

# Napoleon Township Zoning Ordinance



*Napoleon Township Office*

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## Article 1

# Title, Purpose, Construction, and Scope

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## Article 1 **Title Purpose, Construction and Scope**

### Section 1.1 **Title**

This Ordinance shall be known and may be cited as “The Zoning Ordinance of Napoleon Township.” The Zoning Map referred to herein is entitled the “Zoning District Map of Napoleon Township.”

### Section 1.2 **Purpose**

This Ordinance has been established under authority of, and in accordance with the provisions of the Township Rural Zoning Act, as amended, 1943 PA 184, to establish comprehensive zoning regulations for Napoleon Township, Jackson County, Michigan, and to provide for the administration, enforcement and amendment thereof, and the repeal of all ordinances in conflict herewith. The continued administration of this Ordinance, amendments to this Ordinance, and all other matters concerning operation of this ordinance shall be done pursuant to the Michigan Zoning Enabling Act, as amended, 2006 PA 110.

This Ordinance has been established for the following purposes:

- A. To meet the needs of the state’s citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land;
- B. To ensure that the use of the land shall be situated in appropriate locations and relationships;
- C. To limit the inappropriate overcrowding of land and congestion of population, transportation systems and other public facilities;
- D. To facilitate adequate and efficient provision of transportation systems, sewage disposal, water, energy, education, recreation and other public service and facility requirements; and
- E. To promote the public health, safety, and welfare.

In order to most efficiently protect and promote the public health, safety and welfare, and to accomplish the stated goals of its land use plan, Napoleon Township shall be divided into districts of such number, shape and area, as it considers best suited to carry out the Michigan Zoning Enabling Act.

### Section 1.3 **Construction and Scope**

Every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of an existing building or structure occurring, and every enlargement of or addition to an existing use, building or structure occurring after the effective date of this Ordinance shall be subject to all regulations of this Ordinance which are applicable in the zoning district in which such building, structure or lot is located.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building or structure on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance, provided that construction shall be completed within three hundred sixty-five (365) days from such effective date and be subject thereafter to the provisions of Article 7 (Non-Conforming Uses, Structures, and Lots) of this Ordinance.

# Title, Purpose, Construction, and Scope

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## Article 2

# Establishment of Zoning Districts

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## Article 2 Establishment of Zoning Districts

### Section 2.1 Zoning Districts

For the purpose of this Ordinance, Napoleon Township is hereby divided into the following districts:

AG	Agricultural
RR	Rural Residential
R-1	Single-Family Residential
RM	Multiple-Family Residential
MHP	Manufactured Housing Park
LC	Local Commercial
GC	General Commercial
LI	Limited Industrial
GI	General Industrial

### Section 2.2 Zoning District Map

2.2.1 **Identified.** The zoning districts as provided in Section 2.1 (Zoning Districts) are bounded and defined as shown on the map entitled “Zoning District Map of Napoleon Township.” The Zoning District Map, along with all notations, references, and other explanatory information, shall accompany and be made a part of this Ordinance.

2.2.2 **Authority.** Regardless of the existence of purported copies of the Zoning District Map which may be published, a true and current copy of the Zoning District Map shall be available for public inspection, and shall be located in and maintained by the office of the Township Clerk. The Clerk’s copy, which bears the signatures of the Township Supervisor and Clerk, shall be the final authority as to the current zoning status of any land, parcel, lot, district, use, building, or structure in the Township.

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

- A. A boundary indicated as approximately following the centerline of a highway, alley, or easement shall be construed as following such centerline.
- B. A boundary indicated as following a railroad line shall be construed as being located midway in the right-of-way.
- C. A boundary indicated approximately following a recorded lot line or the line bounding a parcel shall be construed as following such line.
- D. A boundary indicated as approximately following a municipal boundary line of a city, village, or township shall be construed as following such line.
- E. A boundary indicated as following a shoreline shall be construed as following such shoreline. In the event of a change in the shoreline, it shall be construed as following the shoreline as it exists at the time the interpretation is made.
- F. A boundary indicated as following the centerline of a stream, river, canal, lake or other water body shall be construed as following such centerline.

## Article 2

# Establishment of Zoning Districts

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- G. A boundary indicated as parallel to, or as an extension of features named in the preceding subsections (A through F) shall be so construed.
- H. A distance not specifically indicated on the Zoning District Map shall be determined by the scale of the map.
- I. Where a physical or cultural feature which exists on the ground is at variance with that shown on the Zoning District Map or any other circumstances not covered by the preceding subsections (A through H), the Board of Appeals shall interpret the location of the existing district boundary.
- J. Where a district boundary line divides a lot which is under single ownership at the time of the adoption of this Ordinance, the Board of Appeals may permit an extension of the zoning regulations for either portion of the lot to the nearest lot line. However, the extension shall not extend any further than fifty (50) feet beyond the district line into either portion of the lot.

### Section 2.3 **Application of District Regulations**

The regulations herein established for each zoning district shall be the minimum regulations for promoting and protecting the public health, safety and general welfare, and shall be uniform for each class of land, building, structure, or use throughout each district. Hereafter, no building shall be erected, altered or moved, nor shall any building or premises be used for any other purpose than which is permitted in the district in which the said building or premises is located; except by variance as herein described by this Ordinance. Wherever the requirements of this Ordinance are at variance with any other adopted regulations, or ordinances, the most restrictive or imposing the higher standards shall govern. Except as hereinafter provided, district regulations shall be applied in the following manner.

#### 2.3.1 **Uses in Districts**

- A. **Permitted Uses.** Permitted uses shall be allowed by right only if specifically listed as a permitted use in the various zoning districts or are similar to those listed uses. Similar uses shall be jointly determined by the Zoning Administrator and the Chairman of the Township Planning Commission.
- B. **Accessory Uses and Buildings.** Accessory uses and buildings are permitted only if such uses are clearly incidental to the permitted principal uses.
- C. **Conditional Uses.** Conditional uses are permitted as listed. The permissibility of uses which are similar to the listed conditional uses shall be determined by the Planning Commission.

2.3.2 **Application of Area and Width Regulations.** No lot area or width shall be so reduced or diminished that yards and other open spaces shall be smaller than specified, nor shall the density of population be increased in any manner except in conformity with the area regulations, nor shall the area of any lot be reduced below the minimum requirements herein established for the district in which said lot is located.

#### 2.3.3 **Application of Yard Regulations**

- A. No part of a yard or other open space required for any building for the purposes of

## Establishment of Zoning Districts

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compliance with the provisions of this Ordinance shall be included as part of a yard or other open space similarly required for another building.

- B. Lots which abut on more than one public road and/or private road easement shall provide the required front yard along every such public road or private road easement.
- C. All front yard setback lines shall be the minimum distance measured from the road right-of-way line to the nearest front line of any permanent building structure which requires a foundation.
- D. All side and rear yard setback lines shall be the minimum distance measured from the nearest side or rear property line to any permanent building structure which requires a foundation.
- E. A waterfront lot shall provide a fifty (50) foot setback from the high-water line for all structures, including accessory structures, unless otherwise provided in this ordinance.
- F. Exceptions to Yard Regulations:
  - 1. Decks, terraces, patios, and other similar structures, constructed within twelve (12) inches of ground level, may project into a side or rear yard setback, provided that such structures be unroofed and without walls or other continuous enclosure, excluding an open railing a maximum of thirty-six (36) inches high. No such structure shall be permitted nearer than five (5) feet to any property line or five (5) feet from any water frontage. Decks, terraces, patios, and similar structures, constructed at the front of a building, shall be subject to all yard requirements thereof.
  - 2. Open and enclosed porches and other enclosed appurtenances shall be considered an integral part of the building to which they are attached and shall be subject to all yard requirements thereof.
  - 3. Roofed decks, covered decks, two-story decks, second-story decks, decks constructed with a floor height in excess of twelve (12) inches, measured at the mean finished grade, and decks attached or unattached to the front of a structure shall be considered to be part of the principal building to which they are related or attached and shall be subject to all yard requirements thereof.

### 2.3.4 Application of Height Regulations

- A. No buildings shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit hereinafter established for the district in which the building is located.
- B. **Exceptions to Height Regulations** - Roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, fire or parapet walls, skylights, towers, steeples, stage lofts, screens, flagpoles, chimneys, smokestacks, individual domestic radio and television antenna and wireless masts, water tanks, or similar structures may be erected above the height limits herein prescribed. No such structure shall exceed

## Establishment of Zoning Districts

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by more than fifteen (15) feet the height limit of the district in which it is located or be used for any purpose other than a service incidental to the main use of the building.

**2.3.5 Application of Minimum Street Frontage.** Any parcel of land which is to be occupied by a use or building, other than an accessory use or building, shall comply with Section 3.11 (Schedule of Regulations) and have frontage on and direct access to a public street or private road which meets one of the following conditions:

- A. A public street which has been accepted for maintenance by the Jackson County Road Commission;
- B. A permanent and unobstructed private road of record existing at the time of the adoption of this Ordinance; or
- C. A permanent and unobstructed private road located within an applicable District, approved by the Township Board, and built in accordance to the Napoleon Township Private Road Ordinance.

**2.3.6 Application of Miscellaneous Regulations**

- A. Every building, erected, altered, or moved shall be located on a lot of record and except in the case of approved multiple family dwellings, commercial and industrial developments, there shall be no more than one (1) principal building and its permitted accessory structures located on each lot in any district.
- B. Wherever any street, alley or other public right-of-way within Napoleon Township shall have been vacated by official government action and when the lands within the boundaries thereof attach to and become a part of lands adjoining such street, alley or public right-of-way, such land shall automatically and without further governmental action thenceforth acquire and be subject to the same zoning regulations as the lands to which the same shall attach, and that same land shall be used for the same use as is permitted under this Ordinance for such adjoining lands.
- C. Whenever any fill is placed in any lake or stream, the land thus created shall automatically and without further governmental action, thenceforth acquire and be subjected to the same zoning regulations as are applicable to lands to which the same shall attach or be adjacent, and the same shall be used for the same purposes as permitted under this Ordinance for such adjoining lands. No use of the surface of any lake or stream shall be permitted for any purpose not permitted on the land from which the use emanates.

# Article 3

## Zoning District Regulations

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### Article 3 Zoning District Regulations

The intent, permitted uses and conditional land uses, height, area, density and setback regulations for each zoning district are set forth in this Article. Provisions for conditional land uses are found in Article 9 (Conditional Land Use Provision).

#### Section 3.1 Agricultural District (AG)

3.1.1 **Intent** - The AG District is intended to encourage the retention of the best lands in agricultural production, to protect viable agricultural enterprises, and to prevent the encroachment of incompatible land uses into agricultural areas. These regulations are designed to exclude uses and buildings which demand public services and infrastructure such as major thoroughfares and public sewer, water and drainage facilities.

3.1.2 **Permitted and Conditional Uses** - Please see Section 3.10.

#### Section 3.2 Rural Residential District (RR)

3.2.1 **Intent** - To provide a district which encourages single family residential development on larger lots than those in the R-1 District; to provide a buffer between the AG District and other districts; to conserve and protect wetlands and local groundwater recharge areas and other natural features; to preserve and protect the rural character of the Township; and to minimize the demand for public services and infrastructure by limiting the district's population density.

3.2.2 **Permitted and Conditional Uses** - Please see Section 3.10.

#### Section 3.3 Single Family Residential District (R-1)

3.3.1 **Intent** - The intent is to provide a district in which the principal use is single family residential and other uses normally associated with residential neighborhoods. Other private and public uses are permitted subject to conditions which will ensure the use's compatibility with the residential character of these districts. The density of the districts shall be held to a level which can be supported by existing natural resources conditions and by local public utilities, services and infrastructure.

3.3.2 **Permitted and Conditional Uses** - Please see Section 3.10.

#### Section 3.4 Multiple Family Residential District (RM)

3.4.1 **Intent** - The intent is to provide a district which allows for low rise multiple family dwellings and the recreational amenities and facilities designed to serve the needs of residents of multiple family developments as well as other compatible uses. The district shall be located in areas where the natural resource base is capable of supporting such development and which can be adequately served by public utilities, services and infrastructure.

In addition, the RM District is to serve as a transition zone between areas of lower and higher intensity development.

3.4.2 **Permitted and Conditional Uses** - Please see Section 3.10.

3.4.3 **Site Design Requirements** - All permitted uses shall conform to the following site design requirements.

# Zoning District Regulations

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A. **Density** - The following dwellings shall be subject to the following density requirements based on gross site acreage, not including public road right-of-way. For single family dwellings, the minimum lot area in this district shall be 15,000 square feet where the lot is served by individual septic and water supply systems and 10,000 square feet where the lot is served by a central sanitary sewerage and water supply system. Both the septic and water supply systems must be approved by the appropriate Federal, State, County or Township authorities.

For multiple-family dwelling structures, the minimum lot area shall be 15,000 square feet for the first dwelling unit and 5,000 square feet for each additional dwelling unit. These structures may be served by individual septic and water supply systems or a central water supply and sanitary sewerage system. Both the septic and water supply systems must be approved by the appropriate Federal, State, County or Township authorities.

For adult foster care small group homes, hospitals, convalescent homes, group day care homes, and all similar uses, the minimum lot area shall be 15,000 square feet for the dwelling unit and 3,000 square feet for each bedroom. These structures may be served by individual septic and water supply systems or a central water supply and sanitary sewerage system. Both the septic and water supply systems must be approved by the appropriate Federal, State, County or Township authorities.

B. **Setbacks and Distance between Buildings** - All developments shall be subject to the following yard requirements:

Min. Setback from Internal Street/Drive	Min. Setback from Perimeter Prop. Line	Min. Distance Between Buildings	Min Setback from Internal Parking
25 feet	See Sec. 3.11	35 feet	10 feet

C. **Recreation Space** - All multiple-family developments in an RM District shall contain an area or areas provided for common recreation of three thousand (3,000) square feet per dwelling unit. Such common recreation areas shall be located and designed in a manner which is appropriate to meet the recreational needs of the prospective residents of the development. Such recreational facilities may include, but not be limited to, swimming pools, tennis courts, playground, picnic areas, play field, and jogging trails.

## Section 3.5 **Manufactured Housing Park District (MHP)**

3.5.1 **Intent** - The intent to provide a district which encourages good manufactured housing residential development, in areas where the natural resource base is capable of supporting such development and is served by the necessary public services and infrastructure.

3.5.2 **Permitted and Conditional Uses** - Please see Section 3.10.

3.5.3 **Design Requirements** - The Mobile Home Commission Act as amended, 1987 PA 96, including the Manufactured Housing Commission General Rules, as amended, regulates development of manufactured housing parks. All manufactured housing parks must be constructed according to the standards of the Code.



## Zoning District Regulations

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In addition to the rules and standards of the State of Michigan, Napoleon Township imposes the following conditions:

- A. Manufactured Housing Parks shall not be permitted on parcels less than fifteen (15) contiguous acres in size.
- B. Individual home sites within a manufactured housing park shall have a minimum lot size of 5,500 square feet per home being served. This 5,500 square foot minimum may be reduced by twenty (20) percent, provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through this reduction of the site below 5,500 square feet, an equal amount of land shall be dedicated as open space. In no case shall the open space requirements be less than that required under R125.1946, Rule 946 of the Michigan Mobile Home Code.
- C. The minimum setback for manufactured housing parks shall be fifty (50) feet from a public right-of-way and ninety (90) feet from centerline on major roads.
- D. Manufactured housing parks shall be landscaped as follows:
  - 1. If the manufactured housing park abuts an existing residential development, the park shall be required to provide screening along the park boundary abutting the residential development, subject to the provisions of Section 4.2.2.
  - 2. If the park abuts a non-residential development, the park need not provide screening.
  - 3. In all cases however, a park shall provide screening along the park boundary abutting a public right-of-way, subject to the provisions of Section 4.2.2.
- E. Manufactured housing parks shall be subject to preliminary plan review requirements in accordance with Mobile Home Commission Act.
- F. Skirting shall be required on all sides of manufactured homes and shall be in accordance with Section R125,1604 of the Manufactured Housing Commission General Rules, as amended.

Storage goods and articles, outside of a manufactured home, shall be contained either within a completely enclosed structure, a building or in containers with secured lids. At no time shall such goods or articles be visible from adjoining property owners or from the street or road.

### Section 3.6 Local Commercial District (LC)

- 3.6.1 **Intent** - This district is intended to encourage planned integrated groupings of low impact and low intensity office, retail, service and administrative establishments which will provide convenience and comparison goods and personal and professional services without unjust disruption to adjoining and neighboring properties.
- 3.6.2 **Site Plan Review and Approval** - Site plan review and approval may be required pursuant to Article 8.
- 3.6.3 **Permitted and Conditional Uses** - Please see Section 3.10.

