, provided:

1. The announced public hearing specifies that the applicant is seeking a Mixed Use PUD Project.
2. All uses are regulated and permitted as Special Permit Uses, and documented as appropriate to the PUD under the standards of this Ordinance and are shown to be consistent with the Township's Land Use Plan.
3. Standard Multiple Family or Commercial zoning is not being circumvented by employing a Mixed Use PUD District. Light Industrial Uses may not be approved as a mixed use PUD.
4. Based on site features of topography, scenic view plains, surface water and vegetation; and based on neighborhood characteristics related to road capacity, prevailing architectural design, adjoining land uses and essential community services; the Planning Commission may limit a PUD cluster housing development to no more than four (4) dwellings per cluster. If appropriate, a mixture of cluster housing, one story garden apartments and single family detached housing may be required to attain a compatible land use transition with adjoining properties.

On the basis of findings at the Public Hearing, specific site conditions, community land use plans, and the applicant's intent in establishing nonresidential uses, the Planning Commission may reject a Mixed Use Plan in a PUD-2 District as not being in accord with the land use goals and inhabitability of the community, and/or as not being appropriate for the specific property under consideration. A Mixed Use PUD-2 Planned Unit Development District shall not be permitted in any R1-A, RR, WR, or HR District. However, non-mixed (residential) may be permitted.

**SECTION 1405. DESIGN STANDARDS**

Projects proposed to be designed and developed as Planned Unit Developments shall comply with the following design standards:

1. PERIMETER SETBACKS

All PUD projects shall establish and maintain a perimeter setback of fifty (50') feet, except where more severe zoning setback standards may apply on water impacted sites. The setback area shall be maintained as open space in lawns or be landscaped, or wooded areas, but shall exclude paved surfaces, parking areas, or buildings of any kind. Pathways and trails may occupy a perimeter setback area, and such space may be used for storm water managements, snow storage, and/or drainage systems.

2. DWELLING UNIT DENSITY PUD-1

The density of units within a designated PUD Project shall not exceed a gross density that equals the minimum lot size for dwelling units in the underlying Zoning District classification as follows:

Zoning Districts	Gross Dwelling Unit-No Sewer	Density per Acre - Sewers
R-1A and R-1B, HR	1.0 Units/Acre or see Section 4(f) below	1.50 Unit/Acre subject to 4(f) below
R-2A, R-2B	(See Sec. 1500)	(See Sec. 1500)

<b>RR</b>	1.0 Units/Acre or see Section 4(f) below	1.50 Unit/Acre subject to 4(f) below
<b>FF</b>	.5 Units/Acre or see Section 4(g) below	.680 Units/Acre subject to 4(g) below
<b>B-1, B-2</b>	2.0 Units/Acre	3.00 Unit/Acre
<b>I</b>	2.0 Units/Acre	3.00 Unit/Acre

3. DWELLING UNIT DENSITY, PUD-2

The density of residential units within a designated PUD-2 District project shall not exceed a gross density that equals one dwelling unit /acre.

4. OTHER DENSITY STANDARDS, PUD

- a) The calculation of gross site density shall exclude land areas proposed for all non-residential uses. Roads shall be excluded but accessory uses of clubhouses, maintenance garages, golf courses, and similar community service uses may be counted in the acreage for gross allowable density.
- b) Any land dedicated to the community for public use or public service (parks, fire halls, schools, etc.) may be counted in the project for density calculation purposes up to two times (double) the allowable density, provided: the land is determined to be suitable for development and use (consider slope, water table, soils, bedrock, useable shape, and other natural features), and provided that such land is approved by the Township Board.
- c) Land included in the calculation of dwelling unit density shall exclude natural bodies of surface water and any lands designated as or determined to be wetlands by the State of Michigan.
- d) In the case of need to interpret the facts of whether or not the property has wetlands for the purpose of this Section, the Planning Commission shall make the interpretation and may enlist the expertise of recognized outside agencies, such as, the United States Soil Conservation Service, the Michigan

Department of Natural Resources, Michigan Department of Environmental Quality, or other professionals in the field.

- e) In the case of approval of a PUD-1 within a HR historic resources area under Art. VII, the total density for the property covered by the plan is subject to the table in paragraph 2, above, but the lot size may be reduced and density increased on that portion of the property designated for residential use to 2.0 units per acre.
- f) In case of approval of a PUD-1 on a 20 or more acre parcel within a R1-A, R-1B, or RR District, the total density for the property covered by the plan is subject to the table in paragraph 2, above, except that the lot size may be reduced as needed to allow for a density of up to 1.15 units per acre provided that at least 40 percent of the property remains in open space and provided that the proposed PUD-1 meets all other standards and provisions necessary for approval as required by this ordinance.
- g) In case of approval of a PUD-1 on a 20 or more acre parcel within the FF District, the total density for the property covered by the plan is subject to the table in paragraph 2, above, except that the lot size may be reduced as needed to allow for a density of up to .680 units per acre provided that at least 40 percent of the property remains in farming or open space, and provided that the proposed PUD-1 meets all other standards and provisions necessary for approval as required by this Ordinance.

## 5. BUILDING HEIGHT, BULK AND ARRANGEMENT

- a) The height, bulk, and arrangement of structures and buildings are declared to be critical elements of a PUD Project, because of the following objectives:
  - 1) Remain in scale with fire protection equipment and services that are within a reasonable response time of the project and conform to the Township Fire Protection Ordinance and requirements.
  - 2) Avoid overshadowing adjacent properties and/or, adjacent buildings, a reflection of mutual respect for property values.
  - 3) Keeping in scale with the community as a whole, recognizing the role of community image in tourism, recreation, industrial attraction, and other aspects of economic development.

- 4) To the extent feasible or practical, respect scenic views from adjacent parcels, other on-site buildings, and tourist travel routes.

b) Structure / Building Height

The intended height of all structures proposed to exceed a height of thirty (30') feet shall be indicated at the time of filing a Preliminary PUD Master Plan. Structures above 30 feet shall not be approved, unless all of the following criteria are met:

- 1) The applicant can demonstrate that by having taller structures, there will be more ground level space left in a natural condition or in open yard.
- 2) Buildings that are proposed to exceed 30 feet are determined to be good land use in terms of the arrangement of the buildings, and open spaces, in relationship to other buildings and uses on the same property or on adjacent properties, and in terms of the specific location in the community.
- 3) If applicable, the taller buildings result in more protection of on-site environmental features including scenic views, wildlife habitat, wetlands, farmlands, forest stands and the like.
- 4) The project site area is large enough to be in scale with the specific height of proposed taller structures.
- 5) A taller structure request may be denied or scaled back if the surrounding lands are evolving as a single-family neighborhood, or otherwise would suffer potential devaluation.
- 6) The height increase can be shown to satisfy the stated objectives for regulating height as listed in this Ordinance Section, Par 3 above.
- 7) The proposed structure must not present an intrusion upon the skyline or shoreline and must not be out of character with adjacent land uses.
- 8) The height of the building must not be out of scale with fire-fighting and other emergency equipment.

c) Bulk, Arrangement and Spacing

The bulk and arrangement of buildings must be critical to the PUD being satisfactorily sited within the community. In reviewing the PUD Master

Plan, the Planning Commission may require building spacing and building mass to be modified or altered in order to:

- 1) Comply with the stated objectives in this Article, and in this Section; Building Height, and Bulk and Arrangement.
- 2) Discourage long, unbroken building walls where it could detract from scenic view resources and/or aesthetic values.
- 3) Arrange uses within the PUD Project to serve use transition objectives, where such may be necessary to harmoniously blend the PUD into the specific community area.

Buildings shall be spaced a minimum of thirty (30') feet apart. Add an additional two feet of separation for each foot of approved height above thirty feet.

6. OTHER ZONING STANDARDS THAT MAY APPLY

The design standards of the PUD District shall apply to all PUD projects. Any PUD Project proposing or requiring standards not specifically included in the PUD section, shall be subject to the standards in the zoning ordinance which apply to the particular design element. These include, but are not necessarily limited to, fencing, parking, signing, lighting, greenbelts, and related standards.

7. SITE CONSOLIDATION FOR COORDINATED DEVELOPMENT

The PUD process may be applied for the purposes of consolidating several properties under separate ownership to encourage a coordinated planned development as though the properties were a single parcel. The use of PUD permissives under this subsection will permit adjoining properties to establish a more desirable plan because the two or more parcels may vary in area, width, depth, and shape. By cooperating on a PUD which consolidates two or more ownerships, the following advantages occur:

- a) Joint planning for the most opportune building sites.
- b) Promote architectural unity.
- c) Provide for an integrated road system, including service roads, and/or integrated utility easements and facilities.

A PUD Master Plan for site consolidation for coordinated development shall be binding upon the two or more properties over which projected roads and/or utility improvements have been planned.

#### 8. MODIFICATION TO DESIGN STANDARDS

- a) It is declared that the design of any given PUD is strongly influenced by the specific characteristics of each individual site, and that a universal application of adopted design standards may not be in the best interest of the community and/or the applicant. The modifications are authorized by the approving body and subject to recommendations of the Planning Commission. The approving body is therefore granted authority, in specific cases, to modify and/or alter the PUD design standards where it can be demonstrated that a strict application of those standards would have no good or practical purpose, because of one or more of the following:
  - 1) Unusual shape or dimension of the site or to encourage the joint planning of adjacent parcels.
  - 2) Presence of limiting conditions relating to soils, topography, bedrock, or other natural conditions that would inhibit good design.
  - 3) The need to respond appropriately to the influence of adjacent land uses, transportation services, or utility needs.
  - 4) Typical applications of setbacks, lot dimensions within the PUD Project may be waived or modified as determined to be appropriate, within the PUD Project boundaries.
- b) In granting any modification to the standards for PUD development, it shall be determined that a better PUD plan can be put into place because of the modification, particularly in the terms of the PUD's impact on the adjacent non-PUD properties and the community as a whole.
- c) Modifications shall not be granted if they are found to be contrary to the spirit and intent of the zoning ordinance, or would be contrary to the principles and objectives of any Township Land Use Plan.
- d) Modifications shall not be permitted to the basic standards of dwelling unit density.

## ARTICLE XV - SCHEDULE OF REGULATIONS

### **SECTION 1500. LIMITING HEIGHT, BULK, DENSITY AND AREA BY LAND USE**

Districts	Minimum Lot Size Per Unit or Use		Maximum Height of Structure in Feet	Minimum Yard Setback in Feet			Maximum Percent of Lot Coverage by the Area of Buildings (2)	Minimum Floor Area in Square feet (1)
	Area in Square Feet	Width in Feet (4)		Front (5) (6)	Sides (5) (6)	Rear (5) (6)		
R-1A & R-1B One Family Residential	45,000 (a)	100	30 (f)	30	10 (g)	25	30 %	720
R-2A & R-2B General Residential	22,000 (c)	- (c)	30 (f)	30	20 (b,c,g)	35	35 %	none
RR Recreation Residential	45,000 (a)	100	30 (f)	40	10 (b,g)	35 (3)	30 %	720
WR Waterfront Overlay	45,000 (a)	100	30 (f)	40	10 (b, g)	35 (3)	30 %	720
HR Historic Resources with SUP or PUD pursuant to Sec. 704	22,000	150	30 (f)	40	20 (b,g)	35	30%	720
B-1 Local Tourist	none	100	30 (f)	25 (e)	10 (d)	20	none	none
B-2 General Business	none	100	30 (f)	25 (e)	10 (d)	20	none	none
I Light Industrial	none	100	30 (f)	30	10 (d)	20	none	none
FF Farm Forest	90,000	150	30 (f)	40	20 (b,g)	35 (3)	35%	720
FF Farm Forest with Special Use or PUD within or as HR area	22,000	150	30 (f)	40	20	35 (3)	35%	720
PUD Planned Unit Development	SEE ARTICLE XIV							

(1) For permanent dwelling units and not cottages, cabins, motels or similar uses.

(2) Any structure under four (4) feet in height that does not extend into any required setbacks shall not count toward the maximum percent of lot coverage by the area of buildings.

(3) Refer to Section 1808 for Waterfront and Greenbelt regulations

FOR RESIDENCES ONLY: Setback sixty (60) feet from the 1986 High Water Mark.



## NOTES TO ARTICLE 1500 - SCHEDULE OF REGULATIONS

- a. In the case of a rear yard abutting a side yard of an adjacent lot, the side yard abutting a street shall not be less than the required front yard of that district.
- b. For the purpose of applying yard regulations, multiple dwellings shall be considered as one (1) building occupying one (1) lot. When more than one multiple dwelling building occupies one lot, the two or more structures must be separated by at least 20 feet when end to end and fifty (50) feet when face to face or back to back for structures up to two stories. These isolation distances shall be increased by eight (8) feet for each story above the first two stories.
- c. Multiple family and/or apartment buildings, including row houses, town houses and the like, shall not exceed a density expressed in dwelling units per acre as follows:
  - 1) Where detached single-family units are constructed, apply the R-1 One-family District lot standards.
  - 2) Multiple Family Density
    - a) Dwelling Units. All multiple family unit developments must preserve at a minimum 50% of the net acreage of the site as open space for non-profit recreation uses. Open space excludes structures, parking areas and other impervious surfaces. The total number of units allowed is calculated at a rate of up to four (4) Dwelling Units per acre. In calculating the total number of units allowed, exclude from the gross acreage of the site, areas containing public roads, wetlands and areas dedicated to community sanitary water systems, to obtain net acreage. Net acreage is then multiplied by four (4) to determine the maximum number of units allowed, (unless the applicant qualifies for Dwelling Unit Density Bonus in section b) below.

Example: 10-acre site proposed for multiple family development has 2 acres of wetlands and 1 acre of community sewer system. 10 gross acres minus 2 acres of wetlands and 1 acre of sewer = 7 net acres. 7 Acres x 4 units per acre equals 28 units. 50 % of the net acreage of the site must be preserved, the 28 units are required to be constructed on 3.5 acres. (7 acres x .50= 3.5)

Dwelling units up to the number allowed and parking areas must be constructed on the area of the site that do not contain areas restricted under this subsection to opens space, public roads, wetlands and community sewer systems.

b) Dwelling Unit Density Bonus

A higher number of dwelling units per acre will be allowed depending on the percentage of open space preserved. In order to qualify for the Dwelling Unit Density Bonus, steep slopes greater than 33% must also be protected. The calculation of allowable dwelling units is modified to take into consideration steep slopes.

<u>OPEN SPACE</u>	<u>DENSITY BONUS</u>
50%	4 units per acre
55%	5 units per acre
60%	6 units per acre
65 % or greater	7 units per acre

A minimum of 50% of the net acreage calculated for density shall be maintained as open space or non-profit recreation uses. Open space excludes structures, parking areas, and other impervious surface. In calculating the total numbers of units allowed, exclude from the gross area of the site, areas containing public roads, wetlands, areas dedicated to community sanitary sewer systems, and steep slopes greater than 33% to obtain net acreage. Net acreage is then multiplied by the density bonus factor from the chart above to determine the maximum number of units allowed.

Example: 10-acre site proposed for multiple family development, as 2 acres of wetlands, 1 acre of community sewer, and 2 acres of steep slopes greater than 33%. 10 gross acres minus 2 acres of wetlands, 1 acre of community sewer, and 2 acres of steep slopes = 5 net acres. The applicant desires to preserve 65% open space. 5 acres x 7 units per acre equals 35 units. 65% of the net acres needs to be preserved, the 35 units are required to be constructed on 1.75 acres. (5 acres x .65=1.75 acres).

Dwelling units up to the number allowed and parking areas must be constructed on the areas of the site that do not contain areas restricted under this subsection to open space, public roads, wetlands, community sewer systems and steep slopes.

- 3) Unless the construction plans include tying into an existing municipal or community sewer and/or water system, the on-site services to be constructed shall be designed so that central collection/distribution points are installed in anticipation of future tie-ins with a municipal type system. The local sewer/water

authority having jurisdiction shall be consulted on matters of service tie-ins and pre-utility plans to minimize site disruption on future tie-in or hook-up projects. All plans for community sewer systems must be approved by the Township Board, Health Department, and Department of Environmental Quality in accordance with applicable statutes, regulations and requirements.

- 4) Storm water problems shall be anticipated and resolved to the satisfaction of the Resort Township Planning Commission, subject to review by the County Drain Commissioner or any other property owner or municipality that may be impacted by storm water runoff.
- d. Side yards may be omitted for common party walls which abut a side yard, provided the adjoining building is constructed at the same time. Pedestrian access-ways may pass through party constructed to meet all codes. On the exterior side yard which borders on a residential district, there shall be provided a setback of not less than twenty (20) feet on the side abutting the Residential District.

Driveways, sidewalks, parking areas, and loading zones shall not occupy required rear yards unless the Planning Commission approves a plan for shared parking or shared drives.

- e. Parking may be permitted in the front yard, provided there is at least a ten (10) foot buffer area between the road right-of-way and the off-street parking lot. The ten (10) ft. front buffer may be waived for parking if the front property line is fifty (50) feet or farther from the road centerline, but no parking in the right-of-way.
- f. Subject to a Public Hearing and the conditions outlined in this Note, the Planning Commission may approve controlled height increases above the maximum in all districts. The conditions for approving taller structures are as follows:
  - 1) It is determined by the Planning Commission that the added height will not significantly interfere with line-of-sight scenic views.
  - 2) The density of the use shall not exceed the maximum allowable density as stated in the Schedule of Regulations.
  - 3) The percent of lot coverage for all buildings, parking lots and other impervious surfaces, shall not exceed thirty-five (35%) percent.
  - 4) If Applicable, the added height will retain or establish more open space areas for wildlife habitat, wetlands, woodlands, farmlands, shore lands and other

resource features or will involve the reconstruction, duplication or restoration of historic buildings as so recognized by local historical authorities.

- 5) The applicant can demonstrate that the added height will result in more ground level open space through the lot toward the scenic view to compensate for higher structures or otherwise demonstrate to the Planning Commission that the added height will result in a better use of the premises from the standpoint of the arrangement of parking areas, buildings, open spaces and relationship to adjacent buildings and uses.
  - 6) The Planning Commission may require a scale model of the building(s) and/or the site to which the height increase request applies in order to assess if the above requirements are being met.
- g. On nonconforming lots measuring 60 feet in width, or less, one side yard setback may be reduced to five (5) feet for one accessory residential building.

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**SECTION 1501. SUBDIVISION and SITE UNIT CONDOMINIUM  
OPEN SPACE PLANS**

Subject to a Public Hearing, the Resort Township Planning Commission may approve Open Space Subdivision and Site Unit Condominium Plans intended to preserve on-site open space, to protect natural resources, and to encourage site planning concepts that interrelate building sites and resource amenities in a freer pattern than that permitted by conventional subdivision techniques.

In reviewing and approving the Open Space Subdivision and Site Unit Condominium Plans, the following requirements shall apply as permitted modifications to the standards as outlined in the SCHEDULE OF REGULATIONS:

1. Provided the densities stated on the SCHEDULE OF REGULATIONS are maintained (allow for the initial lot size reduction for utilities), the lots used for dwelling purposes may be reduced as stated in the following Table. Corresponding reductions on lot width may also be permitted, but no lot shall be less than 80 feet wide.

<b>Open Space Lot Variances Minimum Lot Sizes by Available Community Utilities</b>			
<b>DISTRICTS</b>	<b>No Utilities Health Department Approval Required</b>	<b>Water or Sewer Services</b>	<b>Both Water and Sewer Services</b>
R-1 and R-2	None	None	12,000 Sq. Feet
RR	None	None	12,000 Sq. Feet
WR	20,000 Sq. Feet	20,000 Sq. Feet	12,000 Sq. Feet
FF	22,000 Sq. Feet	20,000 Sq. Feet	12,000 Sq. Feet
HR	22,000 Sq. Feet	20,000 Sq. Feet	12,000 Sq. Feet

2. Under the provisions of this Section for each square foot of land gained within a subdivision through the reduction of lot size below the minimum requirements as outlined in the SCHEDULE OF REGULATIONS, at least equal amounts of land shall be dedicated to the common use of the lot owners of the subdivision.

3. The land area necessary to meet the minimum requirements of this Section shall be of a useable shape and dimension and further shall not include bodies of water, swamps or lands that normally would not be developed. The entire area may, however, be located in a flood plain.
4. Under this planned unit approach, the developer or sub divider shall dedicate the total open space at the time of filing of the final plat on all or any portion of the plat, and indicate the use on the Preliminary Plat.

## **SECTION 1502. RESIDENTIAL BUILDING CLUSTERING PLAN**

Subject to a Public Hearing, the Planning Commission may consider and approve by Special Use Permit Cluster Housing Plans, subject to the following conditions:

1. The gross dwelling unit density shall not exceed the maximum allowable for detached single family homes in the same District, but must be fewer than 2 units per acre as computed by the area of the entire parcel subject to the residential cluster plan, or if the area is served by public sewer, fewer than 3 units per acre.
2. Common dedicated open space areas shall be shown on the Site Plan and the full extent of planned uses in the open space shown. Such open spaces will remain perpetually undeveloped by means of a conservation easement, plat dedication, restrictive covenant, or other instrument that runs with the land.
3. The development does not depend on the extension of a public sewer, unless development without the cluster plan would also depend on a public sewer extension.
4. Based on site features of topography, scenic view planes, soils, surface water, vegetation and other natural resources; and based on neighborhood characteristics related to road capacity, prevailing architectural design, adjoining land uses, and essential community services; the Planning Commission may limit a cluster housing to no more than six (6) dwellings per cluster. (Except where the application is for PUD, in which case Section 1404.4 shall control). If appropriate, a mixture of cluster housing, one story garden apartments and single family housing may be required to attain a compatible land use transition with adjoining properties. In the FF District or HR Historic Resource Overlay Area, the area dedicated for residential cluster development, including buildings, streets, and parking surfaces, shall not exceed thirty percent (30%) of the total property.
5. If the property is not served by public water or sewer, then soils, groundwater quality and supply shall be suitable to serve the development in compliance with applicable laws and regulations.

6. As determined by the Planning Commission on the basis of existing subdivisions, proposed subdivisions, existing homes, the level of road services, and any local plans for the area, the development does not break-up an established or evolving one family detached housing pattern.
7. Because of the nature of cluster housing units and their greater demand for community type structures, including, but not necessarily limited to; club houses, swimming pools, tennis courts, carports, garages and maintenance buildings, and the like, the Planning Commission may specifically rule on the height, bulk, and/or location of buildings and all accessory facilities on the property, to harmonize with and be in character with uses on adjacent sites. The Planning Commission may exclude such accessory facilities where the Planning Commission determines such facilities would conflict with uses on adjacent sites.
8. No such cluster building plan shall be approved in an area zoned R-1A, RR or WR unless it is located in an HR Historic Resources Overlay Area, in which case it may, at the election of the applicant, be approved in accordance with Sec. 704, or in accordance with this section.
9. A site proposed for the cluster housing option shall have a contiguous area (not divided by an existing public road) of at least twenty (20) acres, exclusive of existing road right-of-ways, and shall have at least 590 feet of frontage on a public road. Smaller and narrower sites may be approved by the Planning Commission in allowable Districts if one or more of the following apply:
  - a) It borders R-2B, R-2A, B-1, B-2, or I zoned properties and would be a suitable transition use with detached housing areas.
  - b) It abuts an existing cluster housing development and would be a suitable location for additional cluster housing uses in the opinion of the Planning Commission.
  - c) It borders a State Trunkline Highway.
10. The applicant or developer can and will construct a sanitary sewer system and domestic water system that has been approved by the Township Board, the Health Department and Department of Environmental Quality in accordance with applicable statutes, regulations and requirements. Community Sanitary sewer systems must be approved by the Township Board prior to approval by the Planning Commission.
11. The Site Plan contains an engineered plan for the control of erosion, sedimentation, and storm water run-off. Drainage ways, sedimentation ponds or similar water control measures shall be illustrated as applicable.
12. A Site Plan is submitted according to the terms of Section 2005-Site Plan Review.

# **ARTICLE XVI - GENERAL PROVISIONS: NONCONFORMITIES**

Adopted Aug 10, 2010

## **INTENT**

It is the intent of this Ordinance to permit legal nonconforming lots, structures, or uses to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same Zoning Districts unless the conditions and requirements of this Section are met.

## **SECTION 1600. NONCONFORMING USE OF LAND AND/OR STRUCTURES**

No nonconforming use of land shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date. No such nonconforming use of land or building shall be moved in whole or in part to any other portion of the lot or parcel occupied. No nonconforming use may be enlarged or altered in a way that increases its nonconformity. Any nonconforming use may be carried on throughout any parts of a building which were manifestly arranged or designed for such use, but no such use shall be extended to occupy any land outside such building. The Zoning Board of Appeals may grant a modification to the nonconforming use pursuant to Section 1606, below.

## **SECTION 1601. DIMENSIONAL NONCONFORMITIES**

A lawful dimensional nonconformity exists when a structure is authorized within a zoning district, but that structure violates the dimensional requirements of the Ordinance (setbacks, height, size, etc.). No nonconforming structure that violates the dimensional requirements of the Zoning Ordinance may be enlarged or altered in a way that increases its nonconformity, unless the Zoning Board of Appeals approves a modification under Section 1606, below. The alteration, improvement, or modernizing of a lawful nonconforming building can be approved by the Zoning Administrator, provided that such alteration meets all dimensional requirements and does not increase any dimensional nonconformity.

## **SECTION 1602. NONCONFORMING LOTS**

A permitted single-family dwelling and customary accessory building may be erected on any single lot of record even though such lot may fail to meet the district requirements for area, or width, or both. However, if two or more contiguous or partially contiguous lots held in common ownership as of December 27, 2007, or subsequent thereto, and one or more of such lots fails to meet the district requirements for area or width or both, such lots shall be combined, developed, and used to the extent necessary to conform or more nearly conform to the district requirements for area, width or both. Once such a



combination occurs, the combined lot will be considered a single individual lot and must comply with the district requirements of this ordinance.

### **SECTION 1603. SUBSTITUTION OR DISCONTINUANCE OF USE**

Whenever the nonconforming use of any structure or land is changed in whole or in part to a conforming use, such use shall not thereafter be reverted to any non-conforming use. If the nonconforming use of any structure or land is discontinued through vacancy, lack of operation or otherwise for a period of twelve (12) consecutive months, then any future use of said building, structure or land shall conform, in its entirety, to the provisions of this Ordinance. If no structural alterations are made, the Zoning Board of Appeals may authorize the substitution of one nonconforming use for another nonconforming use, PROVIDED the substituted use would be substantially equal or more appropriate to the Zoning District in which it is located than the nonconforming use which is being replaced.

### **SECTION 1604. RECONSTRUCTION OF DAMAGED NONCONFORMING STRUCTURES**

The reconstruction and continued use of any nonconforming structure damaged by fire, collapse, explosion, acts of God or act of the public enemy may be allowed, upon prior application to and permission granted by the Zoning Board of Appeals. Permission shall be granted if the Zoning Board Of Appeals finds that (1) the reconstruction and continued use is substantially the same as the previous nonconformity, (2) the continued use and/or nonconformity will not be detrimental to the health, safety and welfare of the public or surrounding property owners, and (3) in the case of a dimensional nonconformity, there is no other viable alternative to bring the reconstruction in conformity with the dimensional requirements of the zoning ordinance.

### **SECTION 1605. REPAIR OR RESTORATION OF NONCONFORMING STRUCTURES**

Nothing in this Ordinance shall prevent the repair or restoration of a nonconforming structure or part of it; PROVIDED that such repair or restoration does not change the use of the structure (or part of it) or any dimensional nonconformity and, in the case of a dimensional nonconformity, there is no viable alternative to bring the reconstruction in conformity with the dimensional requirements of the zoning ordinance. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

### **SECTION 1606. ZONING BOARD OF APPEALS MODIFICATIONS OF NONCONFORMITIES**

It is the intent of this ordinance to restrict and limit the expansion and perpetuation of nonconforming uses of land and/or the expansion of any dimensional nonconformity.

However, the Zoning Board of Appeals, subject to a Hearing, may allow an expansion, enlargement, alteration, improvement or modernization, provided that an applicant establishes that the compliance with the provisions of this Article XVI will cause undue hardship. When determining whether such undue hardship exists, the Zoning Board Of Appeals shall consider the following standards:

1. That a need for the requested modification is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water or topography, that will not allow the building/structure to be erected or enlarged without presenting an excessive burden to the development of the property.
2. That the strict compliance with the regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
3. That the requested modification is the minimum modification necessary to do substantial justice to the applicant as well as to other property owners in the district.
4. That the requested modification will not further reduce the value or otherwise limit the lawful use of adjacent premises.
5. That the requested modification will essentially retain the character and environment of abutting premises.
6. That the requested modification will not increase or perpetuate any nuisance aspects of the use upon adjacent uses (noise, glare, traffic congestion and land over-crowding and related).

### **SECTION 1607. USES UNDER EXCEPTION PROVISIONS — NOT NONCONFORMING USES**

Any use for which a general exception or special use is permitted as provided in this Ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

# **ARTICLE XVII - GENERAL PROVISIONS: SPECIAL AND CONDITIONAL LAND USES**

## **INTENT**

The Special and Conditional Uses in this Article are uses requiring special reviews because they may have activities that have affects which project beyond property lines, may require lengthy standards for review and/or may not be currently allocated to one zoning district, uses herein may be considered to be Special Uses, Conditional Uses, and/or Exception Uses.

## **SECTION 1700. SPECIAL APPROVAL USE AND CONDITIONAL USE REVIEW STANDARDS**

In reviewing all requests for Principal Uses Subject to Special Conditions and Conditional Uses Authorized by Special Permit, the Planning Commission or Zoning Administrator shall require compliance with any of the following as may reasonably apply to the particular use under consideration:

1. Non-detrimental impact upon the surrounding uses in the District, particularly as related to traffic generating potential, servicing by trucks, hours of operation, pedestrian traffic, and inhabitability of existing uses.
2. Site size to accommodate the use, its future expansion, customary accessory uses and on site services (sewage disposal and water supply).
3. Assure no significant adverse impacts on the community, including fiscal impacts and any effects due to increased rate of growth on the existing and currently planned land uses, and the environment are likely to result from the proposed project, including related components of the project, such as streets, sewer and related land developments, and the future phases of the project;
4. No unacceptable adverse impacts of the project or its related elements or action on public facilities and services including fiscal and community impacts on the Township and its residents.
5. The Township may impose conditions where reasonably necessary to prevent or mitigate the adverse impacts to adjacent land uses, natural, historic or other

resources, the character of the surrounding area, and impacts or costs to the Township or community, and to protect the health safety, and welfare of the Township and the environment or natural resources.

6. No direct or cumulative likely pollution, impairment, or destruction of air, water, natural resources, or historical resources; and if so, a determination that there is no other alternative, action, element, or design of the project that could be implemented consistent with the standards of Section 1700.
7. Non-detrimental impact of the proposed use on the quality and quantity of water resources, domestic water supplies and capacity to absorb the anticipated sewage disposal demand.
8. Entrance drives to the use and off-street parking areas shall be no less than twenty-five (25) feet from a street intersection (measured from the road right-of-way) or from the boundary of a different Zoning District.
9. The use does not conflict with the principles, goals, or objectives of the Township Master Plan or Comprehensive Plan.
10. Suitability of access to the use, assuring that minor residential streets are not used to serve uses that have larger area-wide patronage.
11. Allowance is made for vehicles to enter and exit the use safely and no visibility impediments to drivers are created by signs, buildings, land uses, plantings, etc.
12. Open spaces and common areas, when offered by an applicant as an integral element of a Planned Unit Development or Special Use Permit Project, may be required to be formally assured by one or more of the following instruments:
  - a) Scenic, Farmland, or Open Space Easement
  - b) Conservation Easement
  - c) Deed Restriction
  - d) A similar dedication mechanism

The open space dedication instrument shall name the State, the County, a Local Unit of Government, or a land conservation/conservancy organization, as a party to the instrument, as determined to be most acceptable for the particular property and agency involved.

## **SECTION 1701. SPECIAL USE AND CONDITIONAL USE PERMIT TERMINATION**

1. A special or conditional use permit shall be valid for as long as the approved permitted use continues in accordance with the terms stated in the approved permit. A special use permit shall expire or be discontinued by one or more of the following conditions:
  - a) When a special use replaces or supersedes the original special use on a property, provided however, that the Planning Commission may approve two or more special uses as appropriate to occupy a site simultaneously.
  - b) When the original special use is replaced by a Principal Permitted Use, and the applicant does not include the special use on his site plan.
  - c) When the applicant requests the rescinding or removal of the Special Use, and a hearing is held to document the planned rescinding.
  - d) When after 48 months, from the date of a signed permit, and based on evidence of vacating, abandoning and/or moving to another location, the Planning Commission by public hearing declares a special use to be null and void for reasons stated.
  - e) When, after 12 months from the date of a signed permit, the specific terms of the Special Use Permit have been violated and are not in compliance. Notice of the expiration shall be given to the applicant in writing.
2. Once granted a Special or Conditional Use Permit becomes a Permitted Use within the district in which such use is located, provided:
  - a) Such permit was issued in conformity with the provision of this ordinance.
  - b) Such permit shall be deemed to effect only the lot or portion thereof and uses thereupon for which the Special Use Permit shall have been granted.
  - c) Such permit authorizes a use which is subsequently built, operated and maintained in compliance with the Ordinance, and all conditions established at the time of its approval or made part of the conditional use or special use permit.

- d) The Special or Conditional Use has not expired or has not been terminated as provided for herein.

The general standards and regulations of this Section are applicable to all uses authorized by Conditional or Special Use Permit in this Ordinance, except PUD Districts which have their own expiration terms.

## **SECTION 1702. SPECIAL USES AND CONDITIONAL USES AUTHORIZED BY SPECIAL PERMIT**

In every case the uses hereinafter referred to shall be prohibited from any Districts not specifically listed. These uses require special consideration since they may service large areas, require sizeable land areas and/or may create problems of control with reference to abutting use Districts.

### **1. OUTDOOR THEATERS**

Outdoor theaters shall be permitted in B-2 Districts and I Districts, upon approval by the Planning Commission after a Hearing. Outdoor theaters shall further be subject to the following:

- a) Point of ingress and egress shall be from streets and roads capable of serving the use, but shall not impair the use of abutting properties, especially residential uses.
- b) All vehicles, waiting or standing to enter the facility, shall be provided off-street waiting space.
- c) The area shall be so laid out as to prevent the movie screen from being viewed from residential areas or adjacent major thoroughfares.

### **2. COMMERCIAL TELEVISION AND RADIO TOWERS AND PUBLIC UTILITY MICROWAVES AND PUBLIC UTILITY T.V. TRANSMITTING TOWERS AND PERSONAL WIRELESS COMMUNICATION FACILITIES**

- a) Radio and television towers, public utility microwaves and public utility T.V. transmitting towers, may be permitted by the Planning Commission after a Hearing, in B-2, I and FF Districts, provided said use shall be located centrally on a contiguous parcel of not less than one (1) times the height of the tower measured from the base of said tower to all points on each

property line. The setback standard may be reduced by up to fifty (50%) percent, if the construction plan, the tower, and its guying/anchoring systems are Certified by a Registered Professional Engineer as being safe from the hazard of falling onto public roads or adjoining properties. All guy wires/cables and anchors shall meet the zoning setback standards of the district.

No antenna or similar sending/receiving devices appended to the tower, following its approved construction, shall be permitted if it exceeds the engineered design capacity of the tower thereby jeopardizing the tower's structural integrity.

- b) The following standards will be required for all Wireless Communication Facilities:
- 1) Wireless Communication Facilities may locate in any zoning district if located on an existing building or structure, or is otherwise hidden from view by being incorporated in an existing building, or if it co-locates on an existing tower, and the proposed height does not require lighting by FCC and/or FAA regulations.
  - 2) All reasonable measures to co-locate or locate on or adjacent to an existing structure must be documented; and such location must be shown to be an infeasible alternative.
  - 3) The type of facility is a pole, and not a tower unless the pole is shown to be infeasible.
  - 4) Before a facility can be located in the FF District, all reasonable efforts to co-locate in adjacent areas, or locate in a commercial district, have been made and are proven to be infeasible, unavailable, or not a compatible land use as determined by the Planning Commission.
  - 5) The structure shall not exceed a height of 115 feet, including the antenna, and no lights are used or required.
  - 6) The applicant must find a location, and/or use construction materials that will blend the pole into the physical or natural landscape in such a manner as to be compatible with the surrounding neighborhood, and so as not to be a dominant structural feature in the neighborhood skyline. The Planning Commission finds that the structure or planned site does not change the character or adversely impact property values of the area.

- 7) The applicant proposes, or can incorporate innovative design and construction methods (or materials), and the applicant can use poles that are lower in height and/or narrower in profile than towers.
- 8) The Planning Commission finds that a location is the best overall alternative considering all factors of land use, visibility, and satisfactory signal coverage and that the proposed pole otherwise complies with the standards above.
- 9) In the event of co-location, re-location, or the shut-down, closing, or termination of operation or use of a tower, pole, or other similar device, any existing tower, pole, or device and related equipment and structures must be removed within 90 days of the installation of the co-located or relocated tower or pole. A bond or letter of credit in favor of the Township may be required equal to 120 percent (%) of an estimate of the cost of removal. This provision shall be a condition of any permit issued pursuant to this subsection 2.
- 10) If a location and facility is approved under this subsection 2, the permit shall contain a condition that the permittee and its successors or assigns agree to share the facility with another proposed facility and its equipment, as a co-location, unless it is shown that proposed additional use and equipment will interfere with the use and operation of the permittee's facility.

3. RIDING ACADEMIES OR STABLES

Commercial facilities for horseback riding may be allowed in the B-2, FF and I Districts, subject to the review and approval of the Planning Commission, who shall find that animal housing facilities are located at least 300 feet from any off-premises residential structure. Riding facilities in R-1 and RR Districts may be allowed on farms or on a temporary permit basis, subject to a finding by the Planning Commission that there is protection for developing residential uses including seasonal home areas.

4. RECREATION CAMPS, RECREATION LODGES AND RESORTS

Recreation camps, recreation lodges, campgrounds and resorts for either profit or non-profit, may be permitted to locate in the RR Recreation District and the WR Waterfront District by the Planning Commission, provided the following conditions are met:

- a) The use is established on a minimum site of forty (40) acres.



b) All outdoor activity areas, parking lots, main buildings and accessory buildings are located at least 100 feet from all property lines. The resulting 100-foot yard shall be maintained as a buffer area wherein all natural tree/shrub cover is retained in a healthful growing conditions. Planted greenbelts may be required by the Planning Commission as deemed necessary.

c) The use does not locate within the confines of a platted subdivision intended for single residential occupancy or parcels which are deemed by the Planning Commission to be logical extension of such a platted area.

5. MANUFACTURED HOMES AND MANUFACTURED HOUSING DEVELOPMENTS.

Manufactured Housing Developments intended for residential occupancy may be permitted in the R-2B Districts, or as a transition use in the I-Districts, after a Hearing by the Planning Commission provided the following conditions are satisfied:

a) Manufactured Housing Developments of three (3) or more houses shall be developed pursuant to state laws and regulations governing mobile home parks, and specifically including Act 419 of 1976, the Mobile Home Commission Act.

b) The land parcel being proposed for mobile home parks shall be of such area as to provide a minimum of twenty (20) manufactured home sites or pads.

c) No manufactured home shall be nearer to a manufactured housing development boundary line or property line than the minimum required setback in the District where located.

d) Manufactured home sites within a manufactured housing development shall contain a minimum area of at least 5,000 square feet, exclusive of service drives, facilities, and recreation space.

e) The perimeter setback areas of a manufactured housing development park shall be in lawn, or landscaped, or kept in a natural wooded state as applicable.

- f) Recreation space and other improvements within a manufactured housing development shall be in accordance with the laws and rules of Act 419 of 1976, the Mobile Home Commission Act.

6. OTHER USES OF MANUFACTURED HOMES AND TRAILERS

Manufactured homes, travel trailers and motor homes may be used as follows:

- a) As temporary dwellings in any District until the owner or occupant thereof completes the construction or erection of a conventional housing unit for which a Building Permit has been issued. The temporary dwelling may be included on the Building Permit, and maintained as long as diligent progress is being made on the main property use, and shall be removed upon issuance of an Occupancy Permit for the main use.
- b) As a watchman's or caretaker's office in B-1, B-2, and I Districts, but only as an accessory use to the main use of the premises.
- c) As a temporary contractors office and/or equipment shed in any district when in connection with a construction project authorized by Zoning and Building Codes.
- d) Other temporary uses of manufactured homes, travel trailers, or motor homes for a period not to exceed 24 months upon review and approval by the Planning Commission, provided it is determined that the use is consistent with the spirit and intent of the Zoning Ordinance and would not be detrimental to any surrounding uses or properties.
- e) The unoccupied storage of a motor home or travel trailer on any residential property by the owner thereof on his own property, shall be allowable as a permitted accessory use of the premises where there is a main use, provided such storage is confined to the rear yard when the rear yard is accessible. If the rear yard is not accessible, then storage in the side yard is permissible, if no nuisances, hazards, or blocking of views are created for the adjoining property.

7. HOSPITALS AND NURSING HOMES

General hospitals, nursing and convalescent homes, medical care facilities and similar uses may be established in R-1, R-2 and FF Districts on sites of at least ten (10) acres, subject to approval by the Planning Commission.

8. VETERINARIAN HOSPITALS AND KENNELS

May be permitted in B-2 and I and FF Districts subject to the following special conditions:

- a) Facilities for housing, treating and keeping of animals shall be located on a parcel at least 660 feet in width and at least five-hundred (500) feet from any residential district boundary or adjacent residence and provided further that the location is approved by the Planning Commission;
- b) Animals on the premises shall be housed within a completely enclosed building between the hours of 8:00 p.m. and 8:00 am;
- c) Waste, wastewater, or other effluent shall be disposed of as required by federal, state, and county law or regulation; provided that if there is no such law or regulation regulating waste or effluent discharged or released into ground or on the surface, then the applicant must show, through sufficient study and evaluation of the hydrology and soils and waste, that septic and drainfield, or other means of treatment or disposal will or is not likely to pollute, impair or destroy groundwater, surface water, wetlands or otherwise create a hazard to the public health;
- d) Noise from animals, such as barking from dog kennels, will not exceed 55 decibels within one-quarter mile of the kennel structure.

#### 9. RESOURCE MINING, EXTRACTION OR FILL

INTENT: The location of mining and extractive operations are dependent in large part, upon the sites which contain natural deposits of material having economic value, particularly to the construction industry. Sites nearest to the built-up areas are generally more viable economically, but they would be more sensitive environmentally, because of their close proximity to homes and smaller building sites. The treatment of extractive operations as a special use (conditional) is necessary to build-in the flexibility needed to permit these activities where the resources are found, and at the same time, to afford protection to adjoining properties to the extent necessary with each particular site. Public agencies, government units, and private operations are included.

##### a) Site Plan Requirements

Site plans for Special Use Permits shall be in accord with the site plan requirements of Section 2005, as applicable to the particular site, and shall in addition show:

- 1) Proposed location, area, extent and depth of excavation or fill.

- 2) Pertinent time schedules for starting and concluding dates of the proposed operation per Permit.
- 3) Location of spoils dumps, sediment basins, earth stockpiled and any permanent or temporary machinery or buildings to be used.
- 4) Roads to be used by any hauling equipment and show all planned ingress/egress points to the excavated area, stockpiled resources, and on-site equipment.
- 5) A statement on general ground water conditions, including levels and any possible impact on wells in the area.
- 6) A statement outlining the type of material to be extracted or deposited, the type of mining operation and processing equipment to be used and measures to control noise, pollution, run-off and any steps to relieve any adverse effects to adjoining properties and the environment.
- 7) Plans and statements outlining all work to be done on site reclamation, assuring that sufficient steps are taken to blend into the surrounding landscape or neighborhood as applicable.

The map scale of the site plan shall be commensurate with the size of the excavation on site, but shall be sufficient to show the site operating details as required by each Permit.

b) Site Plan Review Levels Required

The site plan review procedures required for an extraction/fill site will vary with the scope, extent and complexity of the proposed operation. The following site plan review levels shall apply:

Level I: No Site Plan Review or Permit shall be required if:

- 1) The intended fill/extraction is for earth materials to be used on the same parcel, by tax description.
- 2) The operation involves minor or incidental earth work in connection with a building construction project, i.e. berms, regraded slopes, retention ponds, and/or similar work.

Level II: Site plan approval shall be sought from the Zoning Administrator if:

- 1) Intended or projected extraction/fill areas are three (3) acres in area or less, and the operation is not located in a Residential District.
- 2) At least 100 feet separates the edge of the earth disturbance area from the nearest property line.
- 3) There are no buildings or on-site structures related to the operation. Crushing equipment, batch plants and related processing equipment shall not operate or occupy the site for a period longer than 45 days.
- 4) The total extraction and site reclamation operation will be completed within a 12-month period, except stockpiled material which can stand for a longer period not to exceed 24 months.
- 5) The extraction is not visible from a public road and the side slopes are to be restored to a safe angle or repose, and there are no unsafe/unprotected standing water conditions.

Level III: Site Plan approval by the Planning Commission if:

- 1) Intended or projected extractive/fill sites are larger than three (3) acres and any sites other than those included in Level I and Level II reviews.
- 2) Operations expected to run longer than (12) twelve months, including long term access to stockpiled resources.
- 3) Includes on-site processing machinery, batch plants and other equipment that will be used for periods longer than 45 days.
- 4) Questionable, unusual or special site conditions where the Zoning Administrator determines that Planning Commission review would be appropriate.

c) Performance Standards

The following shall apply to all proposed extraction, mining, fill operations:

- 1) All excavations or extractive work shall maintain a minimum perimeter setback of 50 feet from road right-of-way and all property lines.