## Article 3

# Zoning District Regulations

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### Section 3.7 **General Commercial District (GC)**

- 3.7.1 **Intent** - This district is composed of those areas of the Township along major roads or thoroughfares whose principal use is and ought to be integrated groupings of higher impact and intensity commercial, retail and service establishments which serve the entire Township and surrounding areas while protecting adjacent districts against the encroachment of incompatible uses.
- 3.7.2 **Site Plan Review and Approval** - Site plan review and approval may be required pursuant to Article 8 (Site Plan Review).
- 3.7.3 **Permitted and Conditional Uses** - Please see Section 3.10.

### Section 3.8 **Limited Industrial District (LI)**

- 3.8.1 **Intent** - The district is designed to create a low density development with spacious yards to provide attractive settings as well as to help ensure compatibility with non-industrial neighboring lots. This district is intended to permit only those uses which emit a minimum of noise, vibration, smoke, dust and dirt, gases or offensive odors, glare, and radiation.

The LI District is so structured as to permit, along with any specific uses, the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semi-finished products from previously prepared material. It is further intended that the processing of raw material for shipment in bulk form, to be used in an industrial operation at another location, is not permitted.

- 3.8.2 **Site Plan Review and Approval** - Site plan review and approval may be required pursuant to Article 8 (Site Plan Review).
- 3.8.3 **Permitted and Conditional Uses** - Please see Section 3.10.

### Section 3.9 **General Industrial District (GI)**

- 3.9.1 **Intent** - To provide land for large scale and more intense types of industrial and manufacturing uses. It is the purpose of these regulations to permit the development of certain industries; to protect the abutting residential and commercial properties from incompatible industrial activities; and to restrict the intrusion of non-related uses such as residential, retail and commercial businesses. To these ends, certain uses are excluded which would function more effectively in other districts and which would interfere with the operation of the uses permitted in this district.
- 3.9.2 **Site Plan Review and Approval** - Site plan review and approval may be required pursuant to Article 8 (Site Plan Review).
- 3.9.3 **Permitted and Conditional Uses** - Please see Section 3.10.

### Section 3.10 **Schedule of Permitted and Conditional Uses**

The following uses are permitted (P) or conditional (C) within the zoning districts. Conditional uses require approval according to the procedures listed in Article. 9.



# Article 3

## Zoning District Regulations

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	AG	RR	R-1	RM	MHP	LC	GC	LI	GI
1. Adult entertainment businesses (subject to Ordinance #62, Adult Entertainment Businesses)									C
2. Agriculture, including general farming, fruit orchards, sod farming, forestry, nurseries, greenhouses and the raising of livestock; and customary farm buildings	P								
3. Airports (subject to the provisions of Sec. 9.11.1)	C							C	C
4. Asphalt and concrete mixing plants									C
5. Auction houses							P		
6. Automotive repair facilities (subject to the provisions of Section 9.11.4 when allowed as a conditional use)							C	P	P
7. Automotive service stations and automobile washes (subject to the provisions of Sec. 9.11.3)							C	P	P
8. Automotive supply and parts stores							P		
9. Bed and breakfasts (subject to the provisions of Sec. 9.11.14)	C	C	C	C					
10. Building material sales <i>11-15, reserved</i>								C	P
16. Business and dance schools							P		
17. Campgrounds (subject to the provisions of Sec. 9.11.5)	C								
18. Catering services, delicatessens and confectionery stores							P		
19. Cemeteries (subject to the provisions of Sec. 9.11.6)	C	C	C	C					
20. Churches and other buildings used for religious worship (subject to the provisions of Sec. 9.11.7)	C	C	C	C					
21. Commercial horse stables (subject to the provisions of Sec. 9.11.16)	C								
22. Conservation and/or recreation areas including forest preserves, game refuges, nature preserves, hunt clubs and similar areas of low intensity use	P								
23. Data processing and computer centers including the servicing and maintenance of electronic data processing equipment								P	P
23.5 Data processing and computer centers that do not service or maintain electronic data processing equipment							C	P	P
24. Duly licensed taverns, drive-in or drive-through retail establishments and beer, wine and package liquor stores							C		
25. Dwellings									
a. Single-family detached dwellings	P	P	P	P					
b. Two-family dwellings (subject to the provisions of Sec. 3.4.3)				P					
c. Multiple-family dwellings (subject to the provisions of Sec. 3.4.3)				P					
d. Residential living units in commercial zoned districts (subject to the provisions of Sec. 9.11.19)						C	C		
e. Accessory residential uses and structures	P	P	P	P					
<i>26-30, reserved</i>									
30 Electronic Message Signs	C					P	P	P	P
31. Essential services and public utility buildings	P	P	P	P	P	P	P	P	P

# Article 3

## Zoning District Regulations

	AG	RR	R-1	RM	MHP	LC	GC	LI	GI
32. Factory, mill, and electrical supplies							C	P	
33. Farm machinery sales								C	C
34. Farm markets	C					C	P		
35. Farm supply and lawn and garden stores							P		
36. Financial and business service establishments, banks, credit unions, insurance, accounting, and real estate offices						C	C		
37. Funeral homes						C	P		
38. General construction, warehouses, and yards								C	C
39. Family and Group homes									
a. Adult foster care family home occupied by not more than six (6) persons (subject to the provisions of Sec. 3.4.3A)	P	P	P	P	P				
b. Family day care homes		P	P	P	P				
c. Group day care homes (subject to the provisions of Sec. 9.11.8)	C	C	C	C	C				
d. Daycare centers (subject to the provisions of Sec. 9.11.9)	C	C	C	C	C		P		
e. Adult foster care small group home occupied by not more than twelve (12) persons (subject to the provisions of Sec. 3.4.3.A)	C	C	C	C	C				
40. Golf course and country clubs (subject to the provisions of Sec. 9.11.11)	C	C	C	C	C		C		
Golf driving ranges (subject to the provisions of Sec. 9.11.12)							C		
<i>41-45, reserved</i>									
46. Grocery supermarkets							P		
47. Health and fitness clubs							P		
48. Home occupations									
a. Type I home occupations (subject to the provisions of Sec. 4.11.1)	P	P	P	P	P				
b. Type II home occupations (subject to the provisions of Sec. 4.11.2)	C	C	C	C	C				
49. Hospitals and convalescent homes (subject to the provisions of Sec. 9.11.13)				C			C	C	C
50. Hotels and/or motels (subject to the provisions of Sec. 4.21)							P		
51. Indoor and outdoor commercial recreation including bowling alleys, miniature golf course, outdoor skating rinks and similar uses							P		
52. Indoor or drive-in movie theaters or assembly halls and outdoor commercial amusements							C		
53. Intensive livestock operations, subject to the provisions of State and Federal Regulations	C								
54. Kennels (subject to the provisions of Sec. 9.11.15)	C	C					P		
55. Large equipment and trailer coaches									
a. Large equipment services & repair and trailer coach sales & repair							C	P	
b. Large equipment services (excluding repair) and trailer coach sales (excluding repair)							P	P	
<i>56-60, reserved</i>									
61. Large scale fabrication of paper and wood products									P

# Article 3

## Zoning District Regulations

	AG	RR	R-1	RM	MHP	LC	GC	LI	GI
62. Large scale manufacturing, processing, packaging or assembling									P
63. Laundry and dry-cleaning establishments									
a. Large Laundry and dry-cleaning establishments							P		
b. Small laundry and dry-cleaning establishments that do not import articles to be cleaned from other locations						C	P		
64. Lumber operations, including bulk log sawing								C	C
65. Manufacturing, processing or packaging of plastic products such as laminate, pipe, plumbing products, and miscellaneous molded or extruded products								C	P
66. Manufacturing, processing, packaging or assembling of pharmaceutical preparations, cosmetics, and toiletries								P	P
67. Manufacturing, research, assembly, testing and repair of components, devices, equipment and systems of professional, scientific and controlling instruments, photographic and optical goods, and electronic and electrical equipment including the following:								P	P
a. Communication, transmission and reception equipment such as coils, tubes, semi-conductors, navigation control equipment and systems guidance equipment.								P	P
b. Data processing equipment and systems.								P	P
c. Graphics and art equipment.								P	P
d. Metering instruments.								P	P
e. Optical devices, equipment and systems.								P	P
f. Phonographs, audio units, radio equipment and television equipment.								P	P
g. Photographic equipment.								P	P
h. Radar, infra-red and ultra-violet equipment and systems.								P	P
i. Scientific and mechanical instruments such as calipers and transits.								P	P
j. Testing equipment.								P	P
k. Electrical machinery, equipment and supplies, electronic components and accessories.								P	P
l. Office, computing and accounting machines.								P	P
68. Marinas and Bait shops						C	C		
69. Medical clinics and medical laboratories						C	C		
70. Metal fabrication								C	C
71. Medical marihuana caregiver grow operation (subject to the provisions of Sec. 4.22.1)	P					P	P	P	P
72. Medical marihuana home use (subject to the provisions of Sec. 4.22.2)	P	P	P	P	P	P	P		
73-75, reserved									
76. Mining and extractive operations, subject to the provisions of Sec. 9.11.18	C								
77. Manufactured housing parks (subject to the provisions of Sec. 3.5.4)					P				
78. New and used automobile and vehicle sales (subject to the provisions of Sec. 4.19)							P		

# Article 3

## Zoning District Regulations

	AG	RR	R-1	RM	MHP	LC	GC	LI	GI
79. Office buildings for the use of the following occupations: Executive; administrative; professional; accounting; clerical; stenographic; drafting; and skilled trade and general contractors.						C	C	P	P
80. Open air business such as, farm machinery sales, nursery and garden sales, and building materials							C		
81. Open Space Community, subject to the provisions of Art. 11		C	C	C					
82. Outdoor storage of recreational vehicles and water craft	C	C	C	C			C	P	P
83. Parks and playgrounds		P	P		P				
84. Personal service establishments such as repair shops for small appliances and shoes; beauty and barber shops and travel agencies						P	P		
85. Planned Unit Development, subject to the provisions of Art. 10		C	C	C		C	C		C
<i>86-90, reserved</i>									
91. Printing establishments							C	P	
92. Printing, publishing and related activities								P	P
93. Private Service clubs, fraternal organizations and lodge halls.							P		
94. Professional offices for doctors, dentists, lawyers, architects, engineers, surveyors, and similar professions, excluding medical clinics and medical laboratories						P	P		
95. Public or private elementary, intermediate and/or high schools offering courses in general education (subject to the provisions of Sec. 9.11.10)	C	C	C	C					
96. Recycling centers							C	C	C
97. Research and design centers where said centers are intended for the development of pilot or experimental products, together with related office buildings for such research facilities where said offices are designed to accommodate executive, administrative, professional, accounting, engineering, architectural, and support personnel								P	P
98. Restaurants, including drive-in or drive-through restaurants						C	C		
99. Retail businesses and convenience stores no larger than 4000 gross square feet that are opened extended hours that typically sell items such as groceries, baked goods, drugs, house wares, flowers, gifts, notions, ice cream and sandwiches but not including the sale of gasoline or other motor fuel.						C	P		
99.5 Retail businesses and convenience stores larger than 4000 gross square feet that are opened extended hours that typically sell items such as groceries, bake goods, drugs, house wares, flowers, gifts, notions, ice cream but not including the sale of gasoline or other motor fuel							P		
100. Roadside stands	P	P							
<i>101-105 reserved</i>									
106. Sale of wearing apparel, antiques, photo supplies, books, toys, radio & TV sales and service, paint & wall paper, office supplies, furniture and accessory merchandise.							P		
107. Self storage facilities (subject to the provisions of Sec.							C	C	C

Article 3  
**Zoning District Regulations**

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		AG	RR	R-1	RM	MHP	LC	GC	LI	GI
9.11.18)										
108. Solid waste transfer stations and/or solid waste processing facilities										C
109. Telecommunication Facilities and Towers (subject to the provisions of Sec. 4.16.2)	C							C	P	P
110. Tool and die, job, machine, and skilled trade shops									C	C
111. Tools & gage manufacturing, checking and service								P	P	P
112. Trucking terminals									C	P
113. Veterinary clinics (subject to the provisions of Sec. 9.11.2)							C	C		
114. Warehousing, refrigerated and general storage, but not including self-storage facilities									C	P
115. Small wind energy facilities/systems (subject to the provisions of Sec. 9.11.20)										
a. Tower mounted, up to 80 feet tall, with a lot size of at least 1 acre	C							C	C	C
b. Tower mounted, over 80 feet tall, with a lot size of at least 2 acres	C							C	C	C
c. Tower or structure mounted, up to 60 feet tall or up to 15 feet taller than the highest point of the structure, with a lot size of at least 1 acre		C	C	C	C					
116. Utility grid large wind energy facilities/systems (subject to the provisions of Sec. 9.11.21)	C								C	C

Article 3

# Zoning District Regulations

## Section 3.11 Schedule of Regulations

All uses shall be subject to the Schedule of Regulations unless otherwise provided for herein.

Zoning District	Min. Lot		Max. Lot Coverage	Min. Setbacks			Max. Height	
	Area	Width		Front	Side	Rear	Dwellings	Other
<b>AG Agricultural</b> All Permitted	5 acres	300 feet	10 percent	60 feet from road right-of-way, except 90 feet from centerline on major roads	30 feet except 60 feet from road right-of-way on a corner lot and 90 feet from centerline on major roads	50 feet	35 feet or 2½ stories	100 feet
<b>RR Rural Residential</b> All Permitted	2 acres	200 feet	20 percent	45 feet from road right-of-way except 90 feet from centerline on major roads	30 feet, except 35 feet from road right-of-way on a corner lot and 90 feet from centerline on major roads	35 feet	35 feet or 2½ stories	15 feet
<b>R-1 Single Family Residential</b>								
Sewer	10,000 sq. ft.	80 feet	30 percent	35 feet from road right-of-way, except 90 feet from centerline on major roads	10 feet and the sum of two sides not less than 25 feet, except 35 feet from road right-of-way on a corner lot and 90 feet from centerline on major roads	20 feet	35 feet or 2½ stories	15 feet
Septic	15,000 sq. ft.	120 feet						
Other	1 acre	120 feet						
<b>RM Multiple Family Residential</b>								
Single Family	15,000 sq. ft.	120 feet	25 percent			20 feet plus 15 feet transition strip if abuts residential property	35 feet or 2½ stories	35 feet
Multiple Family	See 3.4.3							
<b>LC &amp; GC Local and General Commercial</b>								
Sewer	10,000 sq. ft.	75 feet	35 percent	35 feet from road right-of-way, except 90 feet from centerline on major roads; includes 20-foot curbed, landscaped transition strip	20 feet except 35 feet from road right-of-way on corner lot and 90 feet from centerline on major roads, plus a 15-foot transition strip if it abuts residential	20 feet plus 15-foot transition strip if abuts residential property	35 feet	35 feet
Septic	15,000 sq. ft.	100 feet						

Article 3

# Zoning District Regulations

Zoning District	Min. Lot		Max. Lot Coverage	Min. Setbacks			Max. Height	
	Area	Width		Front	Side	Rear	Dwellings	Other
<b>LI Limited Industrial</b>			35 percent	35 feet from road right-of-way, except 90 feet from centerline on major roads; includes 20-foot curbed, landscaped transition strip	20 feet except 35 feet from road right-of-way on corner lot and 90 feet from centerline on major roads, plus a 15-foot transition strip if it abuts residential	35 feet	35 feet	35 feet
Sewer	20,000 sq. ft.	80 feet						
Septic	1 acre	150 feet						
<b>GI General Industrial</b>	3 acres		35 percent			35 feet	35 feet	35 feet
Sewer		150 feet						
Septic		300 feet						

Major road/thoroughfares include, but are not limited to, the following roads located in Napoleon Township: Austin Road, Brooklyn Road (M-50), Cady Road, Clark Lake Road, Napoleon Road, South Street, Stony Lake Road (North and South), and Wolf Lake Road (north of Austin Road).

Manufactured Homes, Planned Unit Residential, and Open Space Community requirements not included in this chart.

## Section 3.12 Schedule of Regulations, Expanded

**3.12.1 Minimum lot width** - For all regular rectangular-shaped lots shall be in accordance with Section 3.11 (Schedule of Regulations). Minimum lot width for irregular-shaped lots, including pie-shaped lots and lots located on “outside corners” of curved roads and cul-de-sacs shall also be measured at the two points where the required minimum front yard setback line intersects the side lot lines. However, in all cases, the lot width measured where the front lot line meets the road right-of-way shall not be less than 75 percent of the required minimum lot width. This provision shall not be construed to enable lot line manipulation in order to circumvent the intent of Section 3.11.

**3.12.2 Definition of Lot** - A lot, as used in this Section and elsewhere in this Ordinance for the purpose of sizing requirements, including structural (buildings) sizing, shall consist of a single contiguous piece of property which is not divided by public or private roads unless those roads are totally integrated into the lot which they serve.

# Article 4

## General Provisions

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### Article 4 **General Provisions**

#### Section 4.1 **Intent**

The intent of this Article is to provide for those regulations which generally apply regardless of the particular zoning district.

#### Section 4.2 **Landscaping, Greenbelts and Buffers, and Screening:**

4.2.1 **Intent** - The intent of this Section is to promote the public health, safety, and welfare and improve the visual appearance of the Township by requiring landscaping for each proposed development. No site plan, site condominium plan, or subdivision plat shall be approved unless a landscape plan is provided which meets the requirements set forth herein.

The landscape plan shall demonstrate that all requirements of this Section are met and shall include, but not necessarily be limited to, the following items:

- A. Location, spacing, size, root (plant) type, and descriptions for each proposed plant type.
- B. Minimum scale: 1" = 50' for property less than three acres or 1" = 100' for property three acres or more.
- C. On parcels of more than one (1) acre, existing and proposed contours on-site and 50 feet beyond the site at intervals not to exceed two (2) feet.
- D. Sufficient construction details to resolve specific site conditions and to ensure proper installation and establishment of proposed plant materials.
- E. Identification of existing trees and vegetative cover to be preserved.
- F. Identification of landscape maintenance program including statement that all diseased, damaged, or dead materials shall be replaced in accordance with standards of this Ordinance.

#### 4.2.2 **Screening between Land Uses**

- A. Whenever a non-residential land use or manufactured housing park abuts a residentially zoned or used property, or when required by other provisions of this Ordinance, a landscape buffer shall be constructed to create a visual screen at least six (6) feet in height along all adjoining boundaries. A landscape buffer may consist of earthen berms and/or living materials so as to maintain a minimum opacity of at least eighty (80) percent. Opacity shall be measured by observation of any two (2) square yard area of landscape screen between one (1) foot above the established grade of the area to be concealed and the top or the highest point of the required screen. The plantings must meet this standard based upon reasonably anticipated growth over a period of three (3) years.

Exemptions – The Planning Commission may recommend an exemption to this requirement if either of the following conditions are factual:

1. The non-residential property and the residential used/zoned property are under the same ownership, and there are no residential structures on the property.
2. There are no residential structures on the residential zoned property and it can



## General Provisions

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be clearly demonstrated by the applicant that the property is not suitable for residential use. (e.g. The residential property is a wetlands, or made undevelopable by a governmental or commercial utility easement restriction, or a deeded non-buildable site) and the property owner of the residential property has no objections of eliminating the screen. (Acceptance of this elimination by the residential property owner must be in writing).

- B. Where there is a need to provide a greater noise or dust barrier or to screen more intense development, or when unusual circumstances are evident, a solid wall or solid fence shall be required by the Planning Commission. Such wall or fence shall be a minimum of six (6) feet in height as measured on the side of the proposed wall or fence having the higher grade.

The Planning Commission or the Zoning Administrator shall approve the construction materials and design of the wall or fence which may include face brick, poured-in-place simulated face brick, precast brick face panels having simulated face brick, organic polymers (plastics), composite lumber, stone or wood. A chain link fence with slat strip inserts will be discouraged.

The Planning Commission may require both a fence, as referenced in this section, and living materials as referenced in Section A above.

### 4.2.3 **Greenbelts** - Greenbelts shall be provided in accordance with the following requirements:

- A. The depth of the greenbelt shall equal the required front yard setback in the zoning district in which the proposed use is located.
- B. The greenbelt shall be landscaped with a minimum of one (1) tree not less than twelve (12) feet in height or a minimum caliper of 2 ½ inches (whichever is greater at the time of planting) for each thirty (30) lineal feet, or major portion thereof, of frontage. The remainder of the greenbelt shall be landscaped in grass, ground cover, shrubs and other natural landscape materials.
- C. Access drives from public rights-of-way through required greenbelts shall be permitted.

### 4.2.4 **Subdivision and Site Condominium Landscaping** - Landscaping for single-family residential subdivisions and site condominiums shall be provided in accordance with the following requirements:

- A. **Screening from Public Roads** - Where a subdivision or site condominium abuts a public road right-of-way located outside of the proposed subdivision or site condominium, the screening requirements set forth in Section 4.2.2 shall be met.
- B. **Other Site Improvements** - A landscape plan for a subdivision or site condominium development shall also include landscaping details of the entrance to the development, storm water retention and/or detention areas, community buildings and other recreational areas, and any other site improvements which would be enhanced through the addition of landscaping.

### 4.2.5 **Screening of Trash Containers** - Outside trash disposal containers (except a single 90 gallon maximum container) shall be screened on all sides with an opaque fence or wall,

## General Provisions

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and gate at least as high as the container and shall be constructed of material which is compatible with the architectural material used in the site development, unless otherwise required by the Health Department.

**4.2.6 Landscape Elements** - The following minimum standards shall apply:

- A. **Berms** - Berms shall be constructed with slopes not to exceed a 1:3 gradient. Berm slopes shall be protected with sod, seed, or other form of natural ground cover.
- B. **Existing Trees** - The preservation and incorporation of existing trees in a landscape is encouraged.

**Section 4.3 Fence Regulations**

**4.3.1 Fence Regulation** - It shall be unlawful for any person, firm, or corporation to construct, or cause to be constructed, any fence on any property within Napoleon Township, except in accordance with these regulations.

**4.3.2 Location of Fences** - All fences shall be located entirely on the property of the owner of the fence and shall not encroach into any road right-of-way. A fence may be constructed on the common property line provided that the fence can be maintained, if necessary, without encroachment onto neighboring property. Therefore, it is strongly recommended a written document between adjoining property owners be prepared indicating agreement for future fence maintenance and any other issues deemed appropriate by the adjoining property owners.

- A. Fences on lots abutting a body of water (other than a channel) shall be set back 50 feet from the high water line, unless the lot contains a legal non-conforming residential structure that is closer than 50 feet to the high water line, in such case the fence shall be set back no closer to the water than the nearest point of the foundation of the residential structure not including decks, terrace, patio or similar structures.
- B. Fences on lots abutting a channel of water (see definitions) are permitted to be located to the water's edge providing the following requirements are met or true:
  - 1. If property on either side of the fence is used for residential purpose:
    - a) The orientation of the dwelling(s) shall be that the rear of the dwelling(s) face the channel. (The Township Zoning Administrator shall be the final authority in case of conflict of this requirement).
    - b) The maximum height of the fence shall be four (4) feet.
    - c) The fence shall have a maximum opacity of 15% measured by observation of any two (2) square feet of fence area. (eg. A 2 x 2 by 9-gauge chain link fence would fit this requirement – actual opacity would be 12.3%)
  - 2. The channel must be an artificial waterway resulting from manmade construction and excavation.

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### 4.3.3 Height Regulations

- A. Fences located on residential lots shall comply with the following regulations:
  - 1. Only ornamental-type fences shall be located in a required front yard or in a required side yard adjoining a public or private street and shall not exceed four (4) feet in height. Any ornamental or decorative fence shall be constructed so that the ornamental or decorative features of the fence face outward from the owner's property.
  - 2. Fences located in any required side yard or required rear yard shall not exceed six (6) feet in height.
- B. Fences on any commercial lot shall not exceed eight (8) feet in height. Fences in a front yard shall not be permitted in a commercial district except where required by the Planning Commission.
- C. Fences on any industrial lot shall not exceed twelve (12) feet in height and when located in the front or street yard, shall require a minimum of 50 percent (50%) see-through opacity.
- D. In determining the maximum height of a fence that separates two adjoining lots that is located within two (2) feet of the common lot line, the maximum height at any point shall be measured from the highest grade at that point within two (2) feet on either side of the common lot line.

4.3.4 **Vision Clearance** - A fence that is located in the intersection of a driveway and a public sidewalk or a sidewalk along a private street shall not impede vision between the driveway and sidewalk.

### 4.3.5 Safety of Fences

- A. No spikes, nails, barbed wire, or other pointed objects or sharp protrusions shall be placed on, attached to, or permitted to remain on any fence below the height of seven (7) feet, except in the case of fences that enclose farmland in which case barbed wire may be permitted at any height of the fence.
- B. Fences shall not contain any electric charge or current, except fences that enclose farmland, in which case electrically charged fence wires shall be permitted, provided that such wires shall be attached to the inside face of the fence posts. All electrically charged fences shall be of a type and make approved by Underwriters Laboratories

4.3.6 **Maintenance** - Fences shall be maintained so as not to endanger life or property. Any fence which, through lack of repair, type of construction, or otherwise endangers life or property, is hereby deemed a nuisance. If an unsafe condition exists in regard to a fence, the Zoning administrator or other authorized person shall serve written notice to the owner, agent, or person in control of the property on which such fence is located. The notice shall describe the unsafe conditions, shall specify the repairs or modifications required to make the fence safe, or shall require an unsafe fence or any portion thereof to be removed. The notice shall provide a time limit for such repairs, modifications, or removal to be made.

### 4.3.7 Exemptions

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- A. Fences used for the purpose of containing livestock on agriculturally zoned land shall be exempt from the regulations and requirements of this Section except Section 4.3.5. A zoning compliance permit shall not be required for fences constructed on parcels of land larger than 2.5 acres zoned as Rural Residential (RR) or single Family Residential (R-1) however, such fences are subject to all other regulations and requirements of this Section.
- B. Temporary fences used for the purpose of soil erosion barriers, snow fencing, and similar temporary uses shall be exempt from the regulations and requirements of this Section except Section 4.3.5. All exemptions shall require written approval from the Township Zoning Administrator and the Administrator shall be the final authority in determination and approving said exemptions.

4.3.8 **Standards** - The standards set forth in this Ordinance are minimum standards and shall not be construed to limit the authority of the Planning Commission or Napoleon Township Board to impose stricter standards where a fence is constructed pursuant to a conditional use or planned residential development or an open space community. The provisions of this Ordinance shall not supersede or vitiate any recorded deed or subdivision restriction, and such restrictions shall take precedence where they impose more rigid standards than the provisions of this Ordinance.

### Section 4.4 **Private Swimming Pools**

Private swimming pools shall be subject to the following:

- A. All yard setbacks shall comply with the required setbacks for the zoning district in which the pool is located, as specified in Section 3.11 (Schedule of Regulations).
- B. All swimming pools shall be enclosed in accordance with applicable State building codes.

### Section 4.5 **Accessory Uses and Buildings**

#### 4.5.1 **Application to Single Family Residential Uses**

- A. Nothing contained herein shall be construed to limit the size of accessory buildings in conjunction with a legitimate farm operation as defined by this Ordinance provided all yard requirements are met
- B. An accessory building, which is structurally attached to a principal building, shall be subject to all setback regulations applicable to principal buildings.
- C. Detached accessory buildings shall be located a minimum of ten (10) feet from a principal building. Detached accessory buildings under one thousand (1,000) square feet in size shall be located a minimum of ten (10) feet from any side or rear lot line. Detached accessory buildings greater than one thousand (1,000) square feet but less than two thousand (2,000) square feet shall be located a minimum of fifteen (15) feet from any side or rear lot line. Detached accessory buildings greater than two thousand (2,000) square feet be located a minimum of twenty (20) feet from any side or rear lot line.

The accessory building shall be placed on the lot so that it does not preclude the future construction and proper placement of the primary structure within the requirements of this ordinance.

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A detached accessory building shall not be used for residential dwelling purposes. Multiple detached accessory buildings shall be permitted on a single lot or parcel of land as long as the aggregate floor area of all accessory buildings does not exceed the total allowable square foot floor area as specified in this Section.

A preliminary site plan shall be submitted to the Township for review by the Building Inspector with the application for a building permit for an accessory building.

The maximum aggregate area for a detached accessory building shall be in accordance with the following schedule:

Minimum Lot Size	Total Square Foot Floor Area
Less than 10,000 sq. feet	700 sq. feet
10,001-20,000 sq. feet	850 sq. feet
20,001-30,000 sq. feet	1,000 sq. feet
30,001 sq. feet to 1 acre	1,200 sq. feet
1 to 2 acres	1,500 sq. feet
2 to 3 acres	2,000 sq. feet
3 to 4 acres	2,600 sq. feet
4 to 5 acres	3,200 sq. feet
Over 5 acres	3,800 sq. feet

- D. In no instance shall an accessory structure be located within a dedicated easement or right-of-way.
- E. Accessory buildings shall not exceed the maximum permitted height of the district in which located.

4.5.2 **Application to All Other Uses.** Accessory buildings and uses for all uses other than those listed above shall comply with applicable setback and height restrictions specified for the zoning district in which the accessory use or structure is located.

## Section 4.6 Minimum Dwelling Unit Floor Areas

The minimum floor area per dwelling unit shall be in accordance with the following schedule:

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**General Provisions**

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Type of Dwelling Unit	Floor Area Square Footage	
	First Floor	Total
Single Family		
One Story	1,000	1,000
One and One-Half Stories	850	1,000
Two Stories	850	1,600
Two and Multiple Family		
Efficiency/One Bedroom		600
Two Bedroom		800
Three Bedroom		1,000

Section 4.7 **Single family dwellings and manufactured homes outside a manufactured housing park**

4.7.1 **General Provisions**

No site built single-family dwelling, mobile home, modular housing, or manufactured housing located outside a manufactured housing park or manufactured housing subdivision shall be permitted unless said dwelling unit conforms to the following standards:

- A. **Square Footage** - Each dwelling unit shall comply with the minimum square footage requirements of Section 4.6.
- B. **Dimensions** - Each such dwelling unit shall have a minimum width across any front, side, or rear elevation of twenty (20) feet.
- C. **Foundation** - Each such dwelling unit shall be firmly attached to a permanent foundation constructed on the site in accordance with Michigan State Construction Code and coexist with the perimeter of the building. All dwellings shall be securely anchored to the foundation in order to prevent displacement during storms.
- D. **Undercarriage** - Dwelling units shall not be installed with attached wheels. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage, or chassis.
- E. **Sewage Disposal or Water Supply** - Each such dwelling unit shall be connected to a public sewer and water supply or to a private facility approved by the Jackson County Health Department.
- F. **Storage Area** - Each such dwelling unit shall contain a storage area either in a basement located under the dwelling, in an attic area, or if not restricted by local covenants, in a separate or attached structure of standard construction similar to or of better quality than the principal dwelling.
- G. All homes shall have a roof overhang of not less than six (6) inches on all sides or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling.

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- H. The dwelling shall not have less than two (2) exterior doors with the second one being on either the rear or side of the dwelling. Steps shall also be required for exterior doors or porches connected to said doors where a difference in elevation requires it.
- 4.7.2 **Additions** - Each such dwelling unit shall contain no addition or room or other area, which is not constructed with similar quality workmanship as the original structure.
- 4.7.3 **Code Compliance** - Each such dwelling unit shall comply with all pertinent building and fire codes. In the case of a manufactured home, all construction and plumbing, electrical apparatus, and insulation within and connected to said manufactured home shall be of a type and quality conforming to the Mobile Home Construction Safety Standards as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended.
- 4.7.4 **Building Permit** - All construction required herein shall commence only after a building permit has been obtained in accordance with the applicable Michigan State Construction Code provisions and requirements.
- 4.7.5 **Exceptions** - The above standards shall not apply to a manufactured home located in a licensed manufactured home park except to the extent required by state or federal law or otherwise specifically required by this Ordinance and pertaining to such parks. Manufactured homes which do not conform to the standards of this Section shall not be used for dwelling purposes within the Township unless located within a manufactured housing park or subdivision district, or unless used as a temporary residence or otherwise provided in this Ordinance.

### Section 4.8 Sanitary and Dumping Restrictions

- 4.8.1 A sanitary permit shall be obtained from the Jackson County Health Department prior to the issuance of any building permit for any use where sanitary waste facilities are required.
- 4.8.2 Applicable requirements of the Jackson County Health Department regarding sewage disposal, sanitary facilities and water supply shall be met prior to the issuance of a Certificate of Occupancy for any building.
- 4.8.3 The use of open land in any district for the dumping, storage, or disposal of waste materials including garbage, sewage, filth, junk, rubbish, refuse, scrap materials, ashes, slag, industrial waste, or other obnoxious matter is not allowed unless a permit is issued by the County or State Health Department. Storage of solid inorganic waste materials, which do not present a health hazard, as determined by the Jackson County Health Department, is permitted if placed within an enclosed accessory building. Proper containers kept clean and in place, shall be provided for the temporary storage of garbage and rubbish.
- 4.8.4 The dumping of dirt, sand, rock or other material excavated from the earth is permitted in any district provided the surface of such material is graded within ninety (90) days after dumping in such manner preventing the collection of stagnant water, and which leaves the ground surface in a condition suitable for the growing of turf or



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development of other permitted land uses.