- 2) The working face of an excavation shall maintain slope angles sufficient to prevent sloughing, erosion or earth disturbances of any kind to adjoining properties.
- 3) Actual excavation shall take place in one area not to exceed 4 acres ("cell"), and the cell must be restored and reclaimed as provided in this Section and the conditions of the permit before the materials from a new cell can be sold or delivered.
- 4) Leave sufficient native topsoil on the site as a ready resource to be used in reclamation work following excavation/extraction activity, unless a guaranteed replacement plan is approved.
- 5) Fences, berms, walls, and visual screening devices will be required, if necessary, to protect adjoining properties and/or persons in the vicinity of the site. Factors of safety and aesthetics shall be addressed.
- 6) The operation of mechanical equipment of any kind may be limited by the day and/or the hour if the site is in a location that directly impacts homes, by creating an operating nuisance.
- 7) All structures, equipment, and machinery of any kind shall be considered temporary and shall be removed from the site upon completion of the terms of the Special Use Permit. This item shall not apply to industrially zoned sites.
- 8) Air pollution, noise, and vibration factors shall be controlled within the limits governed by State and/or Federal regulations applicable to the facility, and shall not otherwise constitute an unreasonable interference with the use and enjoyment of adjacent property.
- 9) If necessary to protect the area, access routes serving the site may be limited as stated on the Permit or as illustrated on the site plan, it being the intent to minimize the exposure of residential streets to earth moving vehicles.
- 10) The location of earth stockpiles, machinery, equipment and any buildings, shall be approved by Permit but only in terms to protect adjoining properties, and obtain the optimum use of the site. Topography, vegetation, screening devices, and physical isolation from residential properties shall be considered in locating site facilities and earth stockpiles.

d) Site Reclamation

The final grading and land reclamation plan for each permitted excavation shall be in general accordance with the character of uses and natural features on adjoining lands to the extent practical. Excavations shall be finished with evenly contoured grades to blend in with the adjoining terrain. In Residential Districts, the final grade of an excavation may be required to be brought back to a level determined reasonable to continue future residential development, i.e. as along a common street or road with adjoining residential land.

- 1) Reclamation, restoration, and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of a cell. Upon completion of mining from last cell, the entire area shall be reclaimed, restored, and rehabilitated in accordance with a site reclamation plan submitted to and approved by the Planning Commission as a condition to issuance of a conditional use permit. Where possible, such rehabilitation and reclamation shall be accomplished concurrently with the mining or excavation operations. An alternate reclamation plan may be filed for cases where continuous reclamation is not feasible and a surety bond is provided therewith.
- 2) Excavations which encounter ground water or trap surface water, shall be treated in one or more of the following, as applicable to a particular situation:
  - (a) Stagnant water conditions shall not be permitted to continue and back filling with approved materials may be required.
  - (b) Where water is to remain, either by planned re-use or because no other option exists, the depth shall be sufficient to avoid stagnation, and the shoreline and bottom land grade shall be uniform at one ft. vertical to five ft. horizontal (1:5). The water depth shall be posted.
  - (c) Depending on the nearness of residential neighborhoods, and access by children, the created water body may be required to be safety fenced, posted for no trespassing, or similar safety precautions deemed appropriate for the site.
- 3) The final banks of all excavations shall be sloped at a grade which is not steeper than one (1) ft. vertical to three (3) ft. horizontal (1:3) from the top to the pit bottom, or otherwise be established to blend in with the adjacent terrain and/or stabilize at the soils natural angle of repose.

- 4) Top soil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches, or other planned improvements are desired. Where used, topsoil shall be applied to a depth sufficient to support vegetation.
- 5) Vegetation will be required to be restored by seeding of grasses or sodding and/or the planting of trees and shrubs.
- 6) Upon cessation of mining operations, and within a reasonable period of time not to exceed 24 months thereafter, all plant structures, buildings, and equipment shall be removed, except for that necessary to manage on-site stockpiled materials. This does not preclude a restart at another time upon application and approval of a conditional use permit.

Specific site reclamation requirements may vary somewhat depending on the location of the site in terms of its exposure to view, physical isolation, influence on residential areas, sensitivity to the natural environment and/or re-use potential (or plan). The Planning Commission shall rule on such variations with reasons stated.

e) Special Use Permit

Nonconforming mining operations, those which are active or have been active within the last 24 months, and established as a business operation, shall not require a permit, provided such operations do not increase their nonconformity relative to the performance standards of this Ordinance, and no hazardous site conditions are maintained. No such operation, however, shall extend into the required 50 feet setback area and precautions shall be taken to avoid leaving hazardous conditions.

To avoid duplication, the Zoning Administrator may accept the documents required for permits under Act 347 of 1972, the Soil Erosion and Sedimentation Control Act, as amended, now Part 91 of the Natural Resources and Environmental Protection Act, MCL 324.9101, *et seq.*, provided that the terms, standards, and review requirements of the Zoning Ordinance are complied with. However, the applicant must file a soil and erosion and storm water control plan, including control of non-point source run-off, demonstrating it complies with Act 347 and any other applicable law, regulation, or ordinance. Any extraction or fill operation subject to



regulations and licensing under state law, shall be exempt from zoning laws, but only where such exemption is extended by state law.

Permits shall contain the full extent of the operation as specified in each Permit, and any deviation or enlargement of the scope of operation shall require a separate Permit.

f) Performance Guarantees

In those instances, where in the opinion of the Planning Commission or Zoning Administrator, a resource excavation/fill operation entails extensive reclamation work and/or safety precautions, financial guarantees or assurances as prescribed in Sec. 2005-7 of this Zoning Ordinance may be required as a condition to issuing a Special Use Permit under the terms of this Ordinance.

In lieu of a bond requirement or financial guarantee, the Planning Commission may substitute a staged or phased excavation program wherein performance on reclamation shall be substantially completed prior to undertaking the next phase.

10. SANITARY LANDFILLS

All sanitary landfill operations shall be approved by the Planning Commission and shall be authorized and comply with standards prescribed by applicable State and County Solid Waste Plans and County Solid Waste and Health regulations; provided no such operation shall be permitted in any R-1, RR, or HR District and further shall be conducted on sites located no less than 1,000 feet from any surface water, wetland, or public street and be screened from sight by natural terrain, greenbelts, natural wooded areas or finished and maintained screening fences.

11. HOME BASED BUSINESSES

- a) May be allowed only in the FF and R1B districts.
- b) All zoning applications for special use approval of home based businesses shall include the following information:
  - 1) A written description of the nature of the business
  - 2) Number and type of vehicles involved
  - 3) Hours of operation
  - 4) Location of off-street parking for patrons and persons engaged in business

- 5) Number of employees and the names of the occupants or family member conducting business at the location
  - 6) Amount and type of waste products or effluent discharges (if any).
  - 7) Noise level and types involved
  - 8) Any other potentially identifiable adverse effects, including any conditions resulting from the services and/or products being created which generate noise, noxious odors, unsanitary or unsightly conditions, excessive traffic, fire hazards and the like, involved in or resulting from such occupation.
- c) Once the Zoning Administrator receives a complete application, that official will forward a copy of the complete site plan to the Planning Commission for consideration as a special use.
  - d) Any approved home based business shall be subject to inspection by the Resort Township Zoning Administrator with reasonable notice to the proprietor of the business.
  - e) Home based businesses shall only be approved on the basis of individual merit and will adhere to the use and any special conditions stated on the permit.
  - f) Home Based Businesses shall be a use allowed by Special Use Permit in the FF Farm Forest District and R-1B District pursuant to the procedures in Article XVII of this Ordinance. The business shall be in compliance with the general standards of Section 1700 and the following specific standards:
    - 1) Any structural additions to the home for purposes of operating said business shall be of an architectural style that is comparable with the architectural style of the existing home, or surrounding homes, and further, is designed so that the addition can readily be used for housing purposes if the business is discontinued.
    - 2) The proprietor of the home based business shall live on the premises and shall remain so during the entire life of the business. Up to four persons not residing on the premises may work in the business.
    - 3) All activities shall be conducted within the dwelling or accessory building and the services and/or products produced will be contained entirely within the dwelling or accessory building.
    - 4) If an accessory building is to be used, it must be identified on the special use permit. A site plan layout is required and shall depict the accessory building to be sited, designed, and located on the property in

such a manner as to avoid the appearance of a retail store or industrial building.

- 5) Any accessory building space for home based business shall not exceed a total floor area of 1,200 square feet.
- 6) The Accessory building shall meet all setback requirements of the FF or R-1B district.
- 7) No more than 25% of the floor area of the dwelling shall be devoted to such home based business.
- 8) The Planning Commission may set other conditions on the special use permit, including hours of operation.
- 9) There shall be no outdoor storage or display of materials, goods, or services in connection with a home based business.
- 10) Signage indicating the type of home based business or advertising for the home based business will be limited to one, non-illuminated sign not to exceed twelve (12) square feet.

## 12. SALVAGE YARDS, METAL RECYCLING AND SCRAP

INTENT - Salvage yards are declared to be Special Uses in that they:

Are generally not acceptable in organized industrial parks.

- § Usually require large sites for self- isolation.
- § Are necessary for the re-use, recycling and recovery of metal resources.
  - Have unusual physical characteristics in terms of appearance, land coverage, noise, and related features that constitute difficult site location standards.
- § Have the potential to release hazardous and/or toxic liquids into the groundwater.

### a) Salvage Yard Classifications

Salvage yards that can be considered shall be defined and regulated by type or class depending on the scope of its intended operation. These are:

#### Type I

A full service metal salvage center intended for the collection, storing and/or processing of scrap metals of all kinds, and other materials defined as junk in Sec. 200 of this Ordinance.

#### Type II

A limited salvage facility with open storage on less than 10,000 sq. ft. of land and where the materials are not stacked. This facility is not a vehicle repair or sales use except as an incidental function to the salvage operation.

Type III

A site used for short periods of time for community vehicle collection programs. This facility does not include continuous processing or repairing, and is intended for annual clean-up programs to collect sufficient materials to warrant a visit by vehicle crusher, shredder, or similar processor.

In approving Special Use Permits for salvage operations the Planning Commission shall classify the facility as being Type I, Type II, and/or Type III, and shall weigh the type of a facility in requests to modify any siting standards.

b) Requirements

Metal recycling centers or yards, or facilities, including salvage yards or scrap yards, and which uses include the storage, dismantling, sorting, cutting, crushing, and/or other processing activities primarily associated with metal goods, provided:

- 1) All activity and uses are within a defined and confined space as opposed to being dispersed over the site. Only that area designated on the site for these uses shall be permitted to be so used.
- 2) No oils, lubricants, or other liquids from vehicles, machinery, or equipment or other materials, shall be disposed of on-site, unless State of Michigan approved facilities are properly in place and properly functioning. No burial of wastes shall be permitted on the property under this ordinance section.

The applicant must show through studies and reports how potentially hazardous materials or liquids are to be prevented from entering the groundwater or surface water on or off-site, and present a written plan for handling and disposal of such hazardous materials or liquids.

The applicant may be required to provide a written contingency plan for hazardous/toxic spills, including a commitment to conduct response and clean-up actions. The Planning Commission may require a roofed work area with an impervious floor with floor drain collection system.

- 3) Unless the applicant can demonstrate that no good purpose would be served, the proposed site shall have a minimum of six (6) feet of vertical isolation from groundwater, and be at least 1,000 feet from an identified surface water. In the event there is a likelihood of release of hazardous substances incident to operations, then a secondary containment facility and remediation and clean up plan in event of a release of pollutants shall be provided.
- 4) Screening devices to include but not necessarily be limited to fences, greenbelts, berms or natural features shall be employed to provide maximum visual obscurity of the use. No such device shall be constructed without approval of the structural details and type of materials to be used, and adhere to a stated installation schedule.
- 5) Entrance/exit points shall give due consideration to minimizing conflicts with adjacent properties, and the views from adjacent properties and/or public roads shall be a major consideration in positioning the use on the property.
- 6) Activity that generates continuous and persistent noises or vibrations that are perceptible from off the site shall not be permitted before the hour of 8:00 a.m. and after 6:00 p.m. and no such activity shall operate on Sundays. Exceptions may be permitted for annual or semi-annual on-site crushing operations, or the like.
- 7) Open burning shall not be permitted except by State Permit, and it shall apply with paragraph 6 of this subsection.
- 8) Once approved, no other portion of the property shall be used for activities regulated herein without an amended site plan and Special Use Permit, and there shall be no presumption that any usage beyond that in the original permit would be approved.
- 9) The minimum site size to consider for uses permitted herein shall be 35 acres or more by description and have at least 900 feet of width and depth throughout. All salvage yard uses shall be at least:
  - (a) 300 feet from a property line
  - (b) 600 feet from any residence
  - (c) 600 feet from a Residential District Boundary

- 10) The height of stacked metals and/or materials shall be regulated by screening and the physical characteristics of the site, but in no instance be higher than twenty (20) feet.

The Planning Commission may modify the terms of this section where it can be demonstrated by applicant that no good or practical purposes would be served and there is no feasible and prudent alternative, and for temporary collection sites to be used for less than 12 months.

c) Reasons for Denial

The Planning Commission may refuse to grant a permit for any salvage uses regulated herein, because of one or more of the following:

- 1) The topography is such that the use has wide visual exposure to surrounding properties and public roads, and/or land conditions are such that screening plans would be ineffective or impractical.
- 2) There are conflicts with natural water courses and/or there are undesirable impacts on or impairment or pollution of air, water, wetlands, farmlands, forest lands and habitat, or other natural resources.
- 3) It is determined by the Planning Commission that the proposed use on the proposed site is inappropriate for the area, and not in accord with the principles of land use expressed or implied in the interpretation of appropriate use shall also consider, but not necessarily be limited to: recognized scenic resources, recreation lands, neighborhoods, historic sites, tourist attractions, and similar uses that would be adversely affected, and not be in the best interests of public welfare.
- 4) Failure to show an ability to comply with the standards listed in this Ordinance Section.

d) Violations Not Nonconforming

Any salvage yard or junk storage use determined to have been established in violation of the terms of the Resort Township Zoning Ordinance shall not be accorded the status of "nonconforming" as defined in this ordinance, but shall be pursued as ordinance violations. Such uses, however, shall have the right to hearings and procedures to qualify for a legal Special Use Permit as prescribed in this Section.

### 13. LAND DEVELOPMENT STANDARDS

Land Development projects in Resort Township, in all districts, shall be subject to review as a Special Use Permit as stipulated hereafter:

a) Uses Subject to Review

All proposed land development projects that involve condominiums and non-platted land division which will result in five (5) or more site units or zoning lots within a ten (10) year period of time are subject to review.

b) Unit Configuration and Design Standards

Condominium units and their adjoining common element yards (not roads) and other non-platted land divisions as described in 13A above shall conform to the zoning lot dimensional, area, height, bulk and setback provisions as regulated in Article XV, Schedule of Regulations. Said zoning lots may be required to be staked in the field for use in identification.

Zoning lots or condominium site units abutting a public or private road may be required to be designed with reverse lot frontage, have a side-lot orientation to roads, and/or be accessed from a service road(s).

All proposed projects shall conform to the standards of Sec. 2005, Site Plan Review, and shall include an inventory of on-site natural features. Further, all Private Roads shall comply with Section 1810. The plan shall illustrate how the arrangement of proposed zoning lots relates to the natural features.

1) Access Road Design Standards

The following standard shall apply to all land development projects as described above: All Public Roads shall comply with Emmet County Road Commission Standards.

### 14. SEXUALLY ORIENTED BUSINESSES

#### INTENT

The intent of these regulations governing sexually explicit and/or pornographic materials related to, so called, adult entertainment, is to permit such usage on the presumption that such uses not be banned outright, but only regulated to the extent allowable by State and/or Federal Law. Because these uses may have the potential of being contrary to the safety, peace, morals, and general welfare of the

community in which they locate, these external effects require community review and control. In general, the design, architecture, operation and impact of uses regulated herein, shall not be at noticeable variance with other generally accepted retail business establishments within the District.

Uses subject to these controls and referred to herein as Regulated Uses are as follows:

1. Adult Bookstore and Novelty Business
2. Adult Cabaret
3. Adult Personal Service Establishment
4. Adult Motion Picture Theater

a) Definitions

As used in this section, the following terms shall have the indicated meanings:

1) Adult Bookstore and Novelty Business

An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, anyone or more of the following: a) books, magazines, periodicals or other printed matter, or photographs, films, movies, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas, or b) instruments, devices, or paraphernalia designed for use as part of, or in connection with, specified sexual activities.

2) Adult Cabaret

A nightclub, bar, restaurant, lounge, dance hall, or similar establishment where, for any form of consideration, employees and/or entertainers provide patrons, guests or members with exposure to specified anatomical areas or specified sexual activities, on a regular, irregular or special event basis.

3) Adult Personal Service Establishment

An establishment or business having as a substantial portion of its activities one or more persons who, for any form of consideration, while nude or partially nude, provide personal services for one or more other persons in a closed room consisting of actual or simulate specified sexual activities, or erotic modeling, rubs, body painting, wrestling, or theatrical performances which are characterized by, or include, emphasis on the display of specified anatomical areas.

4) Adult Motion Picture Theater



An establishment where, for any form of consideration, films, motion pictures, videos, slides or other photographic reproductions are shown and in which a substantial portion of the total presentation is devoted to the showing of material characterized by and emphasis on the depiction or description of specified anatomical areas or specified sexual activities.

5) Substantial Portion

Substantial portion means a use or activity accounting for ten percent (10%) or greater of any one or more of the following: stock-in-trade, display space, floor space, viewing time, movie display time or entertainment time measured per month.

6) Specified Anatomical Areas

Specified anatomical areas means and includes any one or more of the following: a) less than completely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or b) human male genitals in a discernible turgid state, even if completely and opaquely covered.

7) Specified Sexual Activities

Specified sexual activities means and includes any one or more of the following: a) the fondling or erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; b) human sex acts, normal or perverted, actual or simulated, including but not limited to intercourse, oral copulation, and sodomy; c) human masturbation, actual or simulated; d) human excretory functions as part of, or as related to, any of the activities described above; and e) physical violence, bondage, mutilation, or rape, actual or simulated, as part of or as related to, any of the activities described above.

b) Conditions

Adult Bookstore, Adult Cabaret, Adult Personal Service Establishment, and Adult Motion Picture Theater (hereinafter referred to as adult entertainment establishments) defined above in Paragraph 14 of Section 1702 may be in the B-2 Business District or I Light Industrial District as a Special or Conditional Use upon showing compliance with the intent and the following conditions are met:

- 1) No adult entertainment establishment may be established, operated, or maintained within 500 feet of a residential zoning district per Article III, Section 300 and/or a part of any PUD district which is planned residential.
- 2) No adult entertainment establishment may be established, operated, or maintained within 1,000 feet from any recognized house of worship, state-licensed day care facility, public library, public park, public or private

educational facilities serving persons age seventeen (17) or younger, cemetery, or public assembly buildings including government offices. This buffer standard applies to any listed use, within or outside of the zoning boundaries of this Ordinance.

- 3) No adult entertainment establishment may be established, operated, or maintained within 1,000 feet of any other adult entertainment establishment.
- 4) Distance limitations shall be measured in a straight line, without regard to intervening structures, from the closest exterior wall of the Regulated Use or building containing a Regulated Use to the nearest property line of a parcel zoned residential or a parcel occupied by uses specified above in paragraph 2.
- 5) No exterior displayed symbols, lighting arrangements, signs, banners or wall paintings shall be permitted if it is of, or suggestive of a nude person, and no such display shall be permitted within a building if such is visible from outside the building containing said Regulated Use.
- 6) All of the terms of the sign regulations shall be in compliance (Section 1806).
- 7) No such establishment or use may be located in a PUD District unless allowed pursuant to notice, hearings, and determinations under the applicable standards for a PUD.
- 8) Access shall be from within 5500 feet of a State Trunk line Highway, excluding Heritage Highways, and scenic highways.
- 9) Depending on the specific site and specific use, the Planning Commission may regulate the hours of operation, within the hours of 10 a.m and 12 midnight, and days that such uses are required to observe.
- 10) Vehicles used in the business shall not have decals, signs, symbols, displays, etc., that call attention to pornographic and/or sexually explicit materials.
- 11) If the Planning Commission determines that inadequate natural screening existing on-site of the Regulated Use, landscaped buffering will be required.

c) Exceptions

The 500 foot buffer to residential zones listed Section 1702 paragraph 14 subparagraph b) part 1), the 1000 foot isolation distance from the identified uses in Section 1702 paragraph 14 subparagraph b) part 2), and the 1000 foot

buffer between regulated uses written in Section 1702 paragraph 14 subparagraph b) part 3), may be reduced by up to thirty percent (30%) for specific site characteristics provided the intent of the ordinance is still advanced, subject to Resort Township Planning Commission approval, and based on one or more of the following:

- 1) Severe topographic features, e.g. steep slopes
- 2) Natural bodies of surface water
- 3) State trunk line highways or railroads
- 4) Cluster or blocks of nonresidential uses of a commercial or industrial character
- 5) Other substantial physical barriers, such as earth berms, and rock or masonry walls

In any such review, a reduction of up to thirty percent (30%) may be approved if the Planning Commission finds that it would result in a better or more favorable site plan, considering nearness to roads and visual impacts from adjacent properties. Any review of an isolation distance reduction shall also consider the character of the land uses in the area and take into account pedestrian-ways, particularly routes used by school children.

#### 15. DOMESTIC FARMS & FARM ANIMALS

Domestic Farms as defined in this Ordinance are regulated in Residential Districts (listed in Section 300) and Farm Forest (FF) Districts according to the following standards:

a) Domestic Farms in Residential Districts:

- 1) All farming uses that involve the raising of crops, including floral products, trees, shrubs and other plants on parcels of any size when conducted out of doors.
- 2) Domestic Farms that include livestock on sites of 2.0 acres or larger, as follows:
  - (a) One horse for the first 2.0 acres, plus one additional horse for each additional acre of contiguous land (ownership or lease).
  - (b) Corrals, stables, and enclosure fencing shall meet the setbacks of the District, and building sizes comply with Section 1800, Accessory Buildings.
  - (c) Other farm animals subject to approval by the Zoning Administrator, who shall determine that the densities relate to item (a) herein,

and/or meet one acre per "Farm Animal Unit" as defined in this ordinance, and that no nuisances are created.

16. WIND ENERGY CONVERSION UNITS

Wind energy conversion units (wind turbine generators "WTG") may be located and permitted in the B-2, I and FF District as a special use permit by the Planning Commission after at least one public hearing, provided the unit shall be located centrally on a parcel measured so that the distance from the external edge of the unit to the boundary of the parcel is at least 2 times the height of the unit's highest point. All other equipment or structures shall meet the setback standards for the District and the unit and all structures shall be certified safe by a registered professional engineer. In addition to the general standards for a special use permit, the WTG shall meet the specific standards set forth below:

- (a) A visual analysis which may include mock up, photo montage, or other techniques shall be submitted and show the impact on views from the facility and adjacent properties and the surrounding view-shed; and it shall also show no other feasible and alternative location, size, or design that would have less impact or mitigate the impacts of the proposed unit. If more than one unit is proposed or planned for the same view-shed in the future, then the cumulative impacts of all proposed and planned units shall be addressed as provided in this subsection.
- (b) Based on the visual impact analysis provided above, the Planning Commission may increase the parcel or lot required.
- (c) Any access road shall be at least 15 feet wide and a 50-foot radius cul-de-sac and at least two parking spaces.
- (d) No accessory buildings or structures are allowed except those directly necessary and part of the WTG and shall meet all zoning standards applicable to the zoning district in which it is located.
- (e) The WTG design shall be designed, built, and maintained to withstand the maximum forces that might be expected from wind and earthquake or other natural occurrence under circumstances when the unit is fully loaded and operated. Design compliance with this standards shall be certified by a professional structural engineer, and the certification and report shall be filed with the Planning Commission before any approval; further an "as-built" certification shall also be filed with the Planning

Commission within 60 days of completion and before operation. Further, an on-going inspection report shall be with the Zoning Administrator annually not later than October 1.