### Section 4.9 Temporary Dwelling Permits

- 4.9.1 No manufactured home or recreational vehicle shall be used as a dwelling except in accordance with the provisions contained herein. Any person may request a temporary dwelling permit from the Zoning Administrator by filing a completed application form with the Township Clerk.
- 4.9.2 The Zoning Administrator shall have authority to grant a permit for the temporary occupancy of manufactured homes or recreational vehicles subject to the following conditions.
- A. The temporary dwelling permits shall be issued only after the footings for the proposed dwelling have been installed. Prior to issuance of a permit, a performance guarantee established in accordance with Section 12.6 shall be deposited with the Clerk.
  - B. Where a temporary dwelling permit has been issued, the period of construction of a new permanent dwelling shall not exceed a period of twelve (12) consecutive months. The owner of the permanent dwelling and members of such owner's immediate family shall be permitted to occupy the temporary residence situated at the construction site provided such owner intends to occupy the dwelling as a residence upon completion of its construction.
  - C. Such temporary dwelling shall not be located within the front yard setback.
  - D. The temporary dwelling shall contain sleeping accommodations, a flush toilet, and a tub or shower adequate to serve the occupants thereof. The temporary dwelling shall be properly connected to a septic sewage disposal system, which is approved by the Jackson County Health Department.
  - E. The performance guarantee shall be forfeited to Napoleon Township and the temporary dwelling immediately removed should a violation of any of the conditions of the permit or applicable provision of this Ordinance occur.
- 4.9.3 No unoccupied temporary manufactured home shall be stored on any lot beyond the time period of the temporary dwelling permit.

### Section 4.10 Temporary or Seasonal Uses

- 4.10.1 Circuses, carnivals, flea markets, organized special events or other transient enterprises may be permitted in any district upon written recommendation of the Zoning administrator and approval of the Napoleon Township Board subject to the following.
- A The applicant for this use or event shall submit a preliminary site plan, and in writing, describe the event or use, its duration, proposed traffic flow, describe how refuse and sanitation will be handled, indicate parking requirements, identify any nuisances or public safety issues this may create and how it will be mitigated.
  - B If the use or event will require the assistance of the Napoleon Police and/or Fire Department, or any other Township services, the applicant must obtain a Special Event Permit from the Township for which there will be an appropriate charge.



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- C. In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and health, safety, and welfare of the residents, paying for Township facilities and assistance, and returning the site to its original condition, the applicant may be required to deposit a performance guarantee in an amount determined by the Township Board.
  - D. Proposed signage shall conform to the provisions of the district in which the use or event is located, as set forth in Article 5 (Signs), except if the location of the use or event abuts a residential district or if the use or event is proposing promotional advertising beyond the location of the use or event, then the signage off-site must comply with the individual sign location on a case-by-case basis.
  - E. Any owner, possessor or occupier or any person, firm or corporation having charge of this use or event that violates any provision or shall fail to comply with any requirement of this permit, shall be responsible for a Municipal Civil infraction as defined by Michigan law and considered in violation of the Napoleon Township Nuisance Ordinance, Number 69.
- 4.10.2 The sale of Christmas trees, pumpkins, firewood, and other seasonal items shall be considered temporary uses within any zoning district and shall be subject to the following conditions.
- A. All such sales shall be conducted in such a manner as to not create a traffic hazard or nuisance to neighboring properties.
  - B. Signs shall conform to the provisions of the district in which the seasonal use is located, as set forth in Article 5 (Signs).

### Section 4.11 Home Occupations

#### 4.11.1. Type One Home Occupation:

- A. **Location and Employees** - The home occupation shall be conducted solely within the dwelling unit by the resident of that unit.
- B. **Equipment or Process** - No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odor, or electrical interference detectable to the normal human senses beyond the exterior walls of the dwelling unit in which the home occupation is conducted.
- C. **Noise** - The home occupation shall not generate noise that is audible beyond the exterior walls of the dwelling.
- D. **Exterior Alterations** - There shall be no exterior alteration in the residential character of the premises in connection with the home occupation and no more than twenty-five (25%) percent of the living area will be devoted to the home occupation. No signs shall be displayed identifying the home occupation.
- E. **Display of Merchandise** - No merchandise or articles for sale shall be displayed for advertising purposes so as to be viewable from outside the dwelling and no sign or device relative to the sale of such merchandise shall be displayed on the premises.
- F. **Storage** - All articles or materials used in connection with such home occupation

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shall be stored in the main and permitted accessory buildings. No outside storage is permitted.

The storage of materials and merchandise shall not represent a safety hazard to the dwelling, dwelling occupants, or adjoining properties and occupants, nor shall said storage result in a change to the fire rating of the dwelling and accessory building in which said storage may be conducted.

- G. **Traffic and Parking** - No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood. The home occupation shall not require any on or off-street parking other than normally required for a residence.

There shall be no more than one (1) delivery per week to the residence by suppliers, except that delivery of mail and small packages by the United States Postal Service or by alternative private delivery services shall not be included as supplier deliveries. In no instance shall a delivery of any kind be made via a vehicle larger than a step-type van.

- H. **Sale of Products** - There shall be no sale of products or services except as are produced on the premises by such home occupation, except that products not produced on the premises that are incidental to services being performed as a part of the home occupation may be sold in limited quantities.

### 4.11.2. Type Two Home Occupation:

- A. **Type Two Home Business Requires Conditional Use Approval** - The home business request shall be processed by the Planning Commission under the provisions of this Ordinance.
- B. **Location** - The home occupation shall be carried on within the dwelling or within a building accessory thereto and a detached structure used for a home occupation shall not exceed the maximum aggregate area for a detached accessory building in a residentially zoned district and shall comply with Section 4.5.1 C of this Ordinance.
- C. **Employees and Volunteers** - No more than one (1) person (employee or volunteer) may be employed who is not a resident of the premises. Off street parking shall be provided for said employee or volunteer on the premises to which the home occupation is conducted. The Planning Commission may allow additional persons as employees or volunteers depending on the property location, size of the property, buffering from surrounding residential living units and overall density of the surrounding area.
- D. **Impact on Commercial Districts** - In addition to meeting the Conditional Use standards for approval, it shall be demonstrated that the home business will not be detrimental to the commercial viability of the Township's commercially zoned districts. The Planning Commission may require a feasibility study from an approved zoning and planning consultant selected by the Napoleon Township Administrator. The cost of such study will be the responsibility of the applicant.
- E. **Hours of Operation** - As set by the Conditional Use Permit.

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- F. **Clients or Customers** – The number of clients or customers that can be received at any one time shall be determined by the Planning Commission based on location, size of the property, buffering from surrounding residential living units and overall density of the surrounding area.
- G. **Sign** - One (1) non-illuminated identification sign, not to exceed three (3) square feet, may be erected. Said sign shall be attached to the residence or may be placed in a window. Additionally, a home occupation located where the building cannot be seen from the road may have a directional sign showing the address and name of the business not to exceed three (3) square feet and setback in accordance with Section 5.2 F of this Ordinance.
- H. **Noise** - The home occupation shall not generate noise, which is audible beyond the property lines of the dwelling.
- I. **Equipment or Process** - No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odor, or electrical interference detectable to the normal human senses beyond the property lines of the dwelling in which the home occupation is conducted.
- J. **Exterior Alterations** - There shall be no exterior alteration in the residential character of the premises in connection with such home occupation and no more than thirty percent (30%) of the living area of the dwelling shall be devoted to such home occupation.
- K. **Display of Merchandise** - No merchandise or articles for sale shall be displayed for advertising purposes so as to be viewable from outside the dwelling and no sign or device relative to the sale of such merchandise shall be displayed on the premises.
- L. **Storage** - All articles or materials used in connection with such home occupation shall be stored in the main and permitted accessory buildings. No outside storage is permitted. The storage of materials and merchandise shall not represent a safety hazard to the dwelling, dwelling occupants, or adjoining properties and occupants, nor shall said storage result in a change to the fire rating of the dwelling and accessory building in which said storage may be conducted.
- M. **Traffic and Parking** - Customers shall not generate excessive traffic or monopolize on-street parking. There shall be no more than two (2) deliveries per week to the residence by suppliers, except that delivery of mail and small packages by the United States Postal Service or by alternative private delivery services shall not be included as supplier deliveries.
- N. **Sale of Products** - There shall be no sale of products or services except as are produced on the premises by such home occupation, except that products not produced on the premises that are incidental to services being performed as a part of the home occupation may be sold in limited quantities.
- O. **Exemptions from Home Occupations** - These following uses are exempt from the provisions of this Section. However, said uses are subject to other applicable sections of this Ordinance.

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1. Garage sales
  2. The sale of produce grown on the premises
- P. **Prohibited Uses** - The following uses are not allowable as a home occupation in any residential district:
1. Outdoor automobile, truck, and heavy equipment repair.
  2. Auto bodywork.
  3. Auto body painting.
  4. Parking and storage of heavy equipment.

### Section 4.12 **Buildings to be moved**

No building or structure to be placed on property within the Township shall be moved into or within the Township unless the Building Inspector has made an inspection of the building to be moved. The Building Inspector shall find that the building to be moved is structurally safe, will not adversely affect the character of existing buildings in the neighborhood of the new location, and will fully comply with the Building Code and other codes regulating the health, safety and general welfare of the Township.

### Section 4.13 **Maintenance of Animals**

The keeping or raising of livestock, poultry, rabbits, fur bearing animals and other farm and non-farm animals other than household pets shall be restricted to lots greater than five (5) acres and located only in the AG District unless they are listed below with specific individual requirements:

**Apiary:** Apiary hives are permitted on land zoned other than AG but must be situated on lots greater than five (5) acres and at least 200 feet from any lot or property line and shall not cause a hazard or nuisance to neighboring properties.

**Chickens:** Chickens may be kept on a lot or premises zoned residential and greater than one (1) acre in size except where prohibited by private restrictions on the use of the property. Private restrictions shall remain enforceable and take precedence. Private restrictions include, but are not limited to, deed restrictions, neighborhood association by-laws, and covenant deeds.

A person who keeps or houses chickens on his or her property shall comply with the following requirements:

1. Keep no more than five (5) chickens.
2. The principle use of the person's property is for a single-family dwelling or two-family dwelling.
3. No person shall keep any rooster.
4. The chickens shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times. Fenced enclosures are subject to all provisions of Section 4.3 (Fences).

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5. A person shall not keep chickens in any location on the property other than the backyard and subject to the setback provisions of Article 3.11. For purposes of this section, “backyard” means that portion of a lot enclosed by the property’s rear lot line and side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the single-family or two-family structure and extending to the side lot line.
6. No covered enclosure or fenced enclosure shall be located closer than 100 feet to any residential structure on an adjacent property.
7. The covered enclosure or fenced enclosure shall be kept in good repair at all times.
8. All feed and other items associated with the keeping of chickens that are likely to attract rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access.
9. The keeping of chickens shall not cause a hazard or nuisance to neighboring properties.

### Section 4.14 Environmental Performance Standards

4.14.1 **Flood Plains** - Structures built on land subject to periodic flooding shall be subject to applicable State and Federal regulations and laws governing construction in flood plains and the Napoleon Township Flood Plain Ordinance, No. 76. Prior to the issuance of a building permit by the Township, the owner or his/her agent of the flood plain property shall submit to the Township Building Department evidence of receipt of any necessary approval or permit issued by the Michigan Department of Environmental Quality. The building of such structures shall be subject to the provisions of the State Construction Code as adopted and enforced by the Township of Napoleon in addition to any State and Federal rules, regulations or statutes. The rules and regulations established by the State Construction Code shall be deemed to be minimum standards subject to more stringent standards that may be established by the State or Federal Government. The location and boundaries of property subject to periodic flooding shall be determined by reference to the U. S. Soil Conservation Service, the U. S. Army Corp. of Engineers or other authority having jurisdiction to establish the location and boundaries of land subject to periodic flooding.

#### 4.14.2 Airborne Emission.

- A. **Odors** - Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be removed, stopped or so modified as to remove the odor.
- B. **Gases** - The escape or emission of any gas which is injurious or destructive, harmful to person or property, or explosive shall be unlawful and shall be abated.

#### 4.14.3 Noise

- A. Noise which is objectionable, as determined by the Township due to volume, frequency, or beat shall be muffled, attenuated, or otherwise controlled subject to

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the following schedule of maximum noise levels permitted:

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Octave Band in Cycles Per Second	Maximum Decibels Along District Boundaries	
	Residential	Non-Residential
0 to 150	70	70
150 to 300	60	66
300 to 600	52	60
600 to 1200	46	53
1200 to 2400	40	47
Above 2400	34	41

- B. In addition, objectionable sounds of an intermittent nature, or sounds characterized by high frequencies, even if falling below the aforementioned decibel readings, shall be so controlled so as to not become a nuisance to adjacent uses. Air-raid sirens and related apparatus used solely for public purposes are exempt from this requirement. Noise resulting from temporary construction activity shall also be exempt from this requirement.

#### 4.14.4 Electrical, Electromagnetic, or Radio Frequency Interference

- A. No use shall create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of the disturbance.
- B. No use shall cause, create, or contribute to the interference with electronic signals (including television, radio, and other communication transmissions) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

#### 4.14.5 Glare and Exterior Lighting

- A. Glare from any process, which emits harmful ultraviolet rays, shall be performed in such a manner that cannot be seen from any point beyond the property line, and does not create a public nuisance or hazard.
- B. All developments shall be designed to ensure that glare from vehicle headlights are not directed into any adjacent property, particularly residential property. The Planning Commission may require specific screening measures to attenuate glare from vehicle headlights in accordance with Section 4.2.2.
- C. Exterior lighting shall be located and maintained to prevent the reflection and glare of light in a manner, which creates a nuisance, or safety hazard to operators of motor vehicles, pedestrians and neighboring land uses. This provision is not intended to apply to public street lighting.

#### Section 4.15 Outdoor Storage

The outdoor storage of goods, materials, and equipment, except trucks operated by the principal business, shall be subject to the following conditions:

- 4.15.1 The location and size of areas for such storage, nature of items to be stored therein, and details of the enclosure, including description of materials, height, and typical elevation of the enclosure shall be provided as part of the information submitted under Article 8 (Site Plan Review) when a site plan is required.



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- 4.15.2 Such storage shall not be located within any yard setbacks as specified within this Ordinance.
- 4.15.3 Such storage shall not be located in any required parking or loading space.
- 4.15.4 The location or storage of abandoned, discarded, unused, or inoperative vehicles, appliances, furniture, equipment, or material shall be regulated as follows:
- A. On any lot or parcel in any open-area district, residential district, or commercial district, the owner or tenant shall locate and store such materials within a completely enclosed building.
  - B. On any lot or parcel in any industrial district, the owner or tenant shall locate and store such materials:
    - 1. Within a completely enclosed building, or;
    - 2. Within an area surrounded by a solid, un-pierced fence or wall at least seven (7) feet in height and not less in height than the materials located or stored therein, and not closer to the lot lines than the minimum yard requirements for buildings permitted in said districts.
- 4.15.5 Storage of recreational vehicles and watercrafts on any property used for residential purposes shall be limited to the property owner or tenant, with the exception that a maximum of two watercraft or recreational vehicles, or any combination thereof, not owned by the property owner or the tenant may be stored on each lot. Storage of water craft or recreation vehicles in excess of the limits set forth above shall require a conditional use permit as provided within this Ordinance.
- 4.15.6 Notwithstanding anything to the contrary contained in this Zoning Ordinance, owners, tenants, and/or users of property located in general commercial districts shall be prohibited from outdoor storage on said parcels of the following items:
- A. No semi-trailer shall be stored or parked for more than thirty (30) days on any lot or parcel, nor shall any such unit have removed from its undercarriage and axles and the unit then used for storage, garage, office or any other purpose in any such district, except in those used in connection with construction projects as determined by the Zoning Administrator. Anything exceeding thirty (30) days shall require a zoning compliance permit issued by the Zoning Administrator.
  - B. Packing or storage crates, parts, or all semi-trailer, and similar converted structures, shall not be used as an accessory structure in any zoning district except agriculture.

### Section 4.16 Essential Services and Communication Towers

- 4.16.1 **Essential Services** - Essential services shall be permitted as authorized and regulated by law and other ordinances of the Township. The construction of buildings associated with essential services shall be subject to the provisions of Article 8 (Site Plan Review). Otherwise, the construction, maintenance, and alteration of essential services shall be exempt from the provisions of this Ordinance, except where otherwise regulated herein.
- 4.16.2 **Public Communication Towers** - Public communication towers and their attendant



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facilities shall adhere to the following:

- A. **Applicant** - The applicant for a permit to erect a commercial telecommunications tower, satellite dish, cellular tower, microwave dish, paging, or otherwise wireless type of communication towers or antennas shall be the owner, tenant, lessee, or agent of one of the foregoing.
- B. **Application** - The application shall be submitted to the Township forty-five (45) days prior to submission of the application to the Planning Commission for approval and shall contain, in addition to any other information requested by the Planning Commission, the following information:
  1. A statement by the applicant describing engineering criteria which will permit collocation of additional antennas if the tower is 60 feet or more in height.
  2. A diagram of the proposed site.
  3. A detailed statement as to the intended buffering of the property to minimize its visibility to surrounding uses. Such buffering shall include but not be limited to the planting of evergreen trees, a fence no less than six (6) feet tall, and the material out of which said fence shall be erected. See additional requirements in section (C) (5).
  4. The proposed height of the telecommunication facility.
  5. The location and size of all accessory' buildings.
  6. The type of construction of telecommunication facility.
  7. Each application shall be accompanied by a report prepared by a Michigan licensed professional engineer describing the telecommunication facility height and design, including a cross-section of the structure; the report shall demonstrate the towers compliance with applicable sub-structural standards and describe the towers load design.
  8. The applicant in the application must demonstrate that the proposed site is the most appropriate site within the immediate area for the location of the telecommunication facility. Such demonstration shall be evidenced by a study comparing other potential host sites. Reasons for excluding a site for consideration include but are not limited to:
    - a. Unwillingness of the owner to entertain a telecommunication facility proposal.
    - b. Topographical limitations of the site.
    - c. Adjacent impediments that would obstruct adequate telecommunication transmission.
    - d. Physical site constraints that would preclude this construction of a telecommunication facility.
    - e. Technical limitations of the telecommunication system.
  9. A legal description of the property.
  10. The application shall be accompanied by a statement from a Michigan

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licensed professional engineer certifying that the tower is in compliance with all applicable federal, state and local laws, codes, regulations and ordinances.

11. The base of the telecommunication tower shall be determined by the setback requirements of the Ordinance. In no case shall the base of the tower intrude into the minimum setback requirements.
12. Minimum spacing between telecommunication facility locations shall be one (1) mile in order to prevent a concentration of towers in one area.
13. All applications for the construction of commercial telecommunication antennas, satellite dishes, cellular towers, microwave dishes, paging, and other wireless types of communication towers or antennas shall be subject to the provisions of the site plan review process set forth in this Ordinance. Each such application shall undergo a full and thorough site plan review together with meeting all of the requirements of this section.

### C. Minimum Standards

1. Commercial telecommunication antennas, satellite dishes, cellular towers, microwave dishes, paging and other wireless types of communication towers or antennas shall be separated from residential dwellings by a distance of no less than two hundred (200) feet or the height of the tower plus ten (10%) per cent, whichever is greater. The setback distance shall be measured from the base of the tower to the lot line.
2. All communication towers shall be inspected annually by a competent or licensed inspector to ensure the structural integrity of the tower, appurtenances added to the tower, equipment added to the tower, and fixtures added to the tower. A report of the results of the inspection shall be provided to the Township Building Inspector on or before August 1st of each year.
3. All telecommunication facilities shall be sited to have the least possible practical visual effect on the surrounding neighborhood.
4. Telecommunication facilities shall not be artificially lighted unless otherwise required by the Federal Aviation Administration or other federal, state or local authority.
5. There shall be vegetative screening through the use of evergreen shrubs or trees capable of forming a continuous hedge at least five (5) feet in height within two (2) years of planting, and a row of trees at least eight (8) feet in height at the time of placement with ten (10) foot centers and a minimum mature height of thirty-five (35) feet.
6. Minimum property line setbacks shall be thirty (30) feet plus the height of the telecommunication facility plus ten (10%) per cent of the height of the tower, or one hundred (100) feet, whichever is greater. Notwithstanding the foregoing language, no tower shall be located closer than two hundred (200) feet from the property line when the property is being used for residential purposes.

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Providing further, that where a proposed tower will be located on a parcel of land surrounded on all four sides by commercially, agriculturally and/or industrial zoned property the Planning Commission may in its discretion reduce the minimum sideline setback requirements of this Ordinance upon evidence that a satisfactory fall zone for the tower will be less than the required setback in this Ordinance, but in no event shall the setback be less than that required for structures erected in the Zoning District in which the tower is *located*. The setback distance shall be measured from the base of the tower to the lot line.

7. The telecommunication facility shall conform to the ANSI standards for *RF* exposure. The telecommunication shall be upgraded to meet any change in the ANSI standards. The owner or applicant shall provide proof of compliance with the *ANSI* standards.
  8. The total square footage of accessory buildings shall not exceed four hundred (400) square feet per user of the tower. Accessory structures shall blend in with the surrounding area by considering color, texture and materials, topography and scale of buildings.
  9. Fuel tanks shall be buried or screened with landscaping, fencing or berms. Trash areas must be screened. Alternative fuel supplies shall meet applicable state law.
  10. The noise impacts of cooling and other types of equipment shall be minimized through location and screening. Noise may not exceed State or local noise standards, and shall conform to recommended decibels standards adopted by the appropriate federal agency.
  11. Metal towers shall be constructed of or treated with corrosive resistant material.
  12. Antenna and metal towers shall be grounded for protection against direct strike by lightning and shall comply as to the electrical wiring and connections with all applicable local statutes, regulations, standards and codes.
  13. There shall not be displayed any advertising or identification of any kind intended to be visible from the ground or other structure on any tower, except such identification as may be required for emergency purposes.
  14. All parking and drive areas must be paved.
- D. **Abandonment** - In the event the use of any telecommunication facility has been discontinued for a period of one hundred eighty (180) days the telecommunication facility shall be deemed to be abandoned. Upon abandonment, the owner/operator of the telecommunication facility shall have an additional one hundred eighty (180) days within which to re-activate the telecommunication facility or dismantle and remove the telecommunication facility.
- E. **Federal, State, and Local Rules, etc.** - The owner or applicant of the commercial telecommunication antennas, satellite dishes, cellular towers, microwave dishes, paging, and other wireless types of communication towers or antennas shall be

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required to adhere to all federal, state and local rules, regulations, statutes and ordinances. A violation of any of the foregoing shall constitute reasonable grounds for the municipality to revoke the telecommunication permit.

- F. **Tower Space and Tower Rights** - The applicant shall provide to Napoleon Township tower space and tower rights for public safety communications and other municipal communications at no cost to the municipality if space is requested prior to construction of the tower or space is available at the time of the request by the Township.
- G. **Preservation of Safety, Health, and Welfare** - Telecommunication facilities shall be subject to the provisions of this Section regardless of whether such facilities are designated as a conditional or a permitted use in any zoning district. Such conditions are necessary to preserve the safety, health and welfare of the residents because of the nature of the activity.
- H. **Bonds** - The owner of a telecommunication facility or tower shall post a bond with the Township in an amount to cover the reasonably estimated costs and expenses of dismantling and removing the telecommunication facility or tower in the event that the same is abandoned, and the owner fails to dismantle and/or remove the same within one hundred eighty (180) days. Said bond shall be with a reputable insurance or guarantee company. The amount of the bond shall be established by the Township Board, and may be adjusted from time to time on an annual basis to reflect changing costs and expenses of dismantling and moving the telecommunication tower.
- I. **Transfer of Ownership** - These regulations and standards shall apply to successor owner(s) of the telecommunication facilities if title or ownership of the telecommunication facility is transferred to another person, partnership, corporation or any other entity.
- J. Any applicant who makes a false statement on an application shall be guilty of a misdemeanor, and subject to a fine not to exceed Five Hundred (\$500.00) Dollars and/or imprisonment in the County Jail not to exceed ninety (90) days.
- K. The application shall include such additional information as the application instructions shall require.
- L. The Planning Commission may require camouflage or innovative design for a telecommunication facility providing that the same is not cost prohibitive and/or does not create an undue hardship on the applicant. Such design requirements may include, but not be limited to, camouflaging the facility, requiring a specific paint color and/or paint scheme, or requiring the facility be so designed as to blend into the existing environs and background to the facility.
- M. Telecommunication facilities shall be a permitted use in the areas of the Township zoned as 1-1, light industrial district, and 1-2, heavy industrial district; telecommunication facilities may be permitted, as conditional uses, in areas of the Township zoned as AG-1, agricultural district, C-2, general commercial district, and C-3, highway service district, but only after compliance with the requirements

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of this Ordinance, as well as compliance with other applicable provisions of this Ordinance, and issuance of a conditional use permit; telecommunication facilities shall not be permitted in any area of the township zoned as residential or as C-1, local commercial district, or 0-1, office district.

- N. **Commercial Wireless Telecommunication Towers** - All commercial wireless telecommunication towers erected, constructed, or located within the Township shall comply with the following requirements.
1. A proposal for a new commercial wireless telecommunication service tower shall not be approved unless the Township Board finds that the telecommunication equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one mile search radius of the proposed tower due to one or more of the following reasons:
    - a. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed Michigan professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
    - b. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed Michigan professional engineer and the interference cannot be prevented at a reasonable cost.
    - c. Existing or approved towers or buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed Michigan professional engineer,
    - d. Other unforeseen reasons that make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower or building,
  2. Any proposed commercial wireless telecommunication service tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for a minimum of two additional users if the tower is over 100 feet in height or for at least one additional user if the tower is over 60 feet in height. Towers must be designed to allow future rearrangements of antennas upon the tower to accept antennas mounted in varying heights
  3. No new or additional equipment may be added to an existing telecommunication facility unless and until the same shall have been approved after application as provided in Section 4.16.2 A and the provisions of Section 4.16.2 B shall apply.

### Section 4.17 **Satellite Dish Antenna Structures**

Satellite dish antennas or other similar devices in excess of thirty-six (36) inches in diameter

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shall comply with all applicable setback and height restrictions specified for the zoning district in which the structure will be located.

### Section 4.18 **Dock and Associated Temporary Seasonal Structures Regulations**

A. Private boat docks, accessory to residential uses, shall be permitted subject to the following provisions:

Boat docks and boat slips shall be used only by patrons of the premises or their guests, and shall not be leased, rented, or otherwise made available for compensation, except in conjunction with the lease or rental of the dwelling unit on the same lot, unless approved as a marina, subject to the requirements of this Ordinance and other state and federal regulations.

B. Private boat docks, accessory to commercial uses, subject to the following provisions:

1. One (1) boat dock shall be permitted for each lot or parcel. Docks may not extend further than thirty (30) feet from and perpendicular to the shoreline, or to a distance at which a depth in the water of four (4) feet is reached, whichever is greater, unless the regulation of any state or federal agency requires a lesser distance, in which case the lesser distance shall apply.
2. In addition to the allowances of Section B.1, one (1) additional boat dock shall be permitted for each full fifty (50) feet of lot width along the lake or other body of water.
3. Boat docks and boat slips shall be used by patrons of the premises or their guests, and shall not be leased, rented, or otherwise made available for compensation, unless approved as a marina, subject to the requirements of this Ordinance.

C. Non-permanent structural boat canopies, boat lifts, and similar devices, which are mounted or installed in or on the water and used for the seasonal care and protection of boats, rafts, and other watercraft, normally in conjunction with a dock, shall be permitted based on the following:

1. The structure shall be designed for complete removal at season end.
2. The structure shall not prevent the ingress and egress of the watercraft, or similar equipment, of neighboring properties.
3. The structure location and use shall not interfere with any State or Federal rulings regarding water access and usage.
4. Any electrical hookup must be inspected and approved by the Napoleon Township Electrical inspector.

### Section 4.19 **New and Used Automobile and Vehicle Sales**

Any vehicle sales lot must have:

- A. A permanent structure containing not less than 150 square feet of interior floor space to be used as a business or sales office and shall conform to the Napoleon Township Building Code. The township building inspector shall cause an inspection to be made to determine such compliance.
- B. Improved grounds complying with the following minimum requirements upon that

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portion of the land to be used for display and/or offering for sale of motor vehicles, and including customer and employee parking.

1. The number and size of the parking spaces shall be in accordance with the requirements of Article 6 (Off-Street parking, Loading, and Site Access) of this ordinance.
2. No parking of any vehicle, for any reason, will be permitted within the required yard setbacks.
3. Surface construction of the sales/parking area shall be surfaced per the requirements of Section 6.2.8.A of this ordinance.
4. Ingress and egress shall be in accordance with the requirements of Section 6.2.8.C of this ordinance.

### C. Other Requirements

The new or used car lot or business shall conform to all applicable requirements of Article 4 (General Provisions) of this ordinance.

### Section 4.20 **Building Height**

The vertical distance measured from the lower of the following to the highest point of the roof for flat roofs and single sided shed roofs, to the deck line of mansard and gambrel roofs, and to the average height between eaves and ridges for gable and hip roofs, and 88% of the highest point of an a-frame roof:

- A. the average finished grade, or
- B. the surface of the ground floor

For purposes of measuring heights, finished grade shall mean the grade directly adjacent to the structure of the building, which has been set through a grading plan approved by the Napoleon Township Building inspector.

To provide light to a cellar or basement, window wells may be constructed without affecting the calculation of the average finished grade.

### Section 4.21 **Hotels and Motels**

Any hotel or motel must conform to the following:

- A. Each unit shall contain not less than two hundred fifty (250) square feet of floor area.
- B. Cooking and/or kitchen facilities may be provided upon demonstration by the applicant that the provisions of all applicable Fire Prevention and Building Codes have been complied with.
- C. Every room shall have a functioning smoke detector. An approved fire extinguisher shall be located on each floor on which such room is located.

### Section 4.22 **Additional Development Requirements for Certain Permitted Uses**

A certificate of occupancy will not be issued by the zoning administrator for the uses specified in this section unless they comply with the development requirements specified therein.

#### 4.22.1 **Medical marihuana caregiver grow operations**

- A. An application for a medical marihuana facility certificate of occupancy shall



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be made in writing to the township clerk, who is authorized to create application forms and to receive and process applications and to thereafter grant, deny, suspend, or revoke said certificate of occupancy as set forth in this article. Applications shall be on forms supplied by and to be filed with the township clerk. Such application shall be signed and dated by the applicant. The application shall contain the following information, plus any other information deemed necessary by the township clerk and zoning administrator:

1. The name and any alias used, address, and telephone number of the applicant;
2. The location of the medical marijuana facility and a brief description of the amount of marijuana to be distributed, or number of plants to be grown on the premises, if any;
3. A copy of the medical marijuana registry card for each qualifying patient and the primary caregiver, if any;
4. The applicant's criminal record, if any;
5. An authorization for the chief of police to carry out a background investigation on the applicant;
6. If the applicant is not the owner of the proposed location of the medical marijuana facility, a notarized statement from the owner of the property authorizing submission of the application;
7. An acknowledgment by the applicant that he or she, as well as his or her qualifying patients, may be subject to prosecution under federal and state laws relating to the possession and distribution of controlled substances, and that Napoleon Township accepts no legal liability in connection with the approval and operation of the medical marijuana caregiver grow facility; and
8. A statement that the information provided is true and accurate and that, if a certificate of occupancy is granted, the applicant will abide by all applicable ordinances and statutes.

The names and other identifying information of any qualifying patient or registered primary caregiver gathered for the purposes of this section shall be exempt from disclosure pursuant to the MMMA.

- B. All certificates of occupancy are subject to the following conditions, which shall be noted on the application form:
  1. The applicant shall permit inspection of the premises and/or activity at reasonable times by any authorized representative of the Township;
  2. The applicant shall not operate a medical marijuana facility at any time after the certificate of occupancy is suspended or revoked; and
  3. No certificate of occupancy shall be issued unless and until the applicant, if deemed necessary by the chief of police, submit to being fingerprinted and photographed as part of the background investigation.
- C. Any person who has been under any sentence, including parole, probation, or

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actual incarceration, for the commission of a felony within five (5) years preceding the date of application shall be disqualified from receiving a certificate of occupancy to operate a medical marihuana caregiver facility.