- (f) A fire protection and emergency plan approved by the fire chief shall be required.
- (e) The applicant shall comply with all Uniform or National building, electrical, mechanical, fire codes.
- (f) Lighting shall not be used except for personal safety of persons accessing the site and except as required by the Federal Aviation Administration, and then it shall be minimized to protect adjacent residents.
- (g) Maximum level of noise shall not exceed 60 decibels as measured at the property line from the nearest WTG unit. At no time shall the unit or units operation cause any vibration humanly perceptible beyond the property lines of the parcel.
- (f) The Planning Commission may impose such other conditions as are reasonably necessary to minimize impacts and promote the health, safety, and general welfare, and the WTG and all other structures shall meet the general standards for special use permits set forth in Sec. 1700.

## 17. ELECTRIC TRANSMISSION FACILITIES AND SUBSTATIONS

Electric Transmission Facilities and Substations shall be permitted in all districts where it is listed as a “Principal Use Permitted” or a “Principal Use Permitted Subject to Special Use Conditions and Approval.” The following standards will be required for all Electrical Transmission facilities and Substations for which Special Use approval is needed:

- a) The applicant shall show that there is a demonstrated need within the Township for an additional facility or substation at the proposed location. If the facility or substation may primarily serve areas outside of the Township’s zoning jurisdiction and is located in an area zoned with residential or farm forest classification, the Applicant shall demonstrate that there is no other feasible and prudent alternatives to locating the facility or substation in the proposed location. In addition, before a facility or substation can be located in a Residential or FF District, the applicant must show that all reasonable efforts to locate in a Commercial or Industrial

district, or within the adjacent zoning jurisdiction that the facility will serve, have been made and are proven to be infeasible, unavailable, or not a compatible land use as determined by the Planning Commission.

b) Electrical transmission facilities and substations shall be located in a building or structure, or otherwise hidden from view from any public access road or access point, to the extent reasonably possible.

c) The Planning Commission shall determine whether the proposed location is the best overall alternative considering all factors of land use, visibility, and proximity to power supply and that the proposed facility or substation otherwise complies with the standards above.

d) If a location and facility is approved under this subsection, the permit shall contain a condition that the permittee and its successors or assigns agree to share the facility with another proposed facility and its equipment, as a co-location, unless it is shown that the proposed additional use and equipment will interfere with the use and operation of the permittee's facility.

#### 18. ACCESSORY SOCIAL EVENT USES ON AGRICULTURAL OR RESIDENTIALLY ZONED LANDS

INTENT. It is the intent of these zoning regulations to:

- Promote and maintain local farming;
- Preserve open space and farmland;
- Maintain the cultural heritage and a rural character;
- Maintain and promote tourism; and
- Protect residential uses from negative impacts of commercial uses.

##### **A. Permitted Accessory Uses**

The Special Uses permitted pursuant to this Section may include one or more of the following: Social events which may include weddings, receptions, entertainment gatherings, and similar social activities operated or intended to be operated as a commercial operation.

**B. Fire Protection** -The accessory use shall only be approved upon approval of the use and site plan by the Township Fire Chief.

**C. Site Size and Setback** - The minimum property size shall be twenty (20) acres or larger, having at least 600' of lot width. The accessory use shall be setback a minimum of 150' from all property lines.

**D. Outside Activities** - All primary activities which involve sound systems or amplification systems shall be either within a completely enclosed structure or, if the

sound systems or amplification systems are located outside, they shall be setback a minimum of 1,000' from off-premise permanent dwellings.

The applicant may request a reduced setback if they can provide documentation showing they could meet the following standards: All primary activities which involve sound systems or sound amplification systems shall maintain a decibel level not to exceed 75 dB(A) at the property line between the hours of 10 AM through 10 PM. All other hours, decibel levels may not exceed ambient sound levels.

**E. Owner Occupancy** - Buildings and uses permitted shall only be approved on properties or contiguous properties occupied by the owner/operator. Owner/operator shall be on property for any event.

**F. Overnight Sleeping** - The special events and activities shall not involve the overnight sleeping accommodations for event patrons, except for the owner/operator.

**G. Hours of Operation and Frequency** - The accessory use shall be limited to the hours of 10AM to 11PM. The number of events per month shall be provided by the applicant to the Planning Commission and may be limited based on specific site conditions and the characteristics of the neighborhood.

**H. Building Limitations** - The ground floor of proposed buildings associated with the uses permitted shall not exceed an area of 2,400 square feet. Larger buildings may be considered by the Planning Commission based on specific site conditions and characteristics of the neighborhood. Permits from other agencies, such as Emmet County and/or the State of Michigan, may be required.

**I. Parking** - Parking spaces shall be provided in accordance with the standards of Section 1801 of this Ordinance, except that 1) Parking areas shall be setback a minimum of 100' from the side and rear property lines and 50' from the road right-of-way, 2) Parking areas shall be setback a minimum of one hundred (100) feet from all off-premise dwellings, 3) Parking shall be adequate to accommodate all users and uses on-site, 4) Parking shall be kept in a natural vegetated condition to the greatest extent possible, 5) Driveway access must meet the minimum standards of the Road Agency having jurisdiction, and 6) The parking area shall be effectively screened from adjacent properties.

**J. Lighting** - Outdoor lighting shall meet the Standards of Section 1803 (3) of this Ordinance.

**K. Signs** - Accessory Signs shall follow the Standards of Section 1806 of this Ordinance.

**L. Temporary Structures** - All temporary structures shall be located so as to minimize potential adverse effects and impacts on adjacent and nearby properties. Temporary structures shall be erected no more than three (3) days prior to the event and shall be removed within three (3) days following an event.

**M. Other Activities** - Any activities other than those included in the original Special Use Permit require additional approval from the Planning Commission to amend the Special Use Permit.

**N. Applicability**

These Standards shall not apply to private (non-commercial) similar uses on properties used for residential purposes and which occur on an occasional basis (four times per year or less).

**O. Modifications**

Modifications to the Standards listed in items C thru M above may be approved by the Planning Commission, if the intent of the Zoning Ordinance is kept and the surrounding properties are protected from nuisances.

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**ARTICLE XVIII - GENERAL PROVISIONS: PERFORMANCE USES**

**INTENT**

Performance Uses are regulated herein as development features that are generally in addition to the main uses of a property. It is intended that these features be separated in the zoning text from Special Permit Uses.

**SECTION 1800. ACCESSORY BUILDINGS**

**1. ACCESSORY RESIDENTIAL BUILDINGS SETBACKS AND FLOOR AREAS**

Customary residential accessory buildings are permitted by right provided they are incidental to and customarily found in connection with a main residential use of the property on which it is located.

Accessory residential buildings shall be regulated as to size and setback according to the following standards:

- a) Accessory residential buildings shall be subject to the side and front setback requirements as regulated by District in Article XV, Section 1500, but no accessory building with 600 sq. ft. or less floor area, need be farther from a lot line in the rear yard than ten (10) feet. This setback provision shall not apply to lots fronting on a lake, river or stream.
- b) Residential accessory building sizes shall be regulated as follows:

<b>Zoning District</b>	<b>Location on the Property</b>	<b>Maximum Ground Floor Area*</b>	<b>Maximum Height to the Eave</b>
R-1A, R1-B, R-2A, R-2B, RR, WR	Front Yard Side Yard Rear Yard	1,000 Sq. Feet 1,000 Sq. Feet 1,400 Sq. Feet	10 Feet 10 Feet 14 Feet
FF	Front Yard Side Yard Rear Yard	1,200 Sq. Feet 1,200 Sq. Feet 2,400 Sq. Feet	14 Feet 14 Feet 14 Feet
B-1, B-2, and I	N/A	N/A	N/A

\* On a corner lot, i.e. with two front yards, the Zoning Administrator may approve one yard to qualify for an accessory building that meets the size standards for a rear yard accessory building.

- \* If the setback from the front lot line is 200 feet or more, the said yard for determining accessory building size can be considered a rear yard.
- c) Accessory Residential Buildings in all Residential Districts (Sec 300) shall be limited as follows:
  - 1) Detached Accessory buildings shall not contain any sleeping or dwelling facilities.
  - 2) One (1) detached accessory residential building up to the maximum allowable size per zoning lot of five (5) acres or less.
  - 3) For each additional five (5) acres of zoning lot area, above five (5) acres, one (1) additional accessory building up to the maximum allowed floor area may be permitted, but not more than four (4) such buildings.
  - 4) In addition to the standards listed in 1) and 2) above, one (1) detached accessory building is not to exceed 200 sq. ft. in ground floor area, may be permitted for such use as tool shed, wood storage, equipment housing, animal shelter, and the like.
- d) For purposes of this section an attached accessory residential building is one that is designed and constructed so as to be an integral architectural feature of the main residence, i.e. structurally attached and of the same or equivalent building materials.
- e) Existing accessory residential buildings shall be considered to be conforming buildings for the purposes of this Section. Accessory buildings shall be exempt from the floor area limitations, when legally constructed in connection with an approved main use that is other than residential. Farm use buildings, in the conventional sense, are exempt from these provisions, as are garages and carports in multiple family housing developments.

## 2. ACCESSORY BUILDINGS AS A MAIN USE

Customary accessory residential buildings may be constructed without the requirement for a main building subject to a Hearing and approval of the Site Plan by the Planning Commission when the following conditions are met:

- a) The structure is sited in such a manner as to permit the construction of a legal main use at a future time, but shall be subject to the size limitations stated in Sec. 1800-1b. For these regulations, rear yard shall refer to a location seventy (70) feet or deeper from the front property line, which is also the road right-of-way line.

- b) The structure is constructed of materials and is of a design that is not so at variance with existing dwellings in the immediate vicinity as to have a devaluing influence, in the opinion of the Planning Commission. The applicant shall provide elevation sketches and floor plans of the proposed structure in order to assist in the determination of architectural variance.
- c) The structure may be required to locate in such a manner as to attain natural screening by existing vegetation, or plantings may be required to at least partially screen the use from the view of adjoining properties and/or public roads.
- d) All uses of the property must be in keeping with the residential or recreational use character of other properties in the immediate vicinity.
- e) The applicant shall file an affidavit with the Register of Deeds stating the proposed use of the building.

3. MINOR STORAGE BUILDINGS AS A MAIN USE

Where there is no residence or other permitted use on the same property, minor storage buildings may be permitted, subject to the following conditions:

- a) Only one such structure shall be permitted.
- b) The ground floor area shall not exceed 200 sq. ft. in Residential and Farm Forest Districts.
- c) The top height of any such building shall not exceed 10 ft.
- d) Landscaping/plantings may be required to at least partially screen the building from adjacent roads and/or properties.
- e) Structures shall not be improved with slab floors or permanent foundations in Residential Districts.
- f) Structures in the Farm Forest District which meet these requirements can be approved by the Zoning Administrator.

Buildings constructed under this section shall not be used for any purposes except to store personal property related to permitted uses of the site, and such structures shall not be occupied by or used to house persons or animals (unless on a farm) or otherwise be a base for any activities prohibited in the district.

4. ADDITIONAL ACCESSORY BUILDINGS AND USES

Properties are not limited from having more than one accessory building or accessory use such as gazebos, pool houses, garden tool shelters, wood storage sheds. Such additional uses, however, shall be in keeping with the definition of accessory uses and further shall be in keeping with the spirit and intent of Section 1800.

5. GUEST HOUSE

Guest Houses may be permitted as an accessory use in a Residential or Farm-Forest District provided sufficient zoning lot area can be provided so that the guest house can meet the lot size and yard requirements of the District.

6. ENTRANCE GATEHOUSES and OTHER ENTRANCE FEATURES

Structures marking entrances to subdivisions, condominiums, planned unit developments, and similar projects whether residential or non-residential are permitted in the front yard setback, and includes, walls, columns, gates, gatehouses and similar entrance markers. Entrance structures shall not constitute a visual safety hazard or impediment for persons entering, e

7. EXCEPTIONS

Where it can be demonstrated to the Planning Commission by the applicant that no good purpose would be served by a strict compliance with the provisions of this Section 1800 and there is no feasible alternative, the Planning Commission may waive or modify said standards subject to a public hearing and notifications to adjoining property owners within 300 feet.

**SECTION 1801. PARKING REQUIREMENTS**

There shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces.

1. Off-street parking for other than residential uses shall be either on the same lot or within four hundred (400) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.
2. Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere.

3. In the instance of dual function of off-street parking spaces where operating hours of uses do not overlap, the Board of Appeals may grant an exception by reducing the total number of spaces required.
4. The storage of merchandise, motor vehicles for sale, trucks or the repair of vehicles is prohibited on required off-street parking lots.
5. Residential off-street parking spaces shall consist of a driveway, parking strip, parking bay, garage, carport or combination thereof.
6. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which the Board of Appeals considers as being similar in type.
7. For the purpose of computing the number of parking spaces required, the definition of USEABLE FLOOR AREA shall govern.
8. The deferral of off-street parking spaces may be allowable on premises that at the time of submittal, the applicant does not know his future parking demands and he may, therefore, wish to determine actual parking needs by experience and research prior to investing in physical improvements. In allowing a deferral the Planning Commission does not waive its rights to require providing the full number of spaces at a future time.

The number of off-street parking spaces required by this Ordinance shall be considered the minimum required, however, the Planning Commission, subject to approval of the Site Plan, may defer until a future time the construction of the full number of parking spaces based on the following:

- a) The Site Plan shall show that the legal number of spaces required per Sec. 1801 can be physically provided to serve the use.
- b) The Planning Commission may rule to defer the actual construction of up to 50% of the required parking space for the following reasons:
  - 1) The proprietor/owner demonstrates to the Planning Commission that providing 100% of the required parking would not be necessary to serve the level of the property use.
  - 2) The land proposed for the full amount of parking would better serve the community or the use as landscaped yard or other on-site open space use.

At such times as the intensity of vehicle access to the use increases and/or the Planning Commission determines that the deferred parking spaces are needed to prevent congestion on adjacent streets, increase safety, and/or maintain patron

convenience, the Planning Commission shall order that all or part of the deferred parking space shall be constructed at the earliest possible time.

Based on any determined construction limitations, the Planning Commission and the applicant shall establish and agree on a construction timetable within which any deferred off-street parking spaces will be completed. The construction schedule shall consider time limitations caused by weather/climate conditions; soils, land area, and site conditions; and the nature of the construction and steps involved in construction.

9. The minimum number of off-street parking spaces by use shall be in accordance with the following schedule:

a) Residential

<b>Residential Use</b>	<b>Number of Minimum Parking Spaces Per Unit by Measure</b>
1) One-Family & Multiple-Family Dwelling	Two (2) per Dwelling
2) Manufactured Housing Developments and Trailer Courts	Two (2) per each Manufactured Home or Trailer
3) Housing for the Elderly	One (1) for each three (3) Dwelling Units
4) Rooming Houses	One (1) for each two (2) beds

b) Public & Quasi-public

<b>Public and Quasi-Public Use</b>	<b>Number of Minimum Parking Spaces Per Unit by Measure</b>
1) Studios specializing in the instruction of dance, physical exercise and musical arts	One (1) for each two hundred (200) sq. ft. or useable floor area
2) Churches, Temples, theaters, stadiums, auditoriums and assembly building	One (1) for each three seats in the main unit, plus one for each two (2) employees
3) Elementary and junior high schools	One (1) for each teacher, employee and administrator
4) High schools, colleges and universities	One (1) for each teacher, employee, administrator and one (1) for each ten (10) students
5) Private clubs or lodges	One (1) for each four (4) member or one (1) for each one hundred (100) sq. ft of useable floor area whichever is greater
6) Regulation golf course	Six (6) per green
7) Par "3" or mini golf	Four (4) for each golf hole

c) Commercial & Business

<b>Commercial &amp; Business Use</b>	<b>Number of Minimum Parking Spaces Per Unit by Measure</b>
1) Bank, Business offices or nonmedical professional offices	One (1) for each two hundred (200) sq. ft. of useable floor area. Two (2) stacking spaces are required for each service bay, window or pedestal.
2) Offices of doctors, dentists or similar professions	One (1) for each fifty (50) sq. ft. of useable floor area in the waiting room, plus one (1) for each examining room or dental chair. Three (3) stacking spaces are required for each service, bay, window or pedestal.
3) Retail stores except as otherwise specified	One (1) for each one hundred (100) sq. ft. of useable floor area
4) Furniture and appliance, hardware, household equipment, repair shops, shoe repair, showroom of a plumber, decorator, electrician or similar trade and other similar use	One (1) for each eight hundred (800) feet of useable floor area, plus one (1) for each two (2) employees
5) Planned commercial or shopping center by sq. ft. of floor area: (a) 1 to 15,000 sq. ft. (b) 15,001 to 45,000 sq. ft. (c) 45,001 sq. ft. and larger	Spaces per sq. ft. of useable floor area:  One (1) space per 100 sq. ft. One (1) space per 125 sq. ft. One (1) space per 150 sq. ft.
6) Beauty parlor or barber shop	Three (3) for each service chair



<b>Commercial &amp; Business Use</b>	<b>Number of Minimum Parking Spaces Per Unit by Measure</b>
7) Laundromat	One (1) space for each three (3) wash and dry units
8) Mortuary establishments	Three (3) for each one hundred (100) sq. ft. of useable floor area
9) Motor vehicle sales and service establishments	One (1) for each two hundred (200) sq. ft. of useable floor area of sales room, plus one (1) for each auto service stall in the service room
10) Marine Sales and Service Centers, including RV's	One (1) space for each employee, and one (1) for each service stall. Add one (1) space for each 200 sq. ft. of showroom, but not less than five (5) spaces with or without a showroom
11) Pool hall, private club, dance hall or places for the consumption of food or beverages	One (1) for each two (2) persons of the legal capacity as established by health, fire or building officials
12) Restaurants and establishments for on premises sale and consumption of food, refreshments and/or beverages	One (1) for each two (2) persons of seating capacity
13) Food consumption services or drive-in, drive-through or take out	A minimum of five (5) stacking spaces shall be provided for each service window where a drive-through operation is present.
14) Bowling alleys	Five (5) for each bowling lane

<b>Commercial &amp; Business Use</b>	<b>Number of Minimum Parking Spaces Per Unit by Measure</b>
15) Hospitals	One (1) for each one (1) bed
16) Homes for the aged and convalescent	One (1) for each three (3) beds
17) Hotels and motels	One and one half (1½) for each rental unit
18) Auto service stations	Two (2) for each service rack or pit: and one (1) for each (1) single or dual gasoline pump, but not less than six (6) spaces
19) Auto wash or drive through service stations other than fueling stations	One (1) for each employee and five (5) stacking spaces for each service bay.

d) Industrial & Wholesale

<b>Industrial and Wholesale Use</b>	<b>Number of Minimum Parking Spaces Per Unit by Measure</b>
1) Industrial or research establishments	Five (5), plus one (1) for each employee in the largest working shift
2) Wholesale establishments	Five (5), plus one (1) for every employee in the largest working shift or one (1) for every seventeen hundred (1700) sq. ft. or usable floor area, whichever is greater

3) Warehouse and/or storage building	Five (5) spaces, plus one (1) for each employee over three (3) employees, or one (1) for every 1,700 square feet or usable floor area, whichever is greater
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10. PARKING SPACE DIMENSIONS

All required off-street parking spaces shall meet the following dimensional standards:

Parking Pattern in Degrees	Maneuvering Lane Width	Parking Space Width	Parking Space Length
0 (Parallel Parking)	12 feet	8 feet	23 feet
30 to 53	12 feet	9 feet	20 feet
54 to 74	15 feet	9 feet	20 feet
75 to 90	20 feet	10 feet	20 feet*

\* May include a maximum two (2) foot unobstructed vehicle parking area at the front of the parking space to account for normal vehicle overhang.

11. VEHICLE STACKING SPACE

Stacking spaces required for vehicles waiting to access service windows, pumps, pedestals or other service facilities shall be designed with dimensions to be twenty (20) feet by ten (10) feet per space, but shall not include the space vehicles actually use at the time of service. Where a use provides a drive-through or similar service, but is not within the use categories for which specific standards are provided, the Planning Commission may require a minimum number of stacking spaces which are equivalent to the number required for a use which the Commission determines to be most similar.

12. TREES

All off-street parking lots of twenty (20) spaces or more shall follow the provisions of Section 1805 6. regarding the planting of canopy trees.

## **SECTION 1802. OFF-STREET LOADING AND UNLOADING**

On the same premises with every building, structure or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot, space for standing, loading and unloading in order to avoid undue interference with public use of dedicated streets or alleys.

Applicants must demonstrate that loading and unloading can be accomplished without using the abutting road right-of-way for maneuvering space. A registered professional engineer's certification of a loading/unloading plan may be required to assure compliance.

## **SECTION 1803. PERFORMANCE USES PERMITTED BY SPECIAL PERMIT**

### **1. FENCES (GENERAL)**

Fences designed to enclose property in any district shall be subject to the following conditions:

- a) Fences in any platted subdivision or lot of record shall not contain barbed wire or be electrified.
- b) No fence shall obscure the vision of drivers of vehicles at any driveway entrance or exit, street intersection or other pedestrian or vehicle property access point.

### **2. GREENBELTS, WALLS OR FENCES (PROTECTIVE AND SCREENING)**

For nonresidential uses, except farms, which abut a permitted residential use, or which are adjacent to a Residential District boundary, there shall be provided and maintained greenbelts, fences or walls as required below. These requirements do not apply whenever the use, storage area, etc. is more than 200 feet from an adjacent Residential District boundary.

<b>Specific Non residential Uses Requiring Fences</b>	<b>Greenbelt, Fence or Wall Height at Property line</b>	<b>Protective</b>	<b>Primary Function (s) Screening or Obscuring</b>
Drive-in restaurants, gasoline station & vehicle repair	4 to 6 feet	<u>X</u>	<u>X</u>
Institutional and School playground	4 to 6 feet	<u>X</u>	
Parking lot accessory to Nonresidential uses	4 to 6 feet		<u>X</u>
Hospital and Funeral home service entrances	4 to 6 feet		<u>X</u>
Utility buildings and substations	4 to 6 feet	<u>X</u>	
Junk yards	8 feet	<u>X</u>	
Open storage areas larger than 200 square feet	4 to 6 feet		<u>X</u>

All plans for greenbelts, fences or walls must be approved by the Zoning Administrator for construction specifications and shall be designed and maintained to fulfill the primary function of protection and/or screening.

The Planning Commission shall be empowered to modify greenbelt, fence or wall requirements as deemed necessary by conditions affecting a particular development or to waive requirements where no good purpose would be served by compliance with these standards.

### 3. OUTDOOR LIGHTING

All outdoor lighting in any district, except for single family homes and commercial farms, whether for illuminating sites, parking areas, buildings, signs and/or other structures shall be fully shielded, shaded, designed and/or directed away from all adjacent districts and uses; and further shall not glare upon or interfere with persons and vehicles using public streets. Lighting fixtures are to be of the full cutoff design with horizontally aligned flush-mounted (non-protruding) lens, directing light downward on-site only, and no more than twenty (20) feet in height.

The Planning Commission may permit taller or require shorter fixtures only when the Commission determines that unique conditions exist and where a waiver would: reduce the number or size of light fixtures; not adversely impacting neighboring properties and permit fixtures in proportion to height and bulk of nearby buildings and other fixtures. Current standards of the Illuminating Engineering Society (IESNA) of North America will be used as a guideline for all site lighting decisions of the Resort Township Planning Commission

### 4. OUTDOOR SPEAKERS AND SOUND DEVICES

Uses requiring outdoor speakers, outdoor public address systems or similar sound devices shall not operate said equipment without the written consent of the Planning Commission, who shall determine that no public nuisance will be established.

## **SECTION 1804. SANITARY PROVISIONS - SEWERAGE AND WATER FACILITIES**

Public and private sewer and water facilities must be located, permitted, and operated pursuant to the requirements of the County Sanitary Code and any applicable State or Federal requirements. Further, private sewer and water facilities must be consistent with the Master Plan and allowed as a permitted or conditional use in the underlying district and be approved pursuant to the special use provisions of Article XVII of this Ordinance.

## **SECTION 1805. PLANT MATERIALS**

Wherever in this Ordinance a greenbelt or planting is required, it shall be planted within seven (7) months from the date of issuance of a Building Permit and shall thereafter be reasonably maintained, including permanence and health of plant materials to provide a

screen to abutting properties and be free of weeds and foreign debris. Spacing and plant sizes, as required by this section, shall be provided in any greenbelt or designated planting.

1. PLANT MATERIAL - MINIMUM SIZED - MAXIMUM SPACING

- a) Plant material shall not be closer than four (4) feet from the fence line or property line, except for vines intended to attach to fence structures.
- b) Where plant materials are installed in two or more rows, planting shall be staggered to provide for maximum screening.
- c) Minimum plant sizes permitted and maximum on-center spacing in any required greenbelt shall be as follows:

General Plant Types	Maximum Spacing Center to Center (feet)		Minimum Allowable Size		
	<u>Single Row</u>	<u>Grouping</u>	<u>Hgt.</u>	<u>Cal.</u>	<u>Sprd.</u>
<b>TREES</b>					
Large Deciduous (Canopy)	30	40	-	2½"	-
Large Evergreen	15	20	7'	-	-
Medium-Small Deciduous	10	15	-	1½"	-
Columnar Deciduous	8	10	10'	-	-
Narrow Evergreen	5	8	8'	-	-

<b>SHRUBS</b>					
Large: Upright Spreader	4	6	4'	-	-
	6	8	-	-	3'
Medium: Upright Spreader	3	4	3'	-	-
	4	6	-	-	2'
Small: Upright Spreader	1½	2	18"	-	-
	1½	2½	-	-	15"
Conical	2	3	2'	-	-

## 2. SUGGESTED PLANT MATERIALS

### a) Trees

#### 1) Large Deciduous (Canopy):

Oak, Linden, Hard Maple, Beech, Ash, Birch, Honey locust  
(Seedless/Thornless), Ginko (Male Only)

#### 2) Large Evergreen:

Pine, Hemlock, Spruce, Cedar, Fir

#### 3) Medium-small Deciduous:

Crabapple, Amelanchier, Cherry, Hawthorn (Thornless), Plum, Redbud,  
Bradford Pear, Mountain Ash, Amur Maple, Russian Olive, Magnolia

#### 4) Columnar Deciduous (Varieties Of):

Crabapple, Oak, Maple, Linden

#### 5) Narrow Evergreen (Varieties Of):

Arborvitae, Cedar, Cypress, Yew, Juniper

### b) Shrubs

#### 1) Large Upright:

Lilac, Forsythia (Var.), Privet, Viburnum (Var.), Dogwood, Honeysuckle,  
Sumac, Smoketree, Cotoneaster (Var.), Witch Hazel, Buckthorn Common  
Ninebark, Bayberry, Mt. Laurel, Mockorange, Holly, Pyracantha

#### 2) Large Spreaders (Varieties Of):

Juniper, Pine, Cotoneaster, Yew



- 3) Medium Upright:  
 Burning Bush, Rhododendron, Yew, Quince, Sumac (Var.),  
 Forsythia (Var.), Viburnum (Var.), Barberry (Var.), Holly (Var.),  
 Weigela (Var.), Rose (Var.), Arborvitae (Var.)
  
- 4) Medium Spreader (Varieties Of):  
 Juniper, Yew, Cotoneaster
  
- 5) Small Upright:  
 Azalea, Deutzia Yucca, Leucothoe, Weigela (Var.), Fl. Almond,  
 Arborvitae (Var.), Rose (Var.), Potentilla, Spiraea, Yew (Var.)
  
- 6) Small Spreader (Varieties Of):  
 Juniper, Yew, Cotoneaster, Spruce, Barberry
  
- 7) Conical:  
 Hinoki False Cypress, Yew (Var.), Arborvitae

3. SECONDARY TREES

- a) The following list of trees are generally not permitted for landscape purposes in areas near buildings, parking lots, utilities, or any other places where the following trees might, create a nuisance or becomes a potential hazard to persons or property:

Box Elder	Tree of Heaven	Poplars
Willows	Soft Maples	Catalpa
Elms	Horse Chestnut (nut bearing)	

- b) Trees listed above may be permitted, upon review and approval of the Zoning Administrator. Approval will be given only upon determination that selected trees will serve a specific purpose, e.g.:

- Provide windbreaks
- Assist in soil stabilization
- Provide distant screening
- Provide over-story protection for permanent tree seedlings
- Animal Habitat

It must also be shown that any of the above trees, subsequent to installation, will not create safety hazards to any populated areas.

4. Whenever greenbelts or any designated planting areas are required under provisions of this Ordinance, a detailed Planting Plan shall be submitted for approval prior to the issuance of a Zoning Permit. The Planting Plan shall indicate scale, location, spacing, starting size and description for each unit of plant material proposed for use within the required planting area. Detailed Planting Plans shall be submitted in accordance with the following:

- b) Minimum Scale 1" = 20'.
- b) Planting Plan indicating location, size, spacing of all plant materials.
- c) Typical straight cross section indicating slope, height and width of berms and type of ground cover, or height and type of construction of walls, including footings.
- d) Significant construction details to resolve specific site conditions, e.g., tree wells to preserve existing trees, culverts to maintain natural drainage patterns.
- e) Planting and staking details in either text or drawing form to insure proper installation and establishment of proposed plant materials.

5. The Planting Plan shall be reviewed relative to:

- a) Proper spacing, placement and location of plant materials relative to the length and width of greenbelt so as to insure that the required horizontal and vertical obscuring effect of proposed land uses will be achieved.
- b) The selection of plant materials so that branching of root systems not interfere with public utilities and so that fruit and other debris (other than leaves) will not constitute a nuisance within public rights-of-way or to abutting property owners.
- c) The proposed relationship between deciduous and evergreen plant materials so as to insure that the desired obscuring effect will be accomplished.
- d) The size of plant materials (both starting and ultimate) to insure adequate maturity and optimum screening effect of proposed plant materials.

6. For any off-street parking lots of twenty (20) spaces or more, there shall be provisions for the planting of canopy trees subject to the following conditions:

- a) One (1) such tree shall be required for each ten (10) surface parking spaces.
  - b) Trees shall be of the deciduous type, not less than two and one-half (2-1/2") in caliper.
  - c) Trees shall be planted prior to the issuance of a Certificate of Occupancy and shall be maintained in a healthy, growing condition.
  - d) The required trees may be evenly distributed or concentrated in clusters as approved by the Planning Commission. If evenly distributed each tree shall be provided with an open land area of not less than eighty (80) square feet to provide area for infiltration and with a minimum diameter of five (5') feet at the trunk base for added protection. Tree plantings shall also be protected from automobiles with curbing, bollards or other suitable devices.
7. Landscaped areas and plant materials required by this Ordinance shall be kept free from refuse and foreign debris. Plant materials, including lawn, shall be maintained in a healthy growing condition, neat and orderly in appearance. If any plant materials required by this Ordinance die or become diseased, they shall be replaced within forty-five (45) days of written notice from the Township or within an extended time period as specified in said notice.

## **SECTION 1806. SIGNS AND BILLBOARDS**

Sign plans shall be reviewed for approval, conditional approval or rejection by the Township Planning Commission or by the Zoning Administrator. For disagreements with the rulings of the Zoning Administrator, the applicant may seek a review by the Planning Commission, who in such instances, has final authority on the sign plan.

### **INTENT**

The sign standards contained in this Ordinance are declared to be necessary to protect the general health, peace, safety, and welfare of the citizens of Resort Township, and are based on the following objectives:

- To reflect the primary purpose of signage as being the identification of a particular user or use on a property, but not necessarily every activity or service performed thereon.

- To promote signs that are visible at eye level and can be readily seen from moving vehicles with the least amount of eye distraction.
- To encourage native plants and other landscaping materials around all freestanding signs so as to compliment the site and integrate the sign with the buildings, parking areas and natural site features.
- To avoid excessive property and use signing in order to give each use optimum visibility to passer-by traffic and if possible, to prevent one sign from blocking the view of another sign.
- To place and size signs in such a way that scenic views are respected and visual obstructions to the natural landscape are minimized.
- To protect the resource character and Northern Michigan image of Resort Township by encouraging the design of institutional-business-industrial signs that reflect the Township's favorable environment as a permanent and seasonal home community.
- To maintain and enhance economic stability by retaining aesthetic appeal to tourists, resorters and visitors, and encouraging signing practices that will compliment the Township's natural environment and preserve its scenic and natural beauty.
- To encourage sign materials to be predominately natural in appearance, such as, rough cedar, fir, pine, or other types of weather tolerant wood or of material of equivalent character.
- To encourage the use of subdued colors, with bright colors used only for accent.
- To avoid creation of obstacles or traffic hazards by distracting or confusing motorists, impairing motorists ability to see pedestrians, read other traffic signs or see other vehicles.

It is also acknowledged that the county's economic well being is heavily dependent upon the resort and tourist industry. This dependence makes the preservation of the environment from unreasonable signage a matter of critical importance to this Township.

## 1. PERMITTED SIGNS

### a) Name Plates in All Districts

One (1) residential, business or industrial name plate per use which is not illuminated and does not exceed a total area of two (2) square feet, may be permitted without a permit and be in addition to any other permitted sign. Business and Industrial uses maybe permitted one (1) nameplate of three (3) square feet.

### b) Accessory Signs in R-1, R-2, RR, WR and HR Districts

For permitted nonresidential uses, one (1) freestanding sign not to exceed eighteen (18) square feet in area, or eight (8) feet in height, and/or one (1) wall mounted or projecting sign that is wood crafted or is a sign of equivalent character, which may project outward up to three (3) feet, not to exceed eight (8) square feet. Approved home occupation signs shall not exceed an area of two (2) square feet.

### c) Accessory Signs in FF Districts

In the FF Districts, one (1) non-dwelling sign not to exceed fifty-six (56) square feet and no such signs shall be longer than four times its width. Signs may be freestanding or, if attached, shall not project beyond or overhang the wall face by more than five (5) feet. No sign shall project above the ridgeline of a hip, gambrel, gable, or mansard roof, or above the parapet of a flat roof. Freestanding signs shall not exceed a height of ten (10) feet.

### d) Accessory Signs in B-1, B-2, and I Districts

Accessory signs placed in B-1, B-2, and/or I Districts may be permitted at the rate of two (2) per business or industrial premises, except that at least one sign shall be affixed to or be within two (2) feet of and be parallel with the wall of the main building. One (1) sign may be a freestanding sign.

Signs mounted on and parallel with the wall of the main building shall not exceed a total area of fifteen (15) percent of the surface area of the mounting wall and computed on the ground level story only.

No sign shall project beyond or overhang the wall, or any permanent architectural feature by more than five (5) feet. No sign shall project above the ridgeline of a hip, gambrel, gable, or mansard roof, or above the parapet of a flat roof.

Freestanding signs shall not exceed a height of ten (10) feet measured from the average grade at the base of the sign to the top of the sign. The total sign area of all freestanding signs shall not exceed an area of fifty-six (56) square feet, and no such sign shall be longer than four times its width.

Signs located in a road right-of-way shall not exceed an area of thirty-two (32) square feet or a height of eight (8) feet. Signs in a right-of-way are subject to any further rules, provisions, or prohibitions as determined by the governmental unit or agency having jurisdiction.

e) Non-accessory Signs and Billboards

Billboards, poster boards and other non-accessory signs shall be restricted to the B-2 District on vacant parcels provided the area of the sign does not exceed fifty-six (56) square feet, the height of the sign does not exceed ten (10) feet, there is at least two thousand (2,000) feet of separation between any two such signs on both sides of the road and 200 feet of separation between a billboard and an accessory sign and 200 feet of separation between a billboard and any other existing building over 200 square feet.

f) Changeable Message Signs

Changeable message signs shall be permanently affixed to be parallel with the wall of the main building or designed into the freestanding sign as an integral part of the freestanding sign structure. Such changeable message signs shall have no moving parts. The background shall be uniformly dark, with light lettering of all one color.

g) Existing Signs

An existing sign that is changed to reflect a new business, new use, or new service shall only be permitted to be changed if it conforms with the size, area, height, and lighting requirements of this ordinance.

h) Accessory Signs in PUD Districts

In PUD 1 Overlay districts, signs may be permitted as regulated in the underlying Zoning District. In cases where a project encompasses more than one Zoning District, signs may be permitted by the standards of one (1) of the encompassed Zoning Districts.

In PUD 2 Zoning Districts, sign standards shall be determined by site plan, PUD master plan and proposed uses. Residential PUD projects may be permitted signs as regulated in Residential Zoning Districts.

## 2. SIGNS PROHIBITED

- a) Signs containing flashing, intermittent or moving lights.
- b) Signs with moving or revolving parts and/or messages.
- c) Signs affixed to trees, rocks, shrubs, fences, utility poles or other similar features.
- d) Signs that are insecurely fixed, unclear, in need of repair, or signs which imitate official traffic signals or traffic directional signs or devices.
- e) Freestanding signs utilizing vehicles, trucks, vans, or other wheeled devices; or tripod, sandwich boards, or changeable message signs; unless such signs have been approved by the Planning Commission as meeting a special purpose need and/or as being appropriate for the particular need.
- f) Advertising devices such as banners, balloons, flags, pennants, pinwheels, searchlights or other devices with similar characteristics, except when used temporarily for periods not to exceed fifteen (15) days to announce the opening of a new type of business or use by a new owner.
- g) Signs which overhang or extend into a dedicated public right-of-way without the written consent or implied consent of the governmental unit having jurisdiction.
- h) Signs that have concrete foundations or other solid anchoring devices that project above the surface of the ground and located so as to constitute a safety hazard to vehicle traffic. The Planning Commission may rule on the hazard potential of any proposed sign structure and shall prohibit such sign or a modification upon finding the presence of a safety hazard.
- i) Signs, and sign structures, which advertise a business or service use that no longer occupies the premises, and has not occupied the premises for 12 consecutive months.
- j) Signs using luminous or phosphorescent paints or, tapes, glass beads, and/or reflectors of any kind shall be prohibited as main background treatment of the sign, but may be used in minor proportions for lettering or incidental artistic details, provided there are no visual conflicts with official traffic signs.

### 3. SIGNS NOT REQUIRING A ZONING PERMIT

The following, provided such signs are established in a lawful manner and placed so as not to cause a nuisance or create a safety hazard:

- a) Name plates
- b) Bulletin Boards that do not exceed eighteen (18) square feet, for churches, public or semi-public institutions and/or schools.
- c) Signs that have been approved in conjunction with a valid Zoning Permit or Building Permit for any principal use or accessory use in connection with a Plot Plan or Site Plan. Signs required by Federal or State agencies in connection with federal or state grant projects and programs.
- d) Street name signs, route markers and other traffic control signs, signs established by or approved by state, county or township units of government when necessary for giving proper directions or otherwise safeguarding the public, in any district.
- e) Non-advertising signs erected by any organization, person, firm or corporation that is needed to warn the public of dangerous conditions and unusual hazards such as but not limited to; caving ground, drop-offs, high voltage, fire danger, explosives, severe visibility limits, etc., in any district.
- f) Non-advertising signs exclusively devoted to controlling property access (no trespassing, private property, keep out, no hunting, hiking trail, day use only, and similar instructional messages) provided the sign size limitations are observed.
- g) Non-advertising signs demarcating an historically significant place, building or area when sanctioned by national, state or local historic-oriented agencies/organizations, provided the sign size limitations are observed.
- h) Temporary real estate signs, not exceeding ten (10) square feet, on individual lots in platted one family residential subdivisions advertising a premises as being for lease, rent, or sale. Temporary real estate signs are further regulated as follows:



<b>DISTRICTS OR AREAS</b>	<b>Maximum Sign Area in Square Feet</b>
Platted One-family Subdivision in any District	10 square feet
<b>Unplatted parcels or groups of lots in all Residential Districts and Farm Forest (FF) Districts</b>	
Parcels less than 600 ft. wide	32 square feet
Parcels 600 ft. wide or greater	64 square feet
<b>Industrial and Commercial Districts</b>	
Parcels less than 300 ft. wide	32 square feet
Parcels 300 ft. wide or greater	64 square feet

- i) Accessory signs on farms in the FF District, not to exceed thirty-two (32) square feet, advertising stock, produce and other farm products produced or raised on the premises.
- j) Accessory directional signs each not to exceed four (4) square feet in area on buildings, such as, but not necessarily limited to: entrance, exit, loading dock, low clearance, garage, office, warehouse, service and the like.

Directional signs at driveway entrance/exits not to exceed four (4) sq. ft., but not more than one (1) such sign per approved driveway, and may be in addition to the allowable main sign area.

- k) Temporary posters or signs announcing local community events involving educational, charitable, historical, institutional, sporting events or similar activities of general community wide significance including political campaign posters.

It is intended that freestanding accessory directional signs be included on the sign plan for approval as to location and number by the Planning Commission.

#### 4. PLACEMENT OF SIGNS AND SETBACKS

The location and placement of all signs for which a Permit is required by this Ordinance, shall be authorized in accordance with the applicable review procedures established for Site Plan Review and approval in Section 2005 of the Ordinance.

Because of the variety of land use and natural resource conditions existing in Resort Township no one setback standard can be universally applied with equity, hence, the Planning Commission shall establish sign setbacks as an integral part of the signing plan review process.

No accessory advertising sign or nameplate shall be closer than fifty (50) feet from the road centerline where the road right-of-way is one-hundred (100) feet or greater and thirty-three (33) feet from centerline where the road right-of-way is sixty-six (66) feet wide.

Billboards are main property uses and shall be setback the required distance in the zone (front and side).

The signing plan may be separately submitted or be an integral feature of the Site Plan. The Resort Township Planning Commission may approve conditionally, approve or reject a signing plan for reasons and determinations stipulated.

#### 5. WINDOW SIGNS

Window signs attached or applied to the surface of any exterior window will be limited to a coverage of ten (10) percent of the total window space. The area of such signs shall not be deducted from the total area of signs allowed but the total of all window signs shall not exceed the total allowed sign area for the use.

#### 6. CANOPY OR MARQUEE SIGNS

Integral canopy signs shall be allowed in place of permitted wall mounted signs with message information, i.e., letters, numerals, symbols etc., not to exceed fifteen (15) percent of the canopy surface. For the purposes of calculation, the subject canopy will be considered to fall within a measurable square or rectangular enclosure.

#### 7. FLAGS

Flagpole heights shall not exceed thirty (30) feet. The total number of flagpoles allowed per site shall be limited to three (3).

Nongovernmental flags are deemed to be signs and shall be subject to the provisions of this article except that no such flag shall exceed thirty-two (32) square feet per face.

Governmental flags must be displayed in a dignified, non-commercial manner and shall be governed by the standard rules of national protocol.

#### 8. SIGN LIGHTING

Sign lighting should be of no greater wattage than is necessary to make the sign visible at night and should not unnecessarily reflect onto adjacent properties. Lighting sources shall not be directly visible to passing pedestrians or vehicles and should be concealed so that direct light does not shine through, under, or over any element of a sign.

- a) Lighting from all light sources other than street and security lights shall be turned off between the hours of 10:00 P.M. and 6:00 A.M., except that if the premises are open for business after 10:00 P.M., the lighting shall be turned off at the close of business.
- b) For internally lighted signs, the sign background, or field, shall be dark colored. Letters, numerals, logos and similar message elements may be of a translucent material to permit internal lighting to reveal the message or information for which the sign is intended.
- c) Night lighting of governmental flags shall be of sufficient wattage to illuminate flag surfaces only and shall not be excessive thus contributing to light pollution of the night sky.
- d) Neon lighting and/or other gas filled light tubes are permitted when used for the indirect illumination of signs, and/or when placed in windows.

#### 9. AREA AND HEIGHT OF SIGN

The area of sign shall be determined by circumscribing the exterior limits of each display erected on one sign structure, including the sign background (but not supporting features or roof like covers) with the smallest square, rectangle, triangle, circle, parallelogram, or trapezoid, that will connect all extreme points of the sign display and including voids, unused space, or air spaces between multiple display features. The Structural features and supporting elements of a freestanding sign, including decorative facades, canopies, and base treatments, shall not have a facing surface area that exceeds the area of the message portion of the sign.

The area of sign measurement shall be based on one display face, but both sides of the display face may be used for sign purposes without increasing the area of sign. If sign faces are not back-to-back and the back face is separated or angled

from the other by more than four (4) feet for parallel faces, and/or angled on the inside more than forty-five (45) degrees, the second face shall be added to the area of sign.

The height of all free standing signs as specified in this ordinance shall be measured from the average existing grade at the base of the sign to the top of the sign.

#### 10. SIGN PLAN CHANGES

The signing plan for any premises may be changed or amended in response to demonstrated need, by a majority approval vote of the Planning Commission Members attending any public meeting. In questionable cases, the Planning Commission may require that an advertised Public Hearing be held and/or that written testimony of affected property owners adjoining or in the immediate vicinity be present.

#### 11. OFF-PREMISES DIRECTORY SIGN-PRIVATE

When the owner of a use requests an off-premises directory sign, the Planning Commission, in consultation with the affected township unit of government, may permit such sign upon determining an appropriate site and location, subject to the following:

- a) One off-premises directory sign may be permitted, but such sign shall not exceed an area of eight (8) square feet for one user.
- b) The maximum sign size may be increased up to the maximum allowed in the affected zoning district, in sign size increments not to exceed eight (8) square feet for each user sharing the same sign structure.

#### 12. SIGN EXCEPTIONS

In order to allow greater flexibility in property and use signing, the Township Planning Commission may permit signs that:

- a) Exceed the maximum number of signs up to two (2) freestanding or wall mounted signs, when bordering more than one County Primary or State/US Truckline Highways.
- b) Exceed the maximum wall mounted sign area for the following reasons: Deep use setback, cooperative sign use (joint use or community type advertising), large site area, and/or natural feature limitations to attaining reasonable signing

of the use, or if the property shares a common front or side lot line with a B or I Zoning District.