- D. The zoning administrator shall issue a certificate of occupancy to the applicant if the township clerk and zoning administrator are satisfied that the applicant has met the requirements of this article and all applicable state and local laws, and the applicant has paid the certificate of occupancy fee.
- E. A certificate of occupancy issued pursuant to this article does not eliminate the need for the applicant to obtain other licenses and permits e.g., building, mechanical, electrical, plumbing, water and sewer, etc.) required for the operation of a medical marihuana facility. The pertinent inspectors must provide a report confirming that all lights, plumbing, equipment, and all other means proposed to be used to cultivate marihuana plants are in accordance with applicable code(s).
- F. Medical marihuana caregiver grow operations shall not be permitted as home occupations.
- G. No medical marihuana caregiver grow operation may operate in close proximity to sites where children are regularly present or a residential zoned district. Such operations must adhere to the following minimum distances:
  - 1. More than 1,000 feet from a daycare facility (see PA 110 of 2006)
  - 2. More than 1,000 feet from a church, synagogue, mosque, or other religious institution
  - 3. More than 1,000 feet from a public park or community center, library, or township hall
  - 4. More than 1,000 feet from a public or private pre-school, elementary school, high school, community college, including all other schools that have different name references but serve students of the same age.
  - 5. More than 1,000 feet from an adult entertainment business as defined by Napoleon Township Ordinance #62.
  - 6. More than 1,000 feet of another medical marihuana grow facility or a medical marihuana home use.
  - 7. More than 500 feet of a residential zoning district or another living unit in any zoning district
- H. The primary caregiver may cultivate up to 60 marihuana plants provided that not more than 12 marihuana plants are cultivated per qualifying patient, not including the caregiver. The primary caregiver may cultivate up to 12 additional marihuana plants if he or she is also a qualifying patient. The plants maintained for each qualifying patient must be kept in an enclosed locked facility, as defined by the MMMA.
- I. The primary caregiver may possess up to 12½ ounces of marihuana provided that not more than 2½ ounces are possessed per qualifying patient, not including the caregiver. The primary caregiver may possess up to 2½ ounces

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of additional marihuana if he or she is also a qualifying patient. An incidental amount of seeds, stalks, and roots may also be retained by the primary caregiver.

- J. Consumption of medical marihuana shall not be permitted on the site of a medical marihuana caregiver grow operation.
- K. No person under the age of eighteen (18) shall be permitted on the site of the medical marihuana caregiver grow operation unless the person is a registered qualifying patient.
- L. A caregiver grow operation shall not be permitted to have drive-through facilities.
- M. The operator of a medical marihuana caregiver grow operation shall keep a written record in English, on a Township form, of all marihuana located on the premises and of all marihuana or marihuana products distributed and such other information designated on the form. Copies of registry cards for all current qualifying patients and the care giver must be maintained with this record.
- N. There is no authorization for marihuana-related stores, dispensaries, cooperatives, or other businesses that do not meet the regulations set by this section for a medical marihuana caregiver grow facility or medical marihuana home use (see Michigan Attorney General Opinion No. 7259 of 2011).

### 4.22.2 **Medical marihuana home use**

- A. No person may engage in the activities of a primary caregiver in a residential district unless a qualifying patient also resides in the home. The primary caregiver may only grow plants for use by the qualifying patient and the primary caregiver if he or she is also a qualifying patient.
- B. A person engaging in the activities of a primary caregiver in a residential district may only grow marihuana plants in his or her primary residence.
- C. No more than 24 marihuana plants may be grown in a medical marihuana home use, this number being 12 plants for a registered qualifying patient, not including the caregiver, plus 12 plants if the primary caregiver is also a registered qualifying patient. The plants must be kept in an enclosed locked room, as defined by the MMMA, and accessible only to the primary caregiver and the qualifying patient.
- D. A primary caregiver, on behalf of a qualifying patient with whom the primary caregiver resides, may possess an amount of medical marihuana that does not exceed 2½ ounces of usable marihuana (and an additional 2½ ounces if the primary caregiver is also a qualifying patient), plus an incidental amount of seeds, stalks, and roots.
- E. The use of the dwelling unit as a medical marihuana home use must be clearly incidental and subordinate to its use for residential purposes and no more than 20% of the gross floor area of the dwelling may be used in any way for the

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medical marihuana home use.

- F. No change may occur to the outside appearance of the dwelling and no signs may be posted on the dwelling or lot advertising the medical marihuana home use.
- G. Equipment not normally used for purely domestic or household purposes or any portion of the dwelling where energy use and heat generation resulting from the growth of marihuana exceeds levels reasonably attributable to residential uses are permitted only if the zoning administrator, or his or her designee, approves such use. The zoning administrator must approve of such use if he or she is satisfied that the intensity of use will not be increased to a level that will adversely impact any lot within 300 feet of the dwelling and that any energy use and heat generation resulting from the growth of marihuana exceeding levels reasonably attributable to residential uses will not create a health and safety risk in the dwelling. In the course of making that determination the zoning administrator may find it necessary to order inspection by the appropriate township inspector(s) with applicable inspection fees.
- H. No activity related to the medical marihuana home use occurring on the premises may adversely impact the surrounding neighborhood or the right of surrounding residents to quiet enjoyment of their property, including but not limited to, the creation of noise, vibrations, odors, heat, glare, unnatural light, or electrical interference.
- I. Storage and manufacture of medical marihuana shall only be permitted inside of an enclosed, locked facility such as a closet, room or other closed area equipped with locks or other security devices that only permit access by the qualifying patient or registered primary caregiver.
- J. Qualifying patients, and their primary caregivers, may be subject to prosecution under federal and state laws relating to the possession and distribution of controlled substances, and Napoleon Township accepts no legal liability in connection with the approval and operation of the medical marihuana home use; and
- K. There is no authorization for marihuana-related stores, dispensaries, cooperatives, or other businesses that do not meet the regulations set by this section for a medical marihuana home use or medical marihuana caregiver grow facility (see Michigan Attorney General Opinion No. 7259 of 2011).

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## Article 5

# Signs

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## Article 5 Signs

### Section 5.1 Intent and Purpose

The Intent and Purpose of this Section is to regulate on-site and outdoor advertising to protect the public health, safety and general welfare, to protect property values, and to protect the character of the various neighborhoods in the Township of Napoleon.

While this Ordinance recognizes that signs and outdoor advertising are necessary to promote commerce and public information, failure to regulate them may lead to poor identification of individual businesses, deterioration and blight of the business and residential areas of the Township, conflicts between different types of land use, and reduction in traffic safety to pedestrians and motorists.

### Section 5.2 General Conditions

Any sign placed on land or on a building for the purpose of identification or for the purpose of advertising a use conducted on the premises shall be deemed an accessory use. It is intended that the display of signs will be appropriate to the land, building, or use to which they are appurtenant and be adequate, but not excessive, for the intended purpose of identification or advertisement. With respect to signs advertising business uses, it is specifically intended, among other things, to avoid excessive competition and clutter among sign displays.

The following regulations shall apply to all signs in Napoleon Township:

A. **Location** - All signs must advertise a business or service on the premises upon which the sign is located and to which the sign is accessory, unless otherwise specified herein.

#### B. Illuminated Signs

1. **Residential Districts** - Only indirectly illuminated signs shall be allowed in any residential district provided such sign is so shielded as to prevent direct light rays from being visible from a public right-of-way or any adjacent residential property.
2. **Commercial and Industrial Districts** - Indirectly or internally illuminated signs are permitted provided such signs are so shielded as to prevent direct light rays from being visible from a public right-of-way or any adjacent residential property.
3. No sign shall have blinking, flashing, rotating or fluttering lights or other illuminating devices which have a changing light intensity, brightness or color, or which are so constructed and operated as to create an appearance of a traffic signal, except that movement showing date, time, message and temperature exclusively shall be permitted. Nothing contained in this Ordinance shall be construed as preventing use of lights or decorations related to religious and patriotic festivities. Beacon lights or search lights shall not be permitted as a sign for advertising purposes except as provided in Section 5.10 E (Temporary Signs).
4. No sign shall be illuminated by other than electrical means and must conform to the Napoleon Township Electrical Code.

#### C. Safety and Maintenance

1. All signs shall be erected and maintained structurally sound and in compliance with all applicable building code, and other applicable ordinances governing construction

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- within the Township. In the event of conflict between this Ordinance and other laws, the most restrictive shall govern.
2. All signs shall be so placed as to not interfere with the visibility or effectiveness of any official traffic sign or signal; driver vision at any access point or intersection; or, pedestrian movement on any public sidewalk.
  3. No sign shall be erected, relocated, or maintained so as to obstruct fire-fighting or prevent free access to any door, window, or fire escape.
  4. All signs (including those for which no permit is required) and their supports shall be kept in a safe, presentable, and good structural condition in accordance with the following requirements and applicable Napoleon Township Ordinance.
    - 4.a The owner of any sign shall keep the sign and support structure clean and properly treated so as to prevent rust, peeling, flaking, or fading.
    - 4.b Broken panels, missing letters, flaking or peeling paint, and other damage to a sign or support structure shall be repaired within seven (7) days of its occurrence.
    - 4.c. The area surrounding all signs shall be maintained free of any debris or nuisance and any related grassed area or landscaping shall be kept trimmed and in a healthy condition.
- D. **Measurement of Sign Area** - The area of a sign shall be computed as including the entire area within a regular geometric form or combination of such forms comprising all of the display area of the sign and including all of the elements of the matter displayed.
- E. **Height of Sign** - No free-standing sign shall exceed a height of thirty (30) feet.
- F. **Sign Setback** - All signs shall be set back from all property boundaries by a minimum distance of not less than one-half ( $\frac{1}{2}$ ) of the setback required for a structure on said parcel as provided for in the setback requirements of this Zoning Ordinance unless otherwise provided in this ordinance.
- G. **Business Flags** - Business flags shall be permitted in commercial and industrial zoning districts, subject to the following regulations:
1. The flags shall be located on the same lot as the business building or use.
  2. Notwithstanding any other provision of this Ordinance, business flags shall meet the yard requirements for signs and height limits for structures in the zoning district in which located.
  3. The area of each business flag shall not be included in the sign area that is permitted on a lot.
  4. All business flags shall be set back from all property boundaries no less than one half ( $\frac{1}{2}$ ) of the minimum setback required for a structure on said parcel as provided for in this Zoning Ordinance.

## Section 5.3 Signs Permitted in All Districts

Subject to the other conditions of this Ordinance, the following signs shall be permitted anywhere within the Township of Napoleon:

- A. **Off-premise Signs** - Off-premise signs which bear names, information and emblems of service clubs, places of worship, civic organizations, and quasi-public uses shall be



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permitted. Each sign shall be not more than eight (8) square feet in area, shall not exceed a height of eight (8) feet, and shall be set back a minimum of ten (10) feet from the property line. All signs shall be consolidated within a single-frame if more than one sign is placed at one location.

- B. **Off-premise Directional Signs** - Off-premise directional signs directing vehicular traffic to a church, governmental building, or educational institution may be permitted in all districts subject to the review and approval of the Planning Commission and the following standards:
  - 1. No more than two (2) signs per use shall be permitted.
  - 2. The size of an off-premise directional sign shall not exceed three (3) square feet in size.
  - 3. The height of an off-premise directional sign shall be no less than three (3) feet nor exceed six (6) feet. However, variations in height may be granted by the Zoning Administrator.
  - 4. Illumination is not permitted.
  - 5. Proof shall be supplied by the applicant that all appropriate standards of the Jackson County Road Commission are met. Permission of the property owner where the proposed sign is to be located must be provided.
- C. **Church, Civic Organization, Public Building or School Signs** - One church, civic organization, public building, or school announcement bulletin shall be permitted on any site that contains a church, civic organization, public building, or school regardless of the district in which it is located, provided said bulletin does not exceed thirty-two (32) square feet in area where the speed limit is forty-five (45) miles per hour or less, and sixty (60) square feet in area where the speed limit is forty-six (46) miles per hour or more and a maximum height of twenty-five (25) feet, and is set back from all property boundaries in accordance with Section 5.2 F of this Ordinance.
- D. Nameplates not exceeding two (2) square feet in size.
- E. Street Names and House Numbers.
- F. Temporary signs mounted upon trucks and vans, and signs permanently painted on, or, otherwise permanently displayed upon a vehicle, licensed and operating on the public street and highways, identifying the owner's occupation or livelihood.
- G. Lights or decorations related to religious and patriotic festivities.

## Section 5.4 Prohibited Signs

Subject to the other conditions of this Ordinance, the following signs shall be prohibited in all districts within the Township of Napoleon:

- A. **Miscellaneous Signs and Posters** - Tacking, pasting, or otherwise affixing signs or posters that are visible from a public way, and located on the walls of building, barns, sheds, or on trees, rocks, shrubs or similar natural features, poles, posts, or fences shall be prohibited. Warning signs, such as "no trespassing" and "no hunting" and other postings required by law shall be exempt from this provision. However, such warning signs shall be limited to no more than one (1) sign per 100 feet intervals of lot line. Any signs abutting residentially zoned property or property used for residential purposes shall be no larger than 1.5 square feet in size and the minimum letter height on the signs shall be one inch. The purpose of this

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restriction is to provide adequate notice against entry without interfering with the aesthetics and property values of the neighboring property.

- B. **Banners** - Banners, pennants, searchlights, twirling signs, sandwich board signs, sidewalk or curb signs, balloon, or other gas-filled figures shall be prohibited except as provided in Section 5.10 (Temporary Signs).
- C. **Moving Signs** - Except as otherwise provided in this Section, any sign or any portion thereof that moves or assumes any motion constituting a non-stationary or fixed condition shall be prohibited.
- D. **Parking of Advertising Vehicles** - No person shall park any vehicle or trailer on a public right-of-way, public property, or on private property so as to be visible from a public right-of-way, which has attached thereto or located thereon any sign or advertising device for the purpose of directing people to a business or activity. Licensed vehicles and trailers, currently used for business, that have upon them the name of the product, which they deliver and/or the name and address of the owner shall be excluded from this provision.
- E. **Abandoned Signs** - Signs that advertise an activity, business, product or service no longer conducted or available on the premises on which the sign is located, shall be prohibited.
- F. **Flags** - Flags other than those of any nation, state or political subdivision or business as otherwise provided in this Ordinance, shall be prohibited except as permitted under Section 5.10 (Temporary Signs).
- G. **Portable Signs** - Portable signs, except any temporary sign permitted in Section 5.10 (Temporary Signs) herein, shall be prohibited.
- H. **Unclassified Signs** - The following signs are prohibited:
  - 1. Signs that imitate an official traffic sign or signal which contains the words “stop”, “go slow”, “caution”, “danger”, “warning” or similar words except as otherwise provided in this Section.
  - 2. Signs that are of a size, location, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal or which obstruct the view in any direction at a street or road intersection.
  - 3. Signs that contain statements, words or pictures of an obscene, pornographic or immoral character.
  - 4. Signs that are painted on or attached to any fence or any wall that is not a structural part of a building except to identify a residence.
  - 5. Signs that emit audible sound, odor, or visible matter.
  - 6. Roof signs
  - 7. Signs other than those erected by a public agency, which are located within or overhang the public right-of-way or on public property.
  - 8. Any sign or sign structure which constitutes a hazard to public health and safety due to inadequate maintenance.
  - 9. Any sign unlawfully installed, erected or maintained.

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10. Signs that exceed overall height restrictions as defined in Section 3.11, Schedule of Regulations.
11. Sexually Oriented Business Signs that are not in conformance with Act 342 of Michigan Public Acts of 2010

### Section 5.5 Permitted Signs in Agricultural Districts

- A. Signs advertising the type of farm products grown on a farm premises. Such signs shall not exceed twenty-four (24) square feet in area and ten (10) feet in height and shall be set back in accordance with Section 5.2 (F) of this Ordinance.
- B. One identification sign shall be permitted for each public street frontage having a curb cut for a vehicle entrance, for property used for a school, church building or other authorized use or lawful non-conforming use except a home occupation. Each sign shall not exceed thirty-two (32) square feet in area and twenty-five (25) feet in height and shall be set back in accordance with Section 5.2 (F) of this Ordinance.
- C. One identification sign shall be permitted for a home occupation. The sign shall not exceed three (3) square feet in area and three (3) feet in height and shall be set back in accordance with Section 5.2 (F) of this Ordinance.
- D. Electronic Message Signs shall be allowed as a CONDITIONAL USE in Agricultural Districts for property used as a School, Church buildings, Civic Organizations and Public Buildings and are subject to all conditions and limitations set forth in Section 5.7.G of this ordinance.

### Section 5.6 Permitted Signs in Residential Districts

- A. One identification sign shall be permitted for each public street frontage of a subdivision, multiple-family building development, or a manufactured housing park. Each sign shall not exceed thirty-two (32) square feet in area. One additional sign advertising “For Rent” or “Vacancy” may be placed on each public street frontage of a rental residential development provided that such sign shall not exceed three (3) square feet in area and is incorporated into the identification sign. Each sign shall be set back not less than five (5) feet from the right-of-way line of any public street, and shall not exceed eight (8) feet in height.
- B. One identification sign shall be permitted for each public street frontage having a driveway for a school, church, public building, or other authorized use or lawful non-conforming use, except home occupations. Each sign shall not exceed thirty-two (32) square feet in area and eight (8) feet in height and shall be set back in accordance with Section 5.2 (F) of this Ordinance.
- C. One identification sign shall be permitted for a home occupation. The sign shall not exceed three (3) square feet in area, and three (3) feet in height and shall be set back in accordance with Section 5.2 (F) of this Ordinance.

### Section 5.7 Permitted Signs in Commercial and Industrial Districts

On-site canopy or marquee signs, wall signs, and freestanding signs are permitted in all commercial and industrial districts subject to the following conditions:

- A. Signs permitted for single buildings on developed lots, or group of lots developed as one lot, not in a business center subject to Section 5.7 (B).

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1. **Area** - Exterior on-site signs for each developed lot, or group of lots developed as one lot, shall be permitted a minimum of eighty (80) square feet, and a maximum of determined as follows: The Total area of exterior on-site signs permitted for each lot or group of lots shall be determined as two (2) square feet of sign area for each one (1) linear foot of building length which faces one (1) public street with a maximum of one hundred fifty (150) square feet.
  2. **Number** - Each developed lot shall be permitted two exterior on-site signs. For every developed lot, or group of lots developed as one lot, that has frontage on two (2) collector or arterial streets, three (3) exterior on-site signs shall be permitted. One (1) freestanding identification sign shall be permitted on any street frontage. All businesses without ground floor frontage shall be permitted one (1) combined exterior wall sign, in addition to the number of signs allocated to the developed lot. The total area of all exterior signs shall not exceed the total sign area permitted in Section 5.7 (A) (1).
- B. Signs permitted for a shopping center, office park, industrial park, or other integrated group of stores, commercial buildings, office buildings or industrial buildings, not subject to Section 5.7 (A).
1. **Free Standing Signs** - Each business center shall be permitted one freestanding identification sign for each frontage on a public street. Each sign shall state only the name of the business center and the major tenants located therein. The maximum permitted sign area shall be determined as one (1) square foot for each one (1) linear foot of building, which faces one public street. The maximum area for each freestanding sign shall be two hundred (200) square feet. Tenants of a business center shall not permit individual freestanding identification signs.
  2. **Wall Signs** - Each business in a business center with ground floor frontage shall be permitted one exterior wall sign. The sign area for such an exterior wall sign shall be computed as one (1) square foot for each one (1) linear foot of building frontage occupied by the business, not to exceed twenty-four (24) square feet in area. All businesses without ground floor frontage shall be permitted one combined exterior wall sign not more than twenty-four (24) square feet in area.
  3. **Park Signs** - A freestanding sign, identifying the primary tenants in an office park or an industrial park, may be installed at the entrance(s) to a park. Each parcel in a park will be allowed one (1) available space on a park sign. Each space shall be no larger than eight (8) inches by forty-eight (48) inches. Park signs shall be no higher than six (6) feet above the height of the public road at the point of the centerline most closely adjacent to the sign. No park sign shall be greater than eight (8) feet long. All park signs shall be located no closer to property boundaries than one-half (½) of the minimum setback required for a structure on said parcel as provided in this Zoning Ordinance.
- C. A time and temperature sign shall be permitted in addition to the above permitted signs, provided that ownership identification or advertising copy does not exceed twenty-five (25) percent of the total sign area and further provided that the total area of the sign does not exceed forty (40) square feet.
- D. No canopy or marquee sign shall extend into a public right-of-way except by variance granted

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by the Zoning Board of Appeals. In granting such a variance the Board of Appeals shall assure that the minimum clearance of such sign is eight (8) feet measured from the sidewalk surface to the bottom edge of the sign; that the sign does not obstruct pedestrian or vehicular view; and that the sign does not create a hazard for pedestrian or vehicular traffic.

- E. **Service Station Signs** - In addition to the provisions of Section 5.7 (A) and (B) preceding, an automobile service station may have one additional sign for each public street frontage having a driveway, for the purpose of advertising gasoline prices and other services provided on the premises. Said sign shall be mounted on a free-standing structure or on the structure of another permitted sign, provided that clear views of street traffic by motorists or pedestrians are not obstructed. Said sign shall not exceed twenty (20) square feet in area.

Notwithstanding any of the provisions of this Article, no signs shall be located on fuel pump islands, except those constituting an integral part of the pump or those required by State law or regulation. No signs shall be attached to fuel pump canopies except those identifying “self-service” and “full-service” pumps or similar messages, in which case the maximum sign size shall be six (6) square feet.

- F. **Menu Board** - One menu board for a drive-in or drive-through restaurant shall be permitted in addition to other signs permitted under these regulations, provided such sign does not exceed forty-eight (48) square feet in area or six (6) feet in height from finished grade.

- G. **Electronic Message Sign** shall be allowed as a PERMITTED USE in Commercial and Industrial Districts as a permitted sign. Said signs may be attached, detached, or low-profile signs. The square footage shall be counted into the maximum sign area allowed.

1. All electronic signs that contain an electronic changeable copy module shall be subject to the following limitations:

- a. Electronic signs may not contain animation or any flashing, scrolling, or any type of video.
- b. Electronic signs shall contain static messages only, changed only through dissolved or fade transitions, but which may otherwise not have movement, or the appearance or optical illusion of movement or varying light intensity of any part of the sign structure, design or pictorial segment of the sign. The change of messages using dissolve or fade transition shall not exceed three (3) seconds of time between each message displayed on the sign.
- c. Messages displayed shall only direct attention to a business, product, service or entertainment conducted, sold or offered on the premise on which the sign is located including contiguous or adjacent property under the same ownership. Community emergency alerts such as inclement weather or Amber alerts, time and temperature, and public service announcements are except from this requirement.
- d. Electronic signs shall not cause glare or rapid blinking, nor be intensely lighted that may cause a nuisance or hazard to vehicle traffic, pedestrians adjacent properties or otherwise detrimental to public health, safety or welfare.
- e. Electronic signs shall have automatic dimmer software or solar sensors to control brightness for nighttime viewing and shall be set at not more than forty percent (40%) of the maximum capable light output between sunset and sunrise.
- f. No more than one (1) electronic sign is permitted per premises regardless of the number of

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signs permitted unless a business has frontage on two (2) or more roads/streets. In that case one (1) additional sign message sign may be allowed as a **CONDITIONAL USE** pending review by the Planning Commission.

g. Electronic message signs shall be placed perpendicular to the street onto which it is constructed.

### Section 5.8 Permitted Billboards

The following regulations shall apply to billboards:

- 5.8.1 **Where Permitted** - Billboards shall be permitted only on undeveloped and unimproved lots in AG-agricultural districts on state or federal highways, LI-Limited Industrial and GI-General Industrial Districts, subject to the standards contained herein, and the Highway Advertising Act, as amended, 1972 PA 106, and shall be considered the principal use of such lots.
- 5.8.2 **Spacing**
- A. Not more than three billboards may be located per linear mile of street, road or highway regardless of the fact that such billboards may be located on different sides of the street or highway. Double-faced and V-type billboard structures having only one face visible to traffic proceeding from any direction on a street or highway shall be considered as one billboard. Additionally, billboard structures, having tandem or stacked billboard faces shall be considered as one billboard. Otherwise, billboard structures having more than one billboard face shall be considered as two billboards and shall be prohibited in accordance with the minimum spacing requirement set forth in Subsection B below.
  - B. No billboard shall be located within one thousand (1000) feet of another billboard abutting either side of the same street, road or highway.
  - C. No billboard shall be located within 200 feet of residentially zoned or used property. An illuminated billboard shall be located at least three hundred (300) feet from residentially zoned or used property.
  - D. No billboard shall be located closer than seventy-five (75) feet from a property line adjoining a public right-of-way or ten (10) feet from any interior boundary lines of the premises on which the billboard is located.
- 5.8.3 **Height** - The height of the billboard shall not exceed thirty (30) feet above the level of the street or road upon which the billboard faces or to which the message upon the billboard is directed. In the event that the billboard is situated upon two streets or roads having different levels, the height of the billboard shall be measured from the higher street or road.
- 5.8.4 **Surface Area** - The surface area of any side of a billboard may not exceed three hundred (300) square feet. In the case of billboard structures with tandem or stacked billboard faces, the combined surface display area of both faces may not exceed three hundred (300) square feet.
- 5.8.5 **Illumination** - A billboard may be illuminated, provided such illumination is



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concentrated on the surface of the sign and is located so as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of on-coming vehicles or any adjacent premises. In no event shall any billboard have flashing or intermittent lights, nor shall the lights be permitted to rotate or oscillate.

## 5.8.6 Construction and Maintenance

- A. No billboard shall be on top of, cantilevered or otherwise suspended above the roof of any building.
- B. A billboard must be constructed in such a fashion that it will withstand all wind and vibration forces that can normally be expected to occur in the vicinity. A billboard must be maintained so as to assure proper alignment of structure, continued structural soundness and contained readability of message.

## 5.8.7 Sexually Oriented Business Signs

Sexually Oriented Business Signs shall be in conformance with Act 343 of Michigan Public Acts of 2010.

## Section 5.9 Permitted Wall Signs

5.9.1 **General Requirements** - The following wall signs shall be permitted in the following districts in accordance with the regulations herein.

- A. No wall sign shall be erected to extend above the top of the wall to which it is attached, nor extend beyond the ends of the wall to which it is attached.
- B. All wall signs shall be safely and securely attached to the building by means of metal anchors, bolts, or expansion screws. In no case shall any wall sign be secured with wire, straps of wood or nails.
- C. There shall be no more than one (1) wall sign permitted for each building. Buildings which have frontages on two (2) public rights-of-way are permitted a wall sign on both building frontages, provided total square foot area requirements set forth in Section 5.9.2 are not exceeded.
- D. Signs that are painted directly on to a wall or any other part of a Building, or self adhering vinyl signs that are attached directly to building windows or doors are permitted, provided total square foot area requirements set forth in Section 5.9.2 are not exceeded.

5.9.2 **Specific Requirements** - Wall signs shall be permitted by the District in accordance with the following requirements.



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<b>District</b>	<b>Area</b>
GC, LC, LI and GI Districts All permitted and conditional uses	One (1) square foot for each foot of building frontage not to exceed a total of one hundred (100) square feet.
All non-residential permitted and special uses in residential districts such as schools, churches, parks, and municipal buildings	One (1) square foot for each lineal foot of building frontage not to exceed a total of twenty (20) square feet.
Residential	One sign for Home Occupation not to exceed three (3) square feet.

### Section 5.10 Temporary Signs

- A. In single-family and two-family residential districts one sign for each public street frontage advertising a recorded subdivision or development shall be permitted. Each sign shall not exceed sixty-four (64) square feet in area. Each sign shall be removed within two (2) years after it is erected or when seventy-five percent of all lots or units with the subdivision or development are sold, whichever first occurs.
- B. In multiple-family residential districts one sign, not to exceed sixty-four (64) square feet in area shall be permitted on each public street frontage of a new multiple-family development for the purpose of advertising new dwelling units for rent or sale. Each sign shall be removed within sixty (60) days of the initial rental or sale of seventy (70) percent of the dwelling units within the development.
- C. One identification sign shall be permitted for all building contractors, one for all professional design firms and one for all lending institutions on sites under construction, each sign not to exceed six (6) square feet in area. If all building contractors, professional design firms and lending institutions join together in one identification sign, such sign shall not exceed thirty-two (32) square feet in area, and not more than one sign shall be permitted on a site. Signs shall have a maximum height of ten (10) feet and shall be confined to the site of the construction, construction shed or construction trailer and shall be removed within fourteen (14) days after the issuance of a certificate of occupancy.
- D. Temporary signs announcing any annual or semi-annual public, charitable, educational or religious event or function, shall be permitted. Maximum sign area shall not exceed thirty-two (32) square feet. Signs shall be allowed no more than fourteen (14) days in a calendar year. If building mounted, signs shall not project above the roof line. If ground mounted, signs shall not exceed six (6) feet in height. Signs shall be set back in accordance with Section 5.2 (F) of this ordinance.
- E. Banners, pennants, searchlights, laser lights, balloons, or other gas or air-filled fixtures shall be permitted in a commercial or industrial district, for a period not to exceed fourteen (14) consecutive days in any ninety (90) day period. Such items shall not obstruct pedestrian or vehicular view and shall not interfere in any way with safe traffic flow.
- F. Temporary real estate direction signs, not exceeding three (3) square feet in area, showing a directional arrow and placed back of the property line, shall be permitted on approach routes to an open house only for the day of the open house and two (2) days prior to the open house. Signs shall not exceed three (3) feet in height.

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- G. In residential districts one (1) temporary real estate “For Sale”, “For Rent”, or “For Lease” sign, located on the property and not exceeding six (6) square feet in area shall be permitted. In all other zoning districts one (1) sign of this type shall be permitted, provided it does not exceed thirty-two (32) square feet in area and is set back in accordance with Section 5.2 (F) of this Ordinance. If the lot has multiple frontage one additional sign not exceeding six (6) square feet in area in residential districts or thirty-two (32) square feet in area in all other districts shall be permitted. Under no circumstances shall more than two (2) such signs be permitted on a lot. Such signs shall be removed within seven (7) days following the sale, rent, or lease. In no case shall a sign advertising the sale, rent, or lease of a building that is not located on the property on which the sign is located, be permitted.
- H. Portable temporary signs, illuminated or non-illuminated, shall be permitted for up to thirty (30) days in one calendar year and shall not exceed twenty (20) square feet.

## Section 5.11 Exempted Signs

The following types of signs are exempted from all provisions of this Ordinance, except for construction and safety regulations and the following standards:

- A. Signs of a non-commercial nature and in the public interest, erected by, or on the order of a public officer in the performance of a public duty, such as directional signs, regulatory signs, warning signs, and informational signs.
- B. Election related, or similar signs, which shall not be erected earlier than 60 days prior to any local, state, or federal election, and shall be removed no later than five (5) days following the election.
- C. Names of buildings, date of erection, monument citations, commemorative tablets, and the like, when carved into stone, concrete, or similar material or made of other permanent type construction and made an integral part of the structure.

## Section 5.12 Non-Conforming Signs

Non-conforming signs shall not:

- A. Be re-established after the activity, business or usage to which it relates has been discontinued for ninety (90) days or longer.
- B. Be structurally altered so as to prolong the life of the sign or so as to change the shape, size, type or design of the sign.
- C. Be re-established after damage or destruction, if the estimated expense or reconstruction exceeds fifty (50) percent of the replacement cost as determined by the Building Inspector.

## Section 5.13 Permits, Fees, and Pre-Inspection

- A. A permit shall be required to erect or replace a sign that is regulated by Sections 5.3 and 5.5 through 5.10 herein. The application shall be made by the owner of the property, or authorized agent thereof, to the Township Zoning Administrator by submitting the required forms, fees, exhibits and information. Fees for sign permits shall be established by resolution of the Township Board.
- B. An application for a sign permit shall contain the following:
  - 1. The applicant’s name and address in full, telephone number, and a complete description of the relationship to the property owner.

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2. If the applicant is not the property owner, the signature of the property owner concurring in submission of the application.
  3. The address of the property.
  4. An accurate scale drawing of the property showing location of all buildings and structures and their uses, and location of the proposed sign.
  5. A complete description and scale drawing of the property of the sign, including all dimensions and the area in square feet, the caption of the proposed sign, and such other data as are pertinent to the application.
  6. Plans indicating the scope and structural detail of the work to be done, including details of all connections, guy lines, supports and footings and materials to be used.
  7. Application and required information for such application, and an electrical permit for all electrical signs.
  8. A statement of valuation.
- C. All signs shall be inspected by the Township Zoning Administrator for conformance to this Ordinance prior to placement on the site.
- D. A sign permit shall become null and void if the work for which the permit was issued has not been completed within a period of six (6) months after the date of the permit. Said sign permit may be extended for a period of thirty (30) days upon request by the applicant and approval of the Zoning Administrator.
- E. Painting, repainting, cleaning and other normal maintenance and repair of a sign or a sign structure, unless a structural or size change is made, shall not require a sign permit.
- F. Signs for which a permit is required shall be inspected periodically by the Zoning Administrator for the compliance with this Ordinance and other codes, requirements and laws of the Township of Napoleon, including but not limited to the National Electrical Code, State Construction Code and State Mechanical Code.