- c) Have intermittent lighting in order to construct a public service time and temperature sign in those instances and areas, where the applicant can demonstrate a need or show community desires for such a sign service.
- d) Exceed the maximum height in those instances where a taller sign is necessary to overcome natural conditions (topography, vegetation, etc.) to serve highway travelers or compensate for large sites and deep building setbacks.

In granting sign exceptions, the Planning Commission shall consider the impact of each sign on adjoining residential districts, scenic views, out of character skyline intrusions, and obstructions to signs or uses on adjoining properties. The purpose of the sign and its applicability to uses that serve tourists or passerby motorists shall be considered in granting or denying a sign exception.

## **SECTION 1807. HIGH RISK EROSION AND ENVIRONMENTAL AREAS**

The following regulations are applicable to those areas of the Township which are generally defined as to be controlled by the Shorelands Protection and Management Act of 1970 (Act No. 245 of the Public Acts of 1970), re-codified as Part 323, Natural Resources and Environmental Protection Act, Mich. Compiled Laws 324.32301 *et seq.* ("NREPA").

The shore lands area affected consists of land which borders Little Traverse Bay and Lake Michigan situated at least one thousand (1,000) feet landward from the ordinary high water mark as defined in NREPA, Mich. Compiled Laws 324.30101(f). These regulations are intended to effectively control development of the shore lands where property damage during high water periods have resulted in or may result in:

- structural property damage (homes, cottages, marinas, boathouses, commercial developments, etc.)
- actual loss of physical property (land)
- loss of recreation swimming beaches
- loss of access to the lake
- occurrence of sedimentation along the shoreline areas

Further, developments permitted on or within 500 feet of the shoreline or other environmentally sensitive areas shall be controlled to assure the protection and maintenance of fish and wildlife.

1. USES

All uses permitted in the high-risk erosion area are subject to the conditions herein after imposed for each use and subject to Site Plan Review by the Planning Commission.

- a) The minimum setback from the bluff line for all uses, both above and below the ground, shall be no less than that which would prevent or is likely to prevent damage or destruction to permanent buildings or structures within a 30-year period of life, or cause serious erosion because of steep or unstable slopes. In no instance shall this setback be less than that which is required in the applicable zoning district. This distance shall be based upon the average recorded shoreline recession rates as determined by the Natural Resources Commission.
- b) Individual docks, boat hoists and related installations shall not exceed one per unit. Group docking, hoists and other related facilities shall be subject to review and approval by the Planning Commission.
- c) Removal of shore cover to a depth of one hundred (100) feet from all points along the ordinary high water mark shall be limited as follows:
  - 1) Natural ground cover shall be preserved to the fullest extent feasible and where removed it shall be replaced with vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.
  - 2) All development proposals submitted for an environmental area or High Risk Erosion Area shall include an environmental impact statement explaining how the natural character of the area and fish and wildlife will be protected and maintained. This statement shall address itself to some or all of the following conditions, wherever it pertains:
    - (a) Sewerage, drainage and water controls
    - (b) Street and traffic systems
    - (c) Topography
    - (d) Vegetation
    - (e) Soil Erosion and Storm water Control
    - (e) Wildlife

- (f) Water areas or other natural features
- (g) Construction effects
- (h) Unusual site features

3) The environmental impact statement shall be reviewed as part of the Site Plan required by Sec. 2005. The Township Planning Commission shall request technical assistance from County and/or State agencies as may be necessary. Maps shall be provided to detail the characteristics of the site.

## 2. MAPS

The mapping requirements of Section 2005 - Site Plan Review, shall apply to maps necessary to document the shoreline areas or environmental areas of this section. A more detailed drawing may be required in those instances where site conditions and site treatment measures cannot be clearly shown on map scale standards in Section 2005.

## 3. DEFINITIONS

For the purposes of the Section, HIGH RISK EROSION AND ENVIRONMENTAL AREAS, the following definitions shall apply:

### a) Bluff line

The edge or crest of the elevated segment of the shoreline above the beach or beach terrace which may be subjected to wave attack and normally presents a precipitous front and inclines steeply on the water side. (Dunal terraces which accrete and erode de-pending on water level conditions would not be considered a permanent bluff line).

### b) Structure

A permanent residential, commercial or industrial building not including stairways, docks or permitted underground utilities.

## **SECTION 1808. WATERFRONT REGULATIONS, SETBACKS AND GREENBELTS**

### **INTENT**

To provide greenbelt and minimum setback standards in the Zoning Ordinance to protect surface water and related aquatic resources and flood plains from adverse construction or alteration. These measures being deemed to be the minimum necessary in order to:

Avoid excessive structural encroachment of the natural waters and waterways, except uses traditionally depending upon direct water access.

Promote high water quality through the requirement of a greenbelt, defined as an undisturbed natural area to trap nutrients and sediment from entering natural waters, and prevent erosion.

Protect the natural environment of streams and lakes for wildlife habitat purposes and to preserve, to the extent practical, the natural image of landscapes.

### **1. MINIMUM WATERFRONT SETBACKS**

Any property which borders on or contains a natural river, stream, pond, or lake, which is identifiable on the U.S. Geological Survey Maps of Resort Township, shall be subject to waterfront setbacks for buildings and uses, as follows:

- a) Every waterfront use shall establish and maintain a forty (40) foot wide greenbelt yard or strip from the ordinary high water mark or the edge of any wetland that is contiguous to any streams, rivers, creeks, lakes, or impoundments as defined by Part 30301, NREPA, MCL 324.30301. Said greenbelt yard or strip to be preserved and maintained in its natural undisturbed state, except where trimming, pruning, thinning, cutting, or removal is required:
  - (1) for low impact for access to the body of water, including a boat dock, or
  - (2) to maintain the healthful growth of the vegetation in the setback, or
  - (3) to protect the public health and safety. In such cases, the trimming, pruning, thinning, cutting or removal shall preserve the scenic resource to the maximum extent possible. The term "native vegetation" means original or indigenous plants of the vicinity including trees, shrubs, vines, wild flowers, aquatic plants, or ground cover.

Nothing in these requirements shall be interpreted to prohibit selective tree cutting in the native strip space to remove dangerous trees (windthrow hazard) or other trees



and shrubs that may prevent the native strip area from being retained in a healthful growth condition. Similar cutting shall be permissible where necessary for traffic safety reasons (air, rail, or highway).

In addition, a limited alteration of the native trees and shrubs in the setback shall be allowed using pruning or thinning where necessary to obtain a filtered view of a lake, river, or body of water; provided however, that the impact on the scenic resource shall be minimized. Tree thinning shall be limited to 30% of the total trees (3" or more in diameter) and any area of open view shall not be wider than 30 feet for each 100 feet of frontage. No such thinning shall take place except in conformance with an inventory of the trees to be cut or thinned depicted on a plot plan approved by the Zoning Administrator.

Any excavating, filling, grading or other on-site construction activity shall insure that silting will not impact adjacent waters and that all banks, slopes, and hillsides are stabilized to prevent soil erosion.

Nothing in these requirements shall be interpreted to require the planting of shrubs or trees on agricultural lands or other parcels where a natural tree stand does not exist or cannot be grown.

No fill or permanent construction shall be allowed in any floodway appurtenant to a natural river, stream, pond, or lake, which is identifiable on U.S. Geological Survey Maps of the 7' or 15' quadrangle series, and further identified as an area that is prone to annual flooding, i.e. a natural storage basin during high water levels. Fill can be approved if accomplished in such a way as to not reduce or diminish the water holding capacity of the natural floodway, and that such is documented by a Registered Professional Engineer or similarly qualified professional.

b) Waterfront lots must be a minimum of 100 feet in width extending from the front building line to the waterfront.

Permanent structures, parking lots, and other impervious surfaces, except boat docks, boat slips, ramps, or marinas, or other water dependent uses, shall observe a minimum setback of sixty (60) feet from the documented 1986 High Water Mark in all Residential and Farm-Forest Districts, and twenty-five (25) feet in Commercial and Industrial Districts. Except for a potential interference in floodways or water resources, the setbacks of this paragraph shall not apply to drains or intermittent streams. An intermittent stream is one which holds water at some time during each year, but for not more that eight (8) months. Boat docks, boat slips, ramps, or marinas, or other water dependent uses shall comply with all

other provisions of this ordinance. A marina shall be authorized in the land use district for which it is proposed and shall require a special use permit and site plan approval as provided in this ordinance.

- c) Ground decking and patios without railings and which are less than eighteen (18) inches above the natural grade at the deck building line may extend into the setback area, but not nearer to the shoreline than twenty-five (25) feet. Railed decks and enclosed patios over four (4) feet high shall observe the setback lines for main buildings, in the applicable zoning district. Walkways and pathways, if not wider than six (6) feet, and if perpendicular to the shoreline, are not restricted by this section.

## 2. OTHER ENVIRONMENTAL RULES

Any filling or construction within flood plains or wetlands, shorelines, or other environmental areas protected by State Law, or other laws, shall require appropriate permits from the government unit or agency having jurisdiction. No filling or construction should take place in such a manner as to pollute, impair, or destroy surface waters, flood plains, wetlands or other natural resources or the public's use and enjoyment thereof, unless it is demonstrated that no other feasible and prudent alternative exists.

## 3. CONFLICTS WITH OTHER REGULATIONS

In case of a conflict between regulation contained in Section 1808 and other regulations of this Ordinance, the provisions in Section 1808 setback shall apply.

## 4. PLOT PLAN

Applications for zoning permits for any uses on waterfront property shall include a plot plan which complies with the requirements set forth in Section 2001 of the Ordinance. In addition, the plot plan shall accurately depict the existing vegetation within the entire setback, including all trees measuring 3' or more in diameter (caliper), and depict the vegetation proposed to be trimmed, pruned, thinned, cut, or removed. Photographs should be used to depict the vegetation. Additional information regarding the natural state of the setback may be required if deemed necessary or helpful by the Zoning Administrator.

## **SECTION 1809. SUPPLEMENTARY HEIGHT AND AREA REGULATIONS**

### **INTENT**

When a permitted building is construction in any District, structural appurtenances (architectural features) shall be permitted to exceed the building height limitations, as follows:

1. ORNAMENTAL: Superstructures, e.g. church steeples, belfries, cupolas, domes, ornamental towers, spires and flagpoles if the structural elements do not exceed twenty (20) Percent of the gross roof area.
2. MECHANICAL AND STRUCTURAL FUNCTIONS: Building elements, e.g., chimney and smoke stacks, water tanks, elevator and stairwell, ventilators, bulkheads, radio/television towers, aerials, fire and hose towers, cooling towers, solar panels and utility screens.

The foregoing permitted exceptions shall not be used for human occupancy and can only be accessed for maintenance purposes.

## **SECTION 1810. PRIVATE ROADS AND DRIVEWAYS**

Private roads and common driveways shall be permitted provided that the road or driveway is established, constructed, and maintained according to the requirements of this Section.

### **INTENT**

The private road standards contained in this Ordinance are declared to be necessary to protect the public health, safety, and welfare by regulating the location, construction and improvement, extension, maintenance, and use of private roads to meet the following objectives:

To ensure that private roads are designed with width, surface, and grade to assure safe passage and maneuverability of motor vehicles.

To provide sufficient side and overhead clearance to accommodate fire fighting equipment, police, ambulance, other safety and emergency vehicles, snow plows, school buses, sanitation vehicles and similar service vehicles and equipment.

To ensure that private roads are constructed of suitable materials to ensure minimal maintenance and safe passage.

To protect against or minimize soil erosion to prevent damage to lakes, streams, wetlands, and the natural environment.

To appropriately serve the properties and individuals the roads are intended to serve.

1. APPLICATION AND APPROVAL PROCESS

A Road Plan for a private road or common driveway shall be reviewed for approval by the Zoning Administrator. The Zoning Administrator may submit the Road Plan to the Emmet County Road Commission and the Township Engineer, or a registered professional engineer for review and comment. The proposed easements, maintenance, and hold harmless agreement may be sent to the Township Attorney and Township Engineer or a registered professional engineer for review and comment.

For a private road, the recommendations of the Road Commission, the Township's Engineer and Attorney will be sent to the Planning Commission, who shall be responsible for granting final approval, except in the case of a PUD development, in which instance the Township Board shall be responsible for granting final approval.

For a common driveway, the Zoning Administrator shall consider the recommendations and shall be responsible for granting final approval.

If the Road Plan is approved by the Planning Commission or Zoning Administrator, then the Zoning Administrator shall issue a zoning permit. If the application is rejected, the reasons for the rejection and any requirements for approval will be given in writing to the applicant.

If the private road or common driveway is part of a plan for a Subdivision, Condominium, Open Space Subdivision or Site Condominium Unit, Residential Building Clustering, or Special Use or PUD, Road Plans shall be reviewed by the Zoning Administrator, the Planning Commission, and/or the Township Board in accordance with the procedures and standards set forth as follows:

- a) Subdivisions: Preliminary and Final Plat approval process.
- b) Open Space Subdivision or Site Condominium: Sec 1501.
- c) Residential Building Clustering: Sec 1502.

- d) Condominiums: Special Use Permit and Site Plan approval process, Sec 1702 (13).
- e) Planned Unit Developments (PUD): Preliminary and Final Master Plan Review and Site Plan approval, Article XIV.
- f) Special Use Under Sec 704 and Sec. 1702
- g) Land divisions: A tentative parcel map indicating the location, width, and dimensions of all easements for private roads and common driveways and the maintenance agreement shall also be provided to the Township Assessor prior to the approval of the land division.

Upon approval, the easements and maintenance agreements shall be recorded at the Emmet County Register of Deeds.

Approval of a Road Plan by the Zoning Administrator and/or, if the type of development requires it, approval by the Planning Commission or Board shall only be given after the detailed plans and specifications, drainage plan, easement language, name, entranceway permit approval by the County, maintenance agreement, and hold harmless agreement have been reviewed and approved.

## 2. GENERAL PRIVATE ROAD and COMMON DRIVEWAY REQUIREMENTS

- a) After the effective date of this Ordinance, a private road or common driveway shall not be constructed, extended, or relocated except in accordance with the minimum standards and requirements of this Section.
  - i) If an additional lot or site condominium unit is proposed to be served by an existing private road or common driveway, the existing road or driveway shall be required to meet the requirements of this Section.
  - ii) If an existing road or driveway is proposed to be extended, the new portion must meet the requirements of this Section and the existing portion shall be improved to meet the requirements of this Section.
  - iii) If an existing common driveway is proposed to be extended to serve five (5) or more abutting properties, the new portion must be constructed to meet the requirements for a private road and the existing portion must be improved to meet the requirements for a private road.
  - iv) If an existing driveway serving one property is extended to serve two (2) to four (4) properties, the new portion must meet the requirements for a common driveway and the existing portion shall be improved to meet the requirements for a common driveway.

- b) Only public roads shall be used to access non-agricultural commercial, industrial, or business uses, however, private internal roads may be used as access to individual buildings or uses within an approved development
- c) Lots, parcels or condominium site units shall be accessed from a private road rather than the public road. Private roads, including roadbed, shoulder, drainage or erosion measures shall be located, established, and constructed at least 20 feet from any existing lot line. These setback requirements shall not apply to a private road constructed on any access easements of record that were recorded prior to September 6, 2005. All private roads shall be located and designed so as to avoid or minimize impacts to adjacent property, included but no limited to physical, property and aesthetic values, as well as use and enjoyment. Landscaping or screening of the proposed private road may be required.
- d) Failure to begin construction within one year of approval shall void the approval. Construction shall be completed within eighteen (18) months of the commencement of construction activities.
- e) It is declared that the design of any given road plan is strongly influenced by the specific characteristics of each project area site, and that a universal application of adopted design standards may not be in the best interest of the community and/or applicant. The Planning Commission, or in the case of a PUD, the Township Board, is therefore granted authority to modify and/or alter the standards at the public hearing. Any modifications are subject to the following:
  - i) The applicant shall show that strict application of the standards at issue would serve no practical purpose or are unreasonable as applied to the property in question.
  - ii) The Planning Commission or Township Board determines that a better development can be put into place, particularly in terms of the impact on the adjacent properties and on the community as a whole.
  - iii) The Planning Commission or Township Board determines that the proposed modifications are more consistent with the intent of this ordinance, the Township Comprehensive Plan and other applicable general ordinances.

3. ROAD PLANS

A road plan submitted for approval shall include:

- a) Right-of-way easement, including a legal description, and all parcels benefited.
- b) Utility easements.
- c) Profile drawings, and detailed construction plans prepared by and sealed by a Michigan registered professional engineer.
- d) Drainage and storm water control plan and the location of all ditches, basins, culverts, facilities, structures, and easements.
- e) Proposed grades, width of improved roadbed and shoulders, cul-de-sacs or road dead-ends.
- f) Road cross sections.
- g) Entranceway permit application with the County Road Commission.
- h) Hold harmless agreement.
- i) Other detailed information as needed by the Zoning Administrator.

4. EASEMENTS

- a) Shall have a minimum easement of 40 feet in width, unless additional right-of-way is required for adequate construction.
- b) The minimum easement shall widen at the cul-de-sac or terminus of a road to a radius of 60 feet.
- c) All private roads and common driveways shall be located within a permanent right-of-way easement. The easement shall grant ingress and egress of motor vehicles to abutting properties and to the public for purposes of fire fighting equipment, police, ambulance, other safety and emergency vehicles, snow plows, school buses, sanitation vehicles and similar service vehicles and equipment and shall be recorded with the deed of all property accessed by the private road or common driveway at the Emmet County Register of Deeds.
- d) Adequate utility easements shall be granted to the public within or adjacent to the right-of-way for sewer, water, gas, electric, telephone and cable use. All utilities which are placed underground in the road right-of-way shall be placed prior to final soil erosion measure work where at all possible.
- e) No structure, other than for utilities specified in subparagraph d) above or development activity shall be established within a permanent right-of-way easement.

5. WIDTH OF IMPROVED ROADBED AND SHOULDERS

- a) Common driveways with grades up to 9% shall have an improved roadbed width of not less than twelve (12) feet. With grades greater than 9%, the improved roadbed width shall not be less than eighteen (18) feet. There shall be six (6) feet shoulders on each side of the improved roadbed of the driveway.
- b) Private roads with grades up to 9% shall have an improved roadbed width of not less than eighteen (18) feet. With grades greater than 9%, the improved roadbed width shall not be less than eighteen (20) feet. There shall be two (2) feet shoulders on each side of the improved roadbed.

6. ROADBED, SHOULDERS, AND INTERSECTION SPECIFICATIONS

- a) The improved roadbed width shall meet or exceed the following specifications: Where existing soils are course soils, the minimum sub base shall be at least six (6) inches deep of sand and/or sand and gravel and a minimum surface of at least six (6) inches deep of gravel (MDOT 22A).

Where existing soils are medium to fine soils, the minimum sub base shall be at least fifteen (15) inches deep of sand and/or sand and gravel, and a minimum surface of at least six (6) inches deep of gravel (MDOT22A)

- b) With grades greater than 8%, the improved roadbed width shall be surfaced with bituminous pavement. Grades shall not exceed 10%.
- c) Shoulders shall be stabilized with two and one-half (2 ½) inches or more of good compacted topsoil over six (6) inches of compacted gravel. Shoulders shall be sodded or seeded and mulched to insure an adequate covering of grass.
- d) All material specifications shall meet the current MDOT specifications.
- e) Cross sectional construction standards for public roads of the Emmet County Road Commission shall be met or exceeded.
- f) Intersections shall be laid out so as to be at or near to a ninety (90) degree angle as possible.

7. ENTRANCEWAY

A permit must be obtained from the Emmet County Road Commission for an entranceway onto public roads. The entranceway must comply with the Emmet County Road Commission standards for entranceways.



8. DRAINAGE PLAN

A drainage plan must be approved by the Emmet County Soil Erosion and Sedimentation Control Officer. The drainage plan shall be prepared by and sealed by a Michigan registered professional engineer. The plan shall be designed to meet the requirements of the Emmet County Soil and Water Conservation District standards and/or standards outlined by the Storm water management ordinance, the Natural Resources and Environmental Protection Act, Part 91 Soil Erosion and Sedimentation Control Act, Part 17 Michigan Environmental Protection Act, Part 303 Wetland Protection Act and the guideline and criteria of the MDNR Guidebook Best Management Practices for Michigan Watersheds. The drainage plan shall conform to the requirements of all agencies having jurisdiction.

The plan will control erosion and retain storm water on site or direct it to a proper drainage course in accordance with this Ordinance and any other applicable law or regulation. The drainage plan, as it affects the roadways shall indicate the manner in which surface drainage is to be disposed of. This may require making the use of existing ditches, natural watercourses, or constructing tributaries. An easement of twenty (20) feet or more in width shall be provided when the drain crosses private property within the project or adjacent to it. Road construction shall not result in the discharge of any sediment or a greater quantity of storm water runoff or accelerated stormwater runoff on any surface waters or adjacent properties that are not a part of the project. The owner or owners of the properties served by the road shall provide in the maintenance agreement for the requirements to grade, drain, and otherwise maintain the private road in accordance with the requirements of the ordinance.

9. INSPECTIONS

The Zoning Administrator is authorized to have the plans reviewed and inspections of the construction inspected by the Township Engineer or a Michigan registered professional engineer to ensure compliance with this Section. The cost of such inspection shall be paid by the applicant prior to the issuance of the final road permit.

10. NAMES and SIGNS

All private roads and common driveways shall have a name approved by the Township Board and shall meet the Emmet County Building Department's naming requirements. The proprietor shall furnish and erect signs with the name at all intersections within the project and entrances to assist in the location of the property by emergency vehicles. The design and color of the road name signs shall be as approved by the Emmet County Road Commission. Signs marked "Private Road" shall also be erected and maintained by the proprietor at the entrance to all private roads.

Traffic control signs shall be placed in accordance with the Michigan Manual of Uniform Traffic Control Devices.

10. MAINTENANCE AGREEMENT

A maintenance agreement binding on all current and future owners of property accessed by the private road or common driveway is required and shall provide for the following:

- a) Statement indicating that the road or driveway is private and not subject to maintenance jurisdiction of the Emmet County Road Commission. Further, that such a road or driveway shall not be maintained or improved at the expense of Resort Township unless the maintenance or improvement is funded by a special assessment of the owners of property accessed by the road or driveway.
- b) Provisions to assure that the road or driveway is maintained to provide access by emergency and service vehicles during all weather conditions which are reasonably expected in Resort Township.
- c) Mechanism for equitably allocating the cost of construction and maintenance, including the cost to snow plow, grade, maintain clear vision at intersections, and maintain drainage ways, ditches, and structures, among current and future owners of property accessed by the road or driveway.
- d) Statement notifying all owners of property accessed by the road or driveway that any prohibition, restriction, limitation or any other manner of interference with normal ingress and egress or use by other owners, their guests, tradespersons, vendors, delivery persons and other having a need to use the road or driveway is prohibited.
- e) The maintenance agreement shall be recorded with the deed of all property accessed by the private road or common driveway at the Emmet County Register of Deeds.

12. HOLD HARMLESS AGREEMENT

The owners of the private road shall execute a hold harmless agreement that they shall indemnify and hold the Township harmless from all claims for personal injury and/or property damage arising out of the construction, maintenance, repair, replacement, modification, or use of the private road or common driveway. The hold harmless agreement shall be binding on the owner's successor, assignee, transferee, or any property association that owns all or a part of the private road.

13. VARIANCES

Any applicant affected by a decision under this Section shall have the right to appeal the decision to the Zoning Board of Appeals pursuant to Article XXI.

## **SECTION 1811 - HOME OCCUPATIONS**

### **1. APPROVAL PROCEDURES**

Home occupations may be approved in any zoning district where a single-family home is the principal or main use on the property. A zoning permit is required for the approval of home occupations. The Zoning Administrator shall determine the use meets the following requirements before issuing the zoning permit:

- a) Any structural additions to the home for purposes of operating said occupation shall be of an architectural style that is comparable with the architectural style of the existing home, or surrounding homes, and further, is designed so that the addition can readily be used for housing purposes if the occupation is discontinued.
- b) Only the occupant or family living on the premises shall conduct the home occupation and no off-premises person(s) shall be employed in connection with the home occupation.
- c) The home occupation shall operate only in an occupied residence.
- d) The home occupation shall not conflict with the residential character of the neighborhood and surrounding area, including the type of use proposed, hours of operation, and/or number of vehicles attracted to the site.
- e) The parking, traffic, or loading demands shall be in accordance with the carrying capacity of the property, serving streets, and utilities.
- f) The home occupation shall not create any adverse effects including any conditions resulting from the services and/or products being created which generate noise, noxious odors, unsanitary or unsightly conditions, excessive traffic, fire hazards and the like, involved in or resulting from such occupation.
- g) The home occupation shall not openly display goods, materials, or services used in connection with the home occupation.
- h) The services and/or products produced will be contained entirely within the dwelling.
- i) There shall be no visible evidence of the conduct of such home occupation other than one non-illuminated sign, not exceeding two square feet in area, and mounted flat against the wall of the building in R-1, R-2 and RR Districts, and not exceeding twelve square feet in area in the FF Farm Forest District.

2. Home occupations shall only be approved on the basis of individual merit and will adhere to the use and any special conditions stated on the permit.

3. Any approved home occupation shall be subject to inspection by the Resort Township Zoning Administrator with reasonable notice to the homeowner.

## **ARTICLE XIX - GENERAL EXCEPTIONS**

### **SECTION 1900. AREA, HEIGHT AND USE EXCEPTION**

The regulations in this Ordinance shall be subject to the following interpretations and exceptions:

#### **1. ESSENTIAL SERVICES**

Essential Services shall be permitted as authorized and regulated by law, this Zoning Ordinance and other Ordinances of the Township.

#### **2. VOTING PLACE**

This Ordinance shall not be construed to interfere with the temporary use of any property as a voting place in connection with a public election.

#### **3. HEIGHT LIMIT**

Height limitations shall not apply to farm silos, chimneys, church spires or public monuments; provided, however, that the Board of Appeals may specify a height limit for any such structure when such structure requires authorization as a use permitted on special condition or a use permitted in the Section **CONDITIONAL USES AUTHORIZED BY SPECIAL PERMIT** of this Ordinance.

#### **4. YARD REGULATIONS**

When yard regulations cannot reasonably be complied with, as in the case of a planned multiple family development, or where their application cannot be determined on lots existing and of record at the time this Ordinance became effective and on lots of peculiar shape, topography, or due to architectural or site arrangements, such regulations may be modified as determined by the Board of Appeals.

#### **5. PROJECTIONS INTO REQUIRED OPEN SPACES**

- a) Outside stairways, fire escapes, vestibules, balconies, bay windows and similar projections from the face of a building extending more than four (4) feet above the established grade shall be considered part of the building and shall not extend into any required yard or open space.
- b) For lots which have less than 100 feet of width, architectural features such as, but not limited to window sills, cornices, eaves and bay windows may extend or project into a required side yard not more than four (4) inches for each one (1) foot of width of such side yard; and may project or extend into

a required front yard or rear yard not more than three (3) feet. Architectural features shall not include those details which are normally demountable.

- c) Unenclosed paved areas, patios and other surfaced areas may occupy a required yard.

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## **ARTICLE XX - ADMINISTRATION**

### **SECTION 2000. DUTIES OF ZONING ADMINISTRATOR**

It shall be the duty of the Zoning Administrator to receive applications for Zoning Permits (Land Use Permits) and issue or deny same; to inspect buildings or structures; to determine compliance with land use permits issued in compliance with this ordinance; and to be in charge of the enforcement of this ordinance.

The Zoning Administrator shall record all nonconforming uses existing at the effective date of this Ordinance for the purpose of carrying out the provisions of the Section "Nonconformities".

Under no circumstances is the Zoning Administrator permitted to make changes to this Ordinance nor to vary the terms of this Ordinance in carrying out his duties.

The Zoning Administrator shall not refuse to issue a Permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of said Permit.

Repairs and all normal maintenance of existing buildings and structures do not require a Zoning Permit, provided such repairs and maintenance do not conflict with other provisions of this ordinance and provided that there is no change in the use and occupancy of such building or structure.

### **SECTION 2001. PLOT PLAN**

The Zoning Administrator shall require that all applications shall be filed on a form prescribed by the Zoning Administrator, and shall be signed by the applicant or by his or her authorized agent. All applications for Zoning Permits shall be accompanied by plans and specifications including a Plot Plan drawn to scale, showing the following:

1. The shape, location and dimensions of the lot, drawn to scale.
2. The shape, size and location of all buildings or other structures to be erected, altered or moved and of any building or other structures already on the lot drawn to scale.

3. The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
4. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed.

## **SECTION 2002. ZONING PERMIT**

No excavation, clearing, or grading for purposes of construction of any building or structure shall occur unless a zoning permit, conditional use, special use, site plan, PUD or other approval has been obtained by this Ordinance.

The following shall apply in the issuance of any Permit:

1. Any individual, corporation, association officer, department, board or bureau of the State, County, or Township planning to erect or move a structure to any extent, or to establish a new use or change in use for any premises or land in any Zoning District shall file an application in writing with the Zoning Administrator for a Zoning Permit. Said Zoning Administrator shall issue a "Zoning Permit" if such planned building, structure, or land use is in compliance with the provisions of this Ordinance.
2. FARM BUILDINGS- Permits shall not be required for the erection of farm building which are not for human habitation; provided such structures comply with the setback requirements of this Ordinance.
3. PERMIT EXPIRATION- Zoning Permits are valid for one (1) year from date of issue. Construction must start within one (1) year or a new permit must be obtained.

## **SECTION 2003. FEES**

An advance for fees and costs for inspection, review, including consultation with experts and other professionals, and issuance of Permits, Conditional or Special Use Permits, Planned Unit Development or other approvals under the provisions of this Ordinance, or copies thereof, required or issued under the provisions of the Ordinance may be collected by the Zoning Administrator in advance of issuance. The amount of such fees shall be established by resolution of the Township Board of Trustees and made available on request, and shall be paid out of the advance. In the event the advance does not

cover the fees and costs as allowed by the Resolution, the applicant shall pay the difference to the Township.

## **SECTION 2004. INTERPRETATION**

In interpreting and applying the provisions of this Ordinance, they shall be held to be minimum requirements for the promotion of the public health, safety, convenience, comfort, morals, prosperity and general welfare.

## **SECTION 2005. SITE PLAN REVIEW**

### **1. USES REQUIRING APPROVAL**

Except for one family or two family dwellings or multiple family dwellings involving only one building on one site, for seasonal or permanent occupancy, a complete Site Plan shall be submitted to the Resort Township Planning Commission (or Board of Appeals if so required), for the approval of:

- a) Any special approval, conditional, or exceptional use for which a Site Plan is required by this Ordinance.
- b) Any use requiring off-street parking as stated in the off-street parking schedule of this Ordinance.
- c) Major utility service facilities, including the transporting, generating processing, storing, or transmitting, petroleum, electricity, sanitary sewage, and water, etc.; including towers right-of-way, substations, pumping stations, regulator stations and similar appurtenances.
- d) Any use located on a property with sensitive or critical environmental areas as defined or as regulated by:

The Shore land Protection and Management Act, Part 323 Natural Resources and Environmental Protection Act, MCL 324.32301 *et seq.* (formerly, Act 345 of 1970)

The Inland Lakes and Streams Act, Part 301 of the Natural Resources and Environmental Protection Act) MCL 324.30101 *et seq.* (formerly, Act 346 of 1972)



The Soil Erosion and Sedimentation Control Act, Part 91 of the Natural Resources and Environmental Protection Act), MCL 324.9101, *et seq.* (formerly, Act 347 of 1972)

The Natural Rivers Act, MCL 324.30501 (Act 231 of 1970)

The Goemaere-Anderson Wetland Protection Act, Part 303 of the Natural Resources and Environmental Protection Act), MCL 324.30301 *et. Seq* (formerly, Act 203 of 1979)

Biological Diversity Conservation Act, MCL 324.35501 *et seq* (Act 93 of 1992)

## 2. GRAPHIC REQUIREMENTS FOR SITE PLANS

Site Plans submitted in compliance with this Ordinance shall be presented in terms of the following:

- a) A map scale that provides a large enough image to adequately display the proposed site development and pertinent details, and existing site features considering legibility and site area.
- b) Date, north point, scale, property dimensions, street names, and necessary identification information.
- c) At least two (2) full sized (24" X 36") and nine (9) reduced size (11" X 17") copies of all maps or graphics, plus a digital copy (Adobe PDF format) of all maps and/or graphics.
- d) All existing and all proposed structures on the subject property, including signs and lighting, other structures within 100 feet of the subject property, ingress drives, roads and parking areas; and indicate the height of all structures.
- e) All existing easements, utility lines, rights-of-way and other services within and bordering the subject property.
- f) Topography information based on USGS datum, or selected on-site elevations. More detailed information may be required where the Planning Commission determines that the site and use warrant a more critical review of topography.
- g) Mapping of soil data as recognized in the U.S. Department of Agriculture Soil Survey of Emmet County, Michigan, or a more detailed analysis of soils shall be included. More information may be required where the Planning

Commission determines that the site and use warrant a more critical review of soils.

- h) An inventory of special site features that may be present including, but not necessarily limited to regulated wetlands as defined in law, critical dunes, bluff lines, wooded areas, water courses, and natural or man made drains, as are known to the applicant or as may be suspected based on reviews of soil maps, aerial photographs, U.S.G.S. Quadrangle maps, on-site inspections, and/or other competent sources.
- i) All site plans shall comply with the terms of the Soil Erosion and Sedimentation Control Act MCL 324.9101 *et seq*, and "as built" plans or construction drawings shall be filed with the Township Planning Commission immediately after construction is completed that demonstrated compliance with the soil erosion plan and this Act.
- j) The location of snow storage areas.
- k) Site plans shall be prepared by a Professional Engineer, Landscape Architect, or Surveyor duly licensed by the State of Michigan.
- l) Site plans shall be prepared to reflect any changes or modifications required for any applicable regulatory agencies' approval.

### 3. IMPACT STATEMENT

The statement shall address itself to the following as applicable to the type of use:

- a) A complete description of the proposed development including: areas of the site, the number of lots or units; and the number and characteristics of the population impact such as density, elderly persons, school children, tourists, family size, income, and related as applicable.
- b) Expected demands on community services, and how these services are to be provided, to specifically include: school classroom needs, volume of sewage for treatment, volume of water consumption related to ground water reserves or community system capacity, change in traffic volume on adjacent streets and other factors that may apply to the particular development.

- c) Statements relative to the impact of the proposed development on soil erosion, shoreline protection, wildlife habitat, air pollution, water pollution (ground and surface), noise and the scale of development in terms of the surrounding environment, and the cumulative and secondary impacts of such proposed development.
- d) Discussion of impacts, benefits, and feasibility of alternatives to project, including but not limited to location, design and size.

#### 4. SITE PLAN REVIEW STANDARDS

In the process of reviewing the Site Plan, the Township Planning Commission shall consider:

- a) The location and design of driveways, parking areas, and entrances, and other land surface features with respect to vehicular and pedestrian traffic.
- b) The arrangement of uses on the property, including the orientation of buildings, parking areas, and open spaces, and the visual exposure of waste storage facilities, loading docks and service doors so as to promote public safety, protect land values, and carry out the spirit and intent of the Zoning Ordinance.
- c) The traffic circulation plan and off-street parking with respect to public safety, on-site uses and adjacent properties.
- d) Buffer techniques, screening, fences, walls, greenbelts, and landscaping may be required by the Planning Commission in pursuance of the objectives of this Section and/or as a condition of the establishment of the proposed use.
- e) Methods proposed to prevent or minimize damage to sensitive or critical environmental areas.
- f) Storm water drainage plans addressing a 50 year storm design base including: flows onto the site from adjacent sites and roads, storm water impact on the site (soils, impervious surfaces, potential impervious surface, retention ponds, detention ponds, and related management facilities as appropriate), and the storm water outfall, or flow control into adjacent drainage courses, ditches and the like. On sites having limited area as in existing built-up community areas with small lots, the Planning Commission may permit controlled exceptions to the 50- year storm base for good and sufficient reason.

All storm water drainage plans shall be sealed by a Michigan Registered Professional Civil Engineer. The Planning Commission may waive the requirement, defer the requirement, or request a fully engineered storm drainage plan. After completion of construction, an "as built" drawing and plan of the development, sealed by a Registered Professional Civil Engineer, shall be filed with the Planning Commission and showing development is in conformance with the before-development storm water and soil erosion plans and the standards of this Ordinance and conditions of the any permit approval.

- g) Spaces, right-of-ways, easements, and related site plan elements needed to serve the proposed use or development for such services as fire protection, sanitary sewers, water supplies, solid waste, storm drainage systems, and related.

## 5. APPROVAL

Following the submittal of a Site Plan in accordance with the requirements of this Section, and any other rules governing Site Plan submittals in Resort Township, the Planning Commission shall approve, conditionally approve or reject the proposed development, with reasons stipulated. The Planning Commission shall commence formal review of the Site Plan at its next regularly scheduled meeting provided a complete Site Plan is submitted at least thirty (30) days prior to that meeting.

No land use, zoning compliance, and/or building permits shall be issued except for uses that are in full compliance with the provisions and conditions specified in the Site Plan Review process. If no action is taken to establish a use and/or construction of a building pursuant to an approved site plan, or site plan amendment, such approval shall lapse and cease to be in effect after twelve (12) months from the date of approval.

For developments regarded to be complex in terms of street patterns, housing density, questionable soil conditions, steep grades and similar conditions; the final approval of a Site Plan may be withheld pending the signature and seal of a Michigan registered landscape architect, architect, or engineer.

The Planning Commission may reject, approve, or conditionally approve a site plan based on provisions of this ordinance, Township planning documents, other applicable ordinances and state and federal law.

The Planning Commission may reject, approve, or conditionally approve a site plan based on provisions of this ordinance, Township planning documents, other applicable ordinances and state and federal law.

6. CERTIFICATION

For developments regarded to be complex or where deemed appropriate for such special conditions as questionable soils, steep grades or other environmental features, the final approval of a Site Plan may be withheld pending the signature and seal of a Michigan registered landscape architect, architect, or engineer, as applicable to the design subject.

The Planning Commission may require that engineered storm drainage systems, including appropriate grading and earthwork, be certified by a Michigan Registered Professional Civil Engineer as having been completed according to the stipulations of the approved site plan. Other critical site construction features may also be subject to engineering certification as to site plan compliance.

Where required, the owner or applicant shall provide such certification within 45 days of the completed construction.

The Township may establish a fee for reimbursement of its costs for such review.

7. IMPROVEMENT GUARANTEES

Any site improvements affecting screening devices, greenbelts, drainage structures, or other special construction features that pertain to the Approval of the Site Plan, as either required by the Planning Commission or as proposed by the developer or proprietor; shall be guaranteed by a deposit with the Township Clerk, of cash, a certified check, certificate of deposit, or irrevocable bank letter of credit, whichever the proprietor selects, or a surety bond acceptable to Resort Township, to insure the faithful completion of the improvements specified. The Township shall release funds for the payment of work as it is completed, subject to the Township inspection and approval of the work. The amount of the deposit shall be set by the Township based on reliable estimates of the cost of completing the work.

## **SECTION 2006. BOARD APPROVAL**

In cases where the Board of Appeals is empowered to approve certain uses or premises under the provisions of this Ordinance, the Applicant shall furnish such surveys, plans or other information that may be required by said Board for the proper consideration of the matter.

The Board of Appeals shall investigate the circumstances of each such case and shall notify such parties, who may in its opinion be affected thereby, of the time and place of any Hearing which may be held relative thereto as required under its rules of procedure.

Any approval given by the Board of Appeals, under which premises are not used or work is not started within twelve (12) months or when such use or work has been abandoned for a period of twelve (12) months, shall lapse and cease to be in effect.

## **SECTION 2007. CONDITIONAL and SPECIAL USE REVIEW PROCEDURES**

### **1. AUTHORITY TO APPROVE USES**

Whenever in this Ordinance the lawful exercise or existence of a use requires the approval of the Planning Commission, such Commission is hereby authorized and directed to investigate the matter requiring such approval, to conduct a Hearing there on where required, to make a determination, to either grant or refuse the approval and to do all things reasonably necessary to the making of such investigation and determination, subject to the provisions of this Ordinance.

The Planning Commission may impose reasonable conditions as are reasonably necessary to insure that public services and facilities are adequate and not overburdened, the environment or natural resources are protected, compatibility with adjacent land uses, in accordance with the intent of the Ordinance, Land Use Plan, and promotion of land use that is done in an economically and socially desirable manner.

The decision of the Planning Commission shall be incorporated in a statement of findings and conclusions, which specifies the basis for the decision and any conditions imposed.

### **2. HEARING: NOTICE**

Prior to conducting a Public Hearing, where required, or deemed necessary, public notice, stating the time and place of Hearing, shall be posted, at least fifteen (15) days prior to the Hearing date, in a newspaper of general circulation in the Township; and written notices, stating the time and place of Hearing, shall be mailed at least fifteen (15) days prior to the Hearing date, to all owners of property, within 300 feet of the property, regardless of whether the property or occupant is located in the zoning jurisdiction. If the name of the occupant is not known, the notice may be addressed to "occupant." The notice shall:

- a. Describe the nature of the request.
- b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses exist within the property. If there are no street addresses, the notice may use other means of identification.
- c. State when and where the request will be considered.
- d. Indicate when and where written comments will be received concerning the request.

### 3. RULES OF PROCEDURE

The Planning Commission is hereby authorized to adopt Rules of Procedure consistent with the statutes of Michigan and the provisions of this Ordinance. An approved site plan may not be changed or amendment without further approval pursuant to section 2005.

### 4. SURVEYS AND PLANS

Where the Planning Commission is empowered to approve certain uses of premises under the provisions of this Ordinance, or in cases where the Commission is required to make an investigation, the applicant shall furnish such surveys, plans or other information as may be reasonably required by said Commission for the proper evaluation and consideration of the matter. Surveys, plans, and other information must be submitted at least thirty (30) days prior to the meeting at which the Commission will consider the matter.

### 5. HEARING: MATTERS TO BE CONSIDERED

In making any recommendations or approval authorized by the provisions of the Ordinance, the Planning Commission shall consider:

- a) Whether or not there has been compliance with the provisions of this Ordinance.

- b) Whether or not there is proper yard space, parking facilities, loading space, percentage of lot coverage, greenbelts, size of buildings, lot area and other conditions required by this Ordinance.
- c) Whether or not the use involved is in accord with the spirit and purposes of this Ordinance.
- d) Whether or not the use involved would constitute a public or private nuisance.
- e) Whether or not the use involved would disturb or interfere with the natural or planned development of the surrounding neighborhood.
- f) Whether or not the use involved would likely pollute, impair, or destroy the air, water, natural resources, or the historical resources of the Township.
- g) Whether there exist feasible and prudent alternatives to the plan, design, or measures consistent with health, safety and general welfare.

## **SECTION 2008. CHANGES AND AMENDMENTS**

The Township may from time to time, on recommendation from the Planning Commission, or on petition, amend, supplement or change the District boundaries or the regulations herein or subsequently established herein pursuant to the authority and procedure established in Public Acts of the State of Michigan under Act 110, Public Acts of 2006 (MCL 125.3101 *et seq*), as amended.

In addition, an owner of property or his authorized agent, or other petitioner, shall not initiate action for an amendment to the Zoning Map affecting the same parcel more often than once every twelve (12) months. An exception to this rule may be made in those cases where the Planning Commission determines that: conditions affecting the property have changed substantially, or the nature of the request has changed substantially, thereby justifying a repetition before twelve (12) months have elapsed from the date of the previous petition.

## **SECTION 2009. ENFORCEMENT**

Except where herein otherwise stated, the provisions of this Ordinance shall be administered by the Zoning Administrator or by such deputies of the Zoning Administrator's department as the Township Board may delegate to enforce the provisions of this Ordinance.



The Zoning Administrator, or any Zoning Administrator's Deputy, or the Ordinance Enforcement Officer of the Township designated under Ordinance No. 18, as amended, is hereby designated as the authorized official to issue Civil Infraction Citations directing alleged violators of this Ordinance to appear in Court.

The Township reserves the right to take any other action, included court actions, necessary to enforce a violation of any provisions of this Ordinance or any permit or approval made under this Ordinance as provided by law, including the powers under Sec. 2010

## **SECTION 2010. VIOLATIONS AND PENALTIES**

Any land, dwellings, buildings, or structures, including, but not limited to, tents, recreation vehicles, motor homes and trailer coaches, used, erected, altered, razed or converted in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.

Any person, partnership, corporation or association who creates or maintains a nuisance per se, ad defined in the paragraph above, or who violated or fails to comply with this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction. The Township Supervisor, Zoning Administrator, or the Ordinance Enforcement Officer is authorized to enforce this provision. Penalties and Fines for a violation of this Ordinance shall be not less than \$100 and not more than \$500 for each violation or infraction, together with costs.

Every day that such violation continues shall constitute a separate and distinct offence under the provisions of this Ordinance. Nothing in this section shall exempt the offender from compliance with the provisions of this Ordinance.

In addition to enforcing this Ordinance as a municipal civil infraction, the Township may initiate proceedings in the Circuit Court to abate, prohibit, or eliminate the nuisance per se or to enforce any other violation of this Ordinance, including any equitable injunctive or restorative relief.

## **SECTION 2011. STOP WORK ORDER**

If construction or land uses are being undertaken contrary to a zoning permit, the zoning enabling act, or this ordinance, the enforcement officer or zoning administrator is authorized to post a stop work order on the property at a suitable location, such as at an entrance, in order to prevent the work or activity from proceeding in violation of the ordinance.

A person shall not continue, or cause or allow to be continued, construction or uses in a violation of a stop work order, except with permission of the enforcing agency to abate a dangerous condition or remove the violation, or except by court order. If an order to stop work is not obeyed, the enforcing agency may apply to the circuit court for an order enjoining the violation of the stop work order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent criminal or civil prosecution for failure to obey the order.

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## **ARTICLE XXI - BOARD OF APPEALS**

### **SECTION 2100. CREATION AND MEMBERSHIP**

There is hereby established a Board of Zoning Appeals which shall perform its duties and exercise its powers as provided in Act 110 of the Public Acts of 2006 (MCL 125.3101 *et sec*), as amended, and in such a way that the objectives of this Ordinance shall be observed, public safety secured and substantial justice done. The Board shall consist of the following five (5) members:

1. The first member shall be a member of the Township Planning Commission for a term limited to the time that they serve as a member of the Planning Commission.
2. The second member may be a member of the Township Board for the term of his (her) office, but this person may not serve as chairperson, and this person shall not be an employee or contractor of the Township Board.
3. The third, fourth and fifth members shall be electors from the unincorporated area of the township appointed by the Township Board to serve for a period of three (3) years; The members selected shall be representative of the population distribution and of the various interest present in the local unit of government.

### **SECTION 2101. MEETINGS**

Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine or specify in its rules of procedure. All Hearings conducted by said Board shall be open to the public. The Board of Appeals shall adopt its own rules of procedure and keep a record of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating said fact; and shall file a record of its proceedings in the Office of Township Clerk, which shall be a public record.

### **SECTION 2102. APPEAL**

An appeal from the ruling of the Zoning Administrator concerning the enforcement of the provisions of this Ordinance may be taken to the Board of Appeals within such time as shall be prescribed by said Board of Appeals by a general rule. Such appeal may be taken by any person, firm or corporation, or by any Officer, Department, Board or Bureau of the Township. The appellant shall file with the Board of Appeals, on blanks or forms

to be furnished by the Zoning Administrator, a notice of appeal specifying the grounds thereof.

The Zoning Administrator shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from which it was taken. The final decision of such appeal shall be in the form of a resolution, either reversing, modifying or affirming, wholly or partly, the decision or determination appealed from. The Board of Appeals shall state the grounds for its determination or decision.

An owner of property, or his authorized agent, shall not file an appeal for a zoning variance affecting the same parcel more often than once every twelve (12) months. An exception to this rule may be made in those cases where the Zoning Board of Appeals determines that: conditions affecting the property have changed substantially, or the nature of the request has changed substantially from the date of the previous petition.

### **SECTION 2103. STAY**

An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Appeals, after notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by the Circuit Court, on application, on notice of the Zoning Administrator and on due course shown.

### **SECTION 2104. JURISDICTION**

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

1. REVIEW - Shall hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Administrator in the administration of this ordinance
2. INTERPRETATION - Shall have the power to:
  - a) Hear and decide upon appeals matters that arise in the administration of this ordinance, including the interpretation of the applicable provisions of the Ordinance and Zoning maps.
  - b) Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision on such topic made by the Zoning Administrator.

3. SPECIAL VARIANCES- Shall have the authority to grant variances in the following cases if the general purpose and intent of the Ordinance is observed, public safety and welfare secured, and substantial justice done:

- a) Permit the erection and use of a building or use of premises for public utility purposes and make exceptions therefrom to the height and bulk district requirements herein established which said Board considers necessary for the public convenience or welfare.
- b) Permit the modification of the automobile parking space or loading space requirements where such modification will not be inconsistent with the intent of Sections 1801 & 1802.
- c) Permit temporary buildings and uses for periods not to exceed two (2) years, but may be renewed upon request for not more than one (1) additional two (2) year period.
- d) Permit a variance applied for under section 4 of the Uniform Condemnation Procedures Act, MCL 213.54

4. VARIANCES- Shall have the authority to permit variances from the strict requirements of this Ordinance, so that the spirit of the Ordinance is observed, public safety is secured, and substantial justice done, but only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing all the following:

- a) That a need for the requested variance is due to unique circumstance or physical conditions of the property involved, such as narrowness, shallowness, shape, water or topography, that will not allow the building/structure to be erected or enlarged without presenting an excessive burden to the development of the property.
- b) That the practical difficulty was not created by an action of the applicant and either existed at the time of adoption of the requirement from which the variance requested, or is necessary as a result of governmental action such as road widening (self created).
- c) That the Strict compliance with the regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a

permitted purpose, or will render conformity with those regulations unnecessarily burdensome.

- d) That the requested variance is the minimum variance necessary to do substantial justice to the applicant as well as other property owners in the district.
  - e) The requested variance will not cause an adverse impact on surrounding property values, or the use and enjoyment of property in the neighborhood or zoning district.
5. CONDITIONS – The Zoning Board of Appeals may attach reasonable conditions with the approval of a variance as provided in Sec. 2007. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:
- a. Be designed to protect natural resources, the health, safety and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
  - b. Be related to the valid exercise of police power, and purposes which are affected by the proposed use or activity.
  - c. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration and be necessary to insure compliance with those standards.
6. OTHER VARIANCE REGULATIONS:
- a. No application for a variance which has been denied wholly by the Zoning Board of Appeals shall be submitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence, proof of changed conditions found upon inspection by the Zoning Board of Appeals to be valid, or the township attorney by a written opinion states that in the

attorney's professional opinion the decision made by the Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.

- b. Each variance granted shall become null and void, unless the provisions of the variance have been utilized by the applicant within one (1) year after granting of the variance.

Nothing herein contained shall be construed to give or grant to the Board the power or authority to alter or change the Zoning Ordinance or the Zoning Map, such power and authority being reserved to the Township Board of Trustees in the manner hereinafter provided by law.

### **SECTION 2105. EXERCISING POWERS**

In exercising the above powers, a concurring vote of a majority of members of the Township Board of Appeals is necessary to reverse or affirm wholly or partly, or modify any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter on which the Board is required to pass under this Ordinance. In doing so the Board may make such order, requirement, decision, or determination as ought to be made under the administration of this Ordinance, and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken. Further, a concurring vote of a majority of members of the Board of Appeals is necessary to grant a variance in this Ordinance. The Board of Appeals shall maintain a record of its proceedings which shall be filed in the office of the clerk of the Township Board. The Board of Appeals shall state the grounds for any determination made by the Board.

### **SECTION 2106. NOTICE OF HEARING**

The Board of Appeals shall make no recommendation except in a specific case and after a Public Hearing conducted by said Board. All information in support of the request for a variance or interpretation for the appeal must be submitted at least thirty (30) days prior to the meeting at which the Board will consider the matter. Prior to conducting a public hearing, public notice shall be posted, at least fifteen (15) days prior to the hearing date in a newspaper of general circulation in the Township; and written notices, stating the time and place of hearing, shall be mailed to all owners of property within 300 feet of the property, regardless of whether the property or occupant is located within the zoning jurisdiction. If the name of the occupant is not known, the notice may be addressed to "occupant". The public notice shall:

1. Describe the nature of the request.

2. Indicate the property that is the subject of the request. The notice shall include a listing of all street addresses within the 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, the notice may use other means of identification.
3. State where and when the request will be considered.
4. Indicate when and where written comments will be received concerning the request.

## **SECTION 2107. MISCELLANEOUS**

No order of the Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than one (1) year, unless a Zoning Permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

No order of the Board of Appeals permitting a use of a building or premises shall be valid for a period longer than one (1) year unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a Zoning Permit for said erection or alteration is started and proceeds to completion in accordance with terms of such permit.



**ARTICLE XXII - VESTED RIGHTS AND PREVIOUSLY  
PERMITTED OR APPROVED LAWFUL USES  
OR STRUCTURES.**

**SECTION 2200. PREVIOUSLY PERMITTED OR APPROVED USES OR  
STRUCTURES.**

It is hereby expressly declared that nothing in this Ordinance shall be held or construed to give or grant to any person, firm or corporation any vested right, license, privilege or permit. Any existing permits or conditional or special use or PUD approvals previously granted by Emmet County under its zoning ordinance(s), as amended, for any lawful use or structure located within the jurisdiction of the Township shall continue in effect and be recognized by the Township so long as the use or structure is lawful and not in violation of any term or condition of such permit or conditional use, special use approval, or approved PUD.

**SECTION 2201. UNLAWFUL STRUCTURES AND USES**

No structure or use that was unlawful or in violation of any permit, condition, or approval under the Emmet County Zoning Ordinance, under the Resort Township Interim Ordinance, or is unlawful or in violation of any existing permit, condition, or approval under this Zoning Ordinance, shall be deemed to be lawful or conforming.

## **ARTICLE XXIII – CONDITIONAL REZONING**

### **INTENT**

It is the intent of this Article to provide a process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act (MCL 125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request. It is also the intent of this Article that it be used in circumstances where a normal rezoning request would be inappropriate due to unique circumstances. Where a traditional rezoning request, including a rezoning to the Planned Unit Development District in Article XIV, would accomplish the same goal as the conditional rezoning proposal, then those traditional procedures should be followed rather than a conditional rezoning.

### **SECTION 2300. APPLICATION AND OFFER OF CONDITIONS.**

1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made at the time the application for rezoning is filed. An owner of land may offer in writing conditions related to the use and/or development of the land at a later time during the rezoning process, provided that if new conditions are added subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.
2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirement of this Article.
3. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
4. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
5. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.

6. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provision of this Ordinance.
  
7. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
  
8. The offer of conditions may be amended during the process of rezoning consideration provide that any amended or additional conditions are entered into voluntarily by the owner. An owner may also withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board. If such additional added conditions or withdrawal of conditions occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.
  
9. The Application for conditional rezoning shall demonstrate that a change to any other zoning district without conditions, such as the Planned Unit Development District, would not accomplish the same goals of the conditional rezoning.

#### **SECTION 2301. PLANNING COMMISSION REVIEW.**

The Planning Commission, after public hearing and consideration of the factors for conditional rezoning set forth in this Article, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner. If conditions are suggested by the Planning Commission and accepted by the applicant, then no new or additional public hearing is required.

#### **SECTION 2302. TOWNSHIP BOARD OF REVIEW.**

After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, consideration of the factors for conditional rezoning set forth in this Article. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and

thereafter offered by the owner, then the Township Board shall, in accordance with Section 401 of the Zoning Enabling Act (MCL 125.3401), refer such amendments to the Planning Commission for a report thereon within a time specified by the Township board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

### **SECTION 2303. APPROVAL OF CONDITIONAL REZONING.**

1. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Article. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.
2. The Statement of Conditions shall:
  - a) Be in a form recordable with the Register of Deeds of the County in which the subject land is located or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
  - b) Contain a legal description of the land to which it pertains.
  - c) Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
  - d) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
  - e) Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the Township with the Register of Deeds of the County in which the land referenced in the Statement of Conditions is located.
  - f) Contain notarized signatures of all the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.

3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
4. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the Register of Deeds of the County in which the land is located. The Township board shall have authority to waive this recording requirement if it determines that, given the nature of the conditions, and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.
5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

#### **SECTION 2304. COMPLIANCE WITH CONDITIONS.**

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
2. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

#### **SECTION 2305. TIME PERIOD FOR ESTABLISHING DEVELOPMENT OR USE.**

Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within one year after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board for up to an additional one year if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong

likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

### **SECTION 2306 REVERSION OF ZONING.**

If approved development and/or use of the rezoned land does not occur within the time frame specified under Section 2305 above, then the land shall revert to its former zoning classification as set forth in MCL 125.3405. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all rezoning requests.

### **SECTION 2307. SUBSEQUENT REZONING OF LAND.**

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of reversion of zoning pursuant to Subsection H above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owners written request, The Township Clerk shall record with the register of deeds of the County in which the land is located a notice or affidavit that the Statement of Conditions is no longer in effect.

### **SECTION 2308. AMENDMENT OF CONDITIONS.**

1. During the time period for commencement of an approved development or use specified pursuant to Section 1305 above or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions unless requested by or consented to by the owner.
2. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

### **SECTION 2309. TOWNSHIP RIGHT TO REZONE.**

Nothing in the Statement of Conditions nor in the provisions of this Article shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to

a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Zoning Enabling Act (MCL 125.3101 et seq.)

### **SECTION 2310. FAILURE TO OFFER CONDITIONS.**

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

### **SECTION 2311. STANDARDS AND CONSIDERATIONS FOR CONDITIONAL REZONING.**

In reviewing an application for the rezoning of land under this Article, factors that should be considered by the Planning Commission and the Township Board include, but are not limited to, the following:

1. Whether the rezoning is consistent with the goals, policies, and uses proposed for that area in the Township's Master Land Use Plan;
2. Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area and whether there will be any significant detrimental impact on the surrounding uses within the area, particularly as related to traffic generating potential, servicing by trucks, hours of operation, pedestrian traffic, and inhabitability of existing uses;
3. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning.
4. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.
5. Whether the application has demonstrated that no other zoning classification would accomplish the objective of the conditional rezoning.
6. Whether there will be direct or cumulative likely pollution, impairment, or destruction of air, water, natural resources, or historic resources; and, if so a demonstration that there is no other alternative condition that could be imposed as

part of the conditional rezoning request that would reduce or minimize the pollution, impairment or destruction;

7. Whether there will be any detrimental impact of the proposal on the quality and quantity of water resources, domestic water supplies and capacity to absorb the anticipated sewage disposal demand; and
8. Whether any other reasonable conditions could be imposed to prevent or mitigate the adverse impacts on adjacent land uses, natural, historic or other resources, the character of the surrounding area, impacts or costs to the Township or community, and to protect the health, safety, and welfare of the Township and its residents.



## **ARTICLE XXIV- SEVERANCE CLAUSE**

Sections of this Ordinance shall be deemed to be severable and should any section, paragraph, or provision hereof be declared by the Courts to be unconstitutional or invalid, such holdings shall not effect the validity of this Ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

## **ARTICLE XXV - CONFLICTING REGULATIONS**

Wherever in Resort Township there are provisions in two (2) or more laws or Ordinances that have conflicting provisions, the law or Ordinance with the more stringent requirements shall govern, except as permitted under the provision of Act 110 of 2006, as amended, the Michigan Zoning Enabling Act.

## **ARTICLE XXVI - EFFECTIVE DATE**

Public Hearing having been held hereon, the provisions of this Ordinance are hereby ordered to take effect on February 9, 2003

William Fedus, Supervisor  
Resort Township Board of Trustees

Lucy Eppler, Clerk  
Resort  
Township

Jan Mancinelli, Chairperson  
Resort Township Planning Commission

# INDEX

Access Road Design .....	113
Accessory Buildings .....	85
Accessory Signs .....	100, 101, 104
Accessory Use.....	3, 15
Adult Bookstore .....	78
Adult Cabaret.....	78, 79
Adult Personal Service Establishment .....	78
Alterations.....	3
Apartment Houses .....	19
Apartments .....	3
Appeal .....	132
Athletic Clubs.....	19
Banks .....	29
Basement .....	3,17
Bed & Breakfast Facility .....	3
Billboards.....	99
Board Approval.....	128
Board of Appeals .....	132
Board of Appeals Variance .....	141
Boat Docks .....	25
Boat Launching Pads .....	24
Boat slips/Mooring.....	25
Boundaries .....	15
Bowling Alleys .....	37
Building.....	4,16
Building Height .....	4
Bulk .....	47
Business Schools .....	29
Campgrounds.....	65
Camping .....	22
Canopy or Marquee Signs .....	105
Cemeteries .....	17
Changeable Message Signs.....	101
Churches .....	16, 22,29
Club .....	29
Club House.....	22
Cluster Housing Plans .....	56

Cluster Residential Dwellings .....	28
Condominiums.....	4,77
Cottages .....	21,26,51
Country Clubs.....	17,21,269
Credit Unions.....	3,19
Density.....	15,24,40,46,47,51,53,127,134
Dental Office.....	29
Development .....	4
Display Lot Lighting .....	32
District .....	4, 15
Business .....	29,31
Farm.....	26
Forest.....	26
Light Industrial.....	34
One Family Residential.....	16
Planned Unit Development (PUD) .....	10,14, <b>38</b> ,51,87,113,123,138,139
Recreational Residential .....	15, <b>21</b>
Residential .....	16,19
Tourist Business .....	29
Drainage Plan.....	114,117,118,126
Drive-In .....	5,91,92
Driveways .....	3,5,54,88,93,104,113,114,118,126
Duplexes.....	19
Dwelling Unit.....	5,17,22,52
Dwelling Unit Density.....	43,46,47,50,52,56
Entrance Gatehouses .....	87
Entranceway.....	114,116,117
Environmental Areas .....	108,109,112,124,126
Essential Services .....	5,44,45,121
Excavation .....	5,32,68,70,71,123
Existing Conditions Map .....	39,40
Family .....	5,16
Farm Animal Unit.....	5,82
Farm Use Building.....	6,86
Farm, Commercial .....	6, 21, 26
Farm, Domestic .....	6, 21, 26
Fees .....	44,123
Fences.....	32,36,70,93
Flags.....	102,105
Floor Area.....	6,51,59,74,85
Fraternal Lodge Halls .....	19

Funeral Home.....	29
Gasoline Service Station .....	6, 29,31
Gift Shops.....	29
Golf Courses.....	17,21,26,47
Greenbelt.....	6, 22,23,51,93,110
Screening.....	6
Shoreline.....	6
Greenhouses .....	3,30,35
Guest House.....	87
Hairdressers .....	19
Height .....	3,15,36,47,51,54,76,105,112,121
Historic Overlay Areas.....	6,15,23,24,25,47,51,56,57,143
Historic Resource .....	6,15,23,24,25,47,51,56,57,143
Historical Restoration .....	17, 21, 28
Home Occupation.....	7,20,100, <b>119</b>
Hot Mix Plants .....	28
Impact Statement .....	109,125
Industrial Park.....	7,34,74
Junk Storage .....	35,77
Junk Yard .....	7, 94
Kennel .....	6,7,36,67,68
Land Development .....	24,38,61, <b>77</b> ,78
Loading Docks.....	30,126
Loading Space.....	7,130,133
Lodges and Resorts .....	11,65
Log Storage .....	26,27
Lot .....	7,24,51,54,55
Corner.....	7,8,85
Coverage .....	<b>7,51</b> ,54,130
Depth .....	8
Nonconforming.....	54, <b>58</b>
Through.....	7
Zoning.....	7,27,77,78,86,87
Lot Lines.....	8
Lot of Record .....	7, <b>8</b> ,26,58,93
Lot Variances.....	55
Lot Width .....	8
Lumber Yard.....	32
Main Building .....	8
Main Use .....	9,10,86
Manufactured Home .....	9,18,21,26, <b>66</b> ,67,89

Mobile Home .....	9,26,32,66
Manufactured Home Units .....	18
Manufactured Housing Development .....	9,66,89
Marinas.....	21,30,108,111
Master Plan .....	9,38,39,114
Master Plan Map .....	40
Meetings.....	132
Metal Recycling .....	74
Mining.....	28,35,68,70,90
Mining Operations .....	28,72
Mixed Use.....	10,45
Mobile Home Park.....	9,66
Motor Inn .....	7, 9,19
Hotel.....	7, 9,91
Multiple Family Dwelling .....	19,89,123
Name Plates.....	100,102
National Register of Historic Places .....	6,23,24
Newspaper Offices .....	30,31
Non-accessory Signs and Billboards .....	101
Non-Conforming Building.....	9
Nonconforming Lots .....	54,58
Nonconforming Use.....	58,59,60,122
Nonconformities.....	58
Nuisance Factors.....	9
Nursery Schools .....	17
Nursing Home.....	67
Office Buildings.....	29
Off-Premises Directory .....	106
Off-Street Loading .....	93
Off-Street Parking Lot.....	9,54,88,92,98
Off-Street Parking Spaces .....	10,82,88,89,92
Commercial & Business.....	90
Industrial & Wholesale .....	92
Public & Quasi-public.....	89
Residential .....	89
One-Family Dwelling .....	5,16
Open Space.....	13,53,54,55,89,114,121
Ornamental.....	112
Outdoor Lighting .....	94
Outdoor Sales Lots.....	32
Outdoor Speakers .....	94

Outdoor Theaters .....	63
Parking .....	54, <b>88</b> , 89, 90, 92, 98, 124
Parking Space .....	10, 82, 88, 89, 92
Parkways .....	21
Personal Wireless Communication Facilities .....	11, 64
Photographers .....	19, 29
Planned Unit Development .....	10, 14, <b>38</b> , 51, 62, 87, 113, 123, 138, 139 41
Plant Materials .....	9, 30, 33, 35, <b>95</b>
Plant Spacing .....	95
Playgrounds .....	21, 26
Plot Plan .....	111, 112, <b>122</b>
Porch .....	10
Enclosed .....	10
Open .....	10
Principal Use .....	10
Printing Shops .....	30
Private Roads .....	39, 41, 78, <b>113</b>
Private Schools .....	16, 18, 30
Professional Office .....	11, 19, 28, 90
Public Parks .....	21, 23
Public Schools .....	16, 22
Public Service Facilities .....	16, 21, 28, 29
Public Utility .....	<b>11</b> , 16, 35, <b>64</b> , 133
Radio Towers .....	64
Real Estate Sales Offices .....	19
Recreation Camps .....	11, 65
Recreation Homes .....	21
Repairs and Maintenance .....	<b>60</b> , 122
Restaurants .....	29, 31, 91, 93
Riding Academies .....	65
Road Right-Of-Way .....	8, <b>11</b> , 16, 33, 54, 57, 62, 70, 86, 93, 101, 104, 116
Roadbed .....	115, 116, <b>117</b>
Roadside Stand .....	11, 27
Room .....	3, 4, 5, 9, <b>11</b> , 90, 91
Rooming Houses .....	19, 89
Salvage Yard Classifications .....	74
Salvage Yards .....	74, 75
Sanitary Landfills .....	73
Savings and Loan Associations .....	19
Sawmills .....	26, 27
Scenic Trails .....	21

Schedule of Regulations.....50

Setback..... 11, 50, 51, 85, 104, 110

Sewerage and Water Facilities .....95

Sexually Oriented Business.....78

Shopping Center..... 10, 11, 30, 44, 90

Sign ..... 11, 98

    Accessory ..... 11, 100, 101, 104

    Non-Accessory..... 11, 101

Sign Lighting..... 105

Site Plan ..... 11, 43, 123, 126

Site Plan Review ..... 123, 126

Site Unit Condominium.....55

Special and Condition Land Uses.....61, 62, 63

Storage Uses.....32, 33

Story .....3, 11

    Half ..... 12

Street..... 12

    Highway ..... 12

    Road ..... 11, 12, 112 114

Structure..... 11, 14, 59

Subdivision .....54, 103, 114

Swim Raft.....22

Temporary Dwellings.....66

Temporary Use..... 12

Tents .....5, 22, 131

Theaters .....31, 63, 90

Tourist Home .....3, 12, 19

Towers.....5, 63, 64, 112, 124

Travel Trailer ..... 9, 12, 26, 27, 28, 66, 67

    Camper ..... 12, 21

Tree Farm.....26

Two-Family Dwelling ..... 19

Unlawful Structures ..... 137

Use ..... 12, 61

Vehicle Parking.....21, 22, 92

Vehicle Stacking Space.....92

Vested Rights ..... 137

Veterinarian Hospitals .....67

Waste ..... 6, 28, 36, 39, 41, 67, 73, 75, 126, 12739

Wastewater.....36, 67

Waterfront Setback..... 110

Wildlife Preserves ..... 26

Wind Turbine Generators ..... 12, 82

Window Signs ..... 104

Wireless Communication Facilities ..... 11, 13, **64**

Yards ..... 13

Zoning Administrator ..... 13, 122

Zoning Exceptions ..... 13

Zoning Map ..... **15**, 22, 23, 38, 42, 38,42,130, 133, 135, 140

Zoning Permit ..... 13, 123

Zoning Variances ..... 13, 133, 134