### Section 5.14 **Removal of Signs**

- A. The Zoning Administrator shall order the removal of any sign erected or maintained in violation of this Ordinance except for legal non-conforming signs. Thirty (30) days notice in writing shall be given to the owner of such sign or of the building, structure, or premises on which said sign is located to remove the sign or to comply with this Ordinance. The Township may after thirty (30) days notice remove the sign. The Township shall also remove the sign immediately and without notice if it reasonably appears that the condition of the sign is such as to present an immediate threat to the safety of the public. Any cost of removal incurred by the Township shall be assessed to the owner of the property on which such sign is located and may be collected in the manner of ordinary debt or in the manner of taxes and such charge will be a lien on the property.
- B. A sign shall be removed by the owner or lessee of the premises upon which the sign is located within thirty (30) days after the business, which it advertises, is no longer conducted on the premises. If the owner or lessee fails to remove the sign, the Township shall remove it in accordance with the provisions stated in Section 5.14 (A) preceding. These removal provisions shall not apply where a subsequent owner or lessee conducts the same type of business and agrees to maintain the signs to advertise the type of business being conducted on

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the premises and provided the signs comply with the other provisions of this Ordinance.

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## Article 6

# Off-Street Parking, Loading, and Site Access

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## Article 6 Off-Street Parking, Loading, and Site Access

### Section 6.1 Intent and Purpose

The purpose of this Section is to ensure the provision of off-street parking, loading, and drive-through facilities that are sufficient in number, adequately sized and properly designed to meet the range of needs and demands that are associated with land uses allowed by this Ordinance. It is also the purpose of this Section to regulate access to site in the interest of public safety.

### Section 6.2 Off-Street Parking

#### 6.2.1 Where Required

- A. Off-street parking for motor vehicles shall be provided as herein prescribed for the use of occupants, employees, and patrons of a principal use hereafter erected, altered, or expanded after the effective date of this Ordinance. Required off-street parking shall be maintained so long as the principal use remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this Ordinance.
- B. Off-street parking which legally exists at the time this Ordinance becomes effective shall not be affected by implementation of this Ordinance.

#### 6.2.2 Parking and Vehicle Storage Restrictions

##### A. Residential Districts

1. Outside parking of motor vehicles for each dwelling unit in residential districts shall be limited to passenger vehicles, and not more than one commercial vehicle of the light, delivery type, not to exceed one (1) ton. Parking any type of vehicle may be provided in garages conforming with the provisions of this Ordinance.
2. A current and valid zoning compliance permit shall be obtained for the parking of a recreational vehicle for the purpose of temporary lodging within the residential and agricultural districts. In no case shall such use be greater than five (5) months in one year.

##### B. Commercial Districts

1. The required space for off-street parking is not intended to provide for the storage of vehicles or prolonged parking in any such parking area. The only exception to this requirement shall be vehicle storage space used in conjunction with a motor vehicle repair use.
2. **Local Commercial Districts** - Long term parking, including continuous over-night parking of semi-trailers and tractors shall not be permitted in local commercial districts. Notwithstanding this restriction, over-night parking of semi-trailers and tractors shall be permitted in this district for the purpose of loading and unloading goods intended for use by the establishment at that site.
3. **General Commercial Districts** - Long term parking of semi-trailers and tractors shall be permitted in general commercial districts.

## Off-Street Parking, Loading, and Site Access

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### C. All Districts

1. Storage of products, materials, or equipment in semi-trailers shall be prohibited in any zoning district, except in the AG, LI and GI Districts.

Notwithstanding anything to the contrary contained in this Zoning Ordinance, owners, tenants, and/or users of property located in the General Commercial District shall be prohibited from outdoor storage on said parcels of the following items:

- a. No semi-trailer shall be stored or parked for more than thirty (30) days on any lot or parcel, nor shall any such unit have removed from its undercarriage and axles and then used for storage, garage, office or any other purpose in any such district, except in those used in connection with construction projects as determined by the Zoning Administrator. Anything exceeding thirty (30) days shall require a zoning compliance permit issued by the Zoning Administrator.
  - b. Packing or storage crates, parts, or all semi-trailer, and similar converted structures, shall not be used as an accessory structure in any zoning district except agriculture.
2. Sales of products, merchandise, or other materials from any vehicle shall require an approved Itinerant Vendor License.

Long term parking, including continuous over-night parking of semi-trailers and tractors shall be permitted only in AG, GC, LI and GI districts.

- 6.2.3 **Location of Parking** - Off-street parking for all uses shall be located on the same lot as the house, building, or businesses they serve, or in the case of commercial or industrial purposes, on an adjacent or nearby lot (auxiliary lot) with a contractual agreement between the auxiliary lot owner and the owner of the business. Auxiliary parking lots for commercial or industrial purposes shall be located only in similarly zoned districts as the business they serve.

The distance between the lot with the principal building and the auxiliary lot shall not exceed 150 ft measured from the nearest point of the auxiliary lot to the nearest point of the lot occupied by the principal building.

These auxiliary parking spaces shall not be counted toward other parking requirements.

- 6.2.4 **Required Screening** - Off-street parking which abuts residentially zoned or residentially used property shall be screened pursuant to Section 4.2.

- 6.2.5 **Units and Methods of Measurement** - For the purpose of determining off-street parking requirements, the following units of measurement shall apply:

A. **Floor Area** - Where floor area is the unit for determining the required number of off-street parking spaces, said unit shall mean the gross floor area, except that floor areas within the principal building used for parking, housing of mechanical equipment, heating systems and similar uses need not be included.

B. **Employees** - For requirements stated in terms of employees, the calculation shall



# Off-Street Parking, Loading, and Site Access

be based upon the maximum number of employees likely to be on the premises during the largest shift.

- C. **Places of Assembly** - In stadiums, sports arenas, churches and other places of assembly in which those in attendance occupy benches, pews, or other similar seating facilities, each twenty-four (24) inches of such shall be counted as one (1) seat. In cases where a place of assembly has both fixed seats and open assembly area, requirements shall be computed separately for each type and added together.

## 6.2.6 Off-Street Parking Requirements

- A. Any use, which requires a site plan under the provisions of Article 8, shall comply with the provisions of this Section. The amount of required off-street parking spaces for new uses or buildings, and additions to existing buildings shall be determined in accordance with the Schedule set forth in Section 6.2.7. Where multiple uses occur, parking shall be calculated on the basis of each use.
- B. **Similar Uses and Requirements** - When a use is not specifically mentioned, the requirements of off-street parking for a similar use shall apply and shall be determined by the Planning Commission.

## 6.2.7 Schedule of Off-Street Parking Requirements

Use Within District	Number of Parking Spaces Per Each Unit of Measure
<b>Residential</b>	
Single- or Two-Family Dwelling	2 per each dwelling unit
Multiple-Family Dwelling	2 per each dwelling, plus one (1) per each five (5) dwelling units
Senior Citizen Housing	1.5 per each dwelling unit
Manufactured Housing Park	Two (2) per each home site, plus one (1) per each five (5) dwelling units
Churches	1 per each three (3) seats based on maximum seating capacity in the main place of assembly therein, plus five (5) per each classroom
Private Clubs and Lodges	One (1) per each three (3) individual members allowed within the maximum occupancy load as established by fire and/or building codes.
Hospitals	One (1) per each administrative, professional and staff member, plus one (1) per each three (3) beds
Convalescent Homes, Homes for the Aged, Nursing Homes, Children’s Homes	One (1) per each administrative, professional and staff member, plus one (1) per each five (5) beds
High Schools, Trade Schools, Colleges, and Universities	One (1) per each administrative and staff member, plus eight (8) per each classroom
Junior High Schools	One (1) per each administrative and staff member, plus two (2) per each classroom.
Elementary Schools	One (1) per each administrative and staff member, plus two (2) per each classroom
Child Care Center, Group Day Care Homes, and Nursery Schools	One (1) per each administrative and staff member, plus one (1) per each four (4) students of licensed capacity
Stadiums, Sports Arenas, and Auditoriums	One (1) per each four (4) seats, based on maximum seating capacity

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# Off-Street Parking, Loading, and Site Access

Use Within District	Number of Parking Spaces Per Each Unit of Measure
Libraries and Museums	One (1) per each 200 sq. ft. of floor area, plus one (1) per each employee
<b>Commercial</b>	
Retail Stores, except as otherwise specified herein.	One (1) per 100 sq. ft. of floor area
Supermarkets, drugstores, and other self-serve retail establishments	One (1) per 150 sq. ft. of floor area
Convenience Stores	One (1) per 100 sq. ft. of floor area
Planned shopping center	One (1) per 100 sq. ft. of floor area for the first 15,000 sq. ft., plus one (1) per 150 sq. ft. of floor area in excess of 15,000 sq. ft.
Furniture, Appliances, Hardware Household equipment sales	One (1) per each 300 sq. ft. of floor area
Motels and Hotels	1.5 per each guest bedroom, plus amount required for accessory uses, such as a restaurant or cocktail lounge
Fast Food Restaurants with seating	One (1) per each 75 sq. ft. of customer floor area not devoted to seating plus one (1) per each two (2) seats, based on maximum seating capacity.
Fast Food Restaurants without seating	One (1) per each 75 sq. ft. of customer floor area.
Walk-Up Food Concessions	One (1) per each 50 sq. ft. of building floor area.
Drive-thru and Drive-up Restaurants	One (1) per each 75 sq. ft. of customer floor area.
Sit-Down Restaurants	One (1) per each two (2) seats, based on maximum seating capacity
Taverns and Cocktail Lounges (other than fast food restaurants)	One (1) per each two (2) persons allowed within maximum occupancy load as established by fire and/or building codes
Garden Stores, Building Material Sales, Open Air Businesses and Equipment Sales and Service Revised 1/21/05	One (1) per each 400 sq. ft. of building floor area devoted to sales and display, plus one (1) per each 1500 sq. ft. of service floor area, plus one (1) per each 1000 sq. ft. of lot area used for open air display sales (not including storage area)
Movie Theaters	One (1) per each three (3) seats based on the maximum seating capacity
<b>Automotive</b>	
Auto Sales (new or used) with service stall(s)	One (1) for each vehicle for sale, plus one (1) per each 200 sq. ft. of showroom floor area, plus three (3) for each service stall, plus two (2) for customer parking for the first ten (10) vehicles for sale and one (1) customer parking space for each fifteen (15) vehicles for sale thereafter.
Auto Sales (new and used) without service stall(s)	One (1) for each vehicle for sale, plus one (1) per each 200 sq. ft. of showroom floor area, plus two (2) for customer parking for the first ten (10) vehicles for sale and one (1) customer parking space for each fifteen (15) vehicles for sale thereafter.
Automobile Repair Facilities, including Collision and Bump Shops	Three (3) per each service stall plus one (1) per each service vehicle
Automobile Service Stations without Convenience Store	One (1) per pump unit, plus three (3) per each service stall
Automobile Service Station with	One (1) per pump unit, plus three (3) per each service

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# Off-Street Parking, Loading, and Site Access

<b>Use Within District</b>	<b>Number of Parking Spaces Per Each Unit of Measure</b>
Convenience Store	stall, plus one (1) per each 100 sq. ft. of floor area devoted to retail sales and customer service
Automobile Washes (self-serve)	One (1) parking space and the requirements set forth in Section 6.4.1
Automobile Washes (Automatic)	One (1) per 200 sq. ft. of floor area of customer waiting and service area plus one (1) per each vacuum station and the requirements set forth in Section 6.4.1.
<b>Office and Service</b>	
Medical and Dental Office	One (1) per each 150 sq. ft. of floor area
Business and Professional Offices	One (1) per each 200 sq. ft. of floor area
Banks	One (1) per each 200 sq. ft. of floor area
Barber and Beauty Shops	Three (3) per each chair
Funeral Homes	One (1) per each three (3) persons allowed with maximum occupancy load as established by fire and/or building codes.
<b>Recreational</b>	
Bowling Alleys	Four (4) per bowling lane, plus amount required for accessory uses such as a restaurant or cocktail lounge
Private Tennis, Swim or Golf Clubs, or other similar uses	One (1) per each three (3) persons allowed with maximum occupancy load as established by fire and/or building codes
Golf Course	Five (5) per each hole, plus amount required for accessory uses such as a restaurant or cocktail lounge.
Equestrian Training Facilities	One (1) per each two stalls, plus one(1) per each employee
<b>Industrial</b>	
Industrial, Manufacturing, or Research Establishments	One (1) per 200 sq. ft. of office floor area, plus one (1) per each 500 sq. ft. of floor area
Warehouses and Wholesale Establishments	One (1) per each 200 sq. ft. of office floor area, plus one (1) per each 1,500 sq. ft. of floor area
Contractor Office	One (1) per 200 sq. ft. of office floor area, plus one (1) per 1,500 sq. ft. of warehouse floor area, plus one (1) per each vehicle or item of equipment stored outside of the building

## 6.2.8 Off-Street Parking Design and Construction

- A. All parking lots, maneuvering lanes, driveways, or loading areas required for uses other than single- or two-family residences shall be hard-surfaced with asphalt or concrete and shall be completed prior to a certificate of occupancy being issued. The Planning Commission shall have the discretion of waiving certain hard surface paving requirements provided the following conditions are met:
  1. The proposed driveways, loading, turn-around, or storage areas will receive only limited use and are not used for employee parking, customer parking, or primary access.
  2. Gravel surfacing and potential problems arising from dust or scattered gravel shall not impact neighboring properties.

## Off-Street Parking, Loading, and Site Access

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- 3. Hard surfacing will significantly increase storm water run-off and create a potential for flooding and/or soil erosion.
- B. Lighting of all parking lots shall be shielded to prevent glare onto neighboring properties and public roads.
- C. Ingress and egress to the parking lot shall be provided by limited and clearly defined drives. All internal access drives and/or maneuvering lanes which provide the principal means of access for emergency vehicles to the site and/or buildings shall be a minimum of twenty-two (22) feet in width.
- D. Wheel stops or curbing shall be provided to prevent any vehicle from encroaching upon pedestrian walkways or damaging required landscaping.
- E. Access to parking spaces shall be designed so as not to obstruct free flow of traffic. There shall be adequate provision for ingress to and egress from all parking spaces to ensure ease of mobility, ample clearance, and safety of vehicles and pedestrians.
- F. Plans for the layout of automobile off-street parking facilities shall be in accordance with the following minimum regulations.

Pattern	Maneuvering Lane Width		Parking Space Dimensions Regular Car	
	One-Way	Two-Way	Width	Length
0° Parallel	12 ft	20 ft	10 ft.	24 ft
30° - 53°	12 ft	20 ft	10 ft	18 ft
54° - 74°	15 ft	22 ft	10 ft	18 ft
75° - 90°	20 ft	22 ft	10 ft	18 ft

- G. **Truck and Recreational Vehicle Parking** - In addition to parking required for passenger vehicles set forth in Section 6.2.7, off-street parking for buses, trucks, and recreational vehicles at restaurants, service stations, and similar establishments, shall be of sufficient size to adequately serve such vehicles and not interfere with other vehicles that use the same facilities. Such space shall not be less than ten (10) feet in width and fifty-five (55) feet in length. Upon review of the site plan, the Planning Commission shall determine if separate truck and recreational vehicle parking is required for the proposed use.
- H. **Barrier-Free Parking** - In addition to parking required for passenger vehicles set forth in Section 6.2.7, off-street barrier-free parking facilities shall be designed in accordance with applicable State and/or Federal standards.

### Section 6.3 Off-Street Loading Requirements

- 6.3.1 On the same premises as any use which involves the receipt or distribution of vehicles, material or merchandise, adequate space shall be provided and maintained for standing, loading and unloading of delivery vehicles in order to avoid interference with or congestion of adjacent streets, neighboring sites, or off-street parking facilities. The required number of loading spaces shall be determined by the Planning Commission at the time of site plan review.
- 6.3.2 Such loading and unloading spaces, unless completely and adequately provided for within a building, shall be an area ten (10) feet by fifty-five (55) feet, with fourteen (14) foot height clearance sufficient to accommodate vehicles using the loading space.
- 6.3.3 Loading and unloading space provided by truck wells located below surface grade

## Off-Street Parking, Loading, and Site Access

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shall be of sufficient width to accommodate truck maneuvering but shall be no less than ten (10) by fifty-five (55) feet. Exposed sides shall be protected by iron railings or guardrails. Drainage shall be provided to prevent the collection of storm water at the bottom of the truck well.

### 6.3.4 **Required Greenbelt, Setbacks, and Screening**

- A. Off-street loading areas, including maneuvering lanes, shall not be located within the front greenbelt required in accordance with Section 4.2. Off-street parking shall be permitted within the required side or rear yard setbacks, provided a minimum ten (10) foot setback is maintained between off-street loading and the abutting side and rear lot lines.
- B. Off-street loading which abuts residentially zoned or used property shall be screened in accordance with Section 4.2.2.

6.3.5 **Double Count** - Off-Street loading space areas shall not be counted toward supplying off-street parking.

### Section 6.4 **Off-Street Drive-Through and Waiting Space**

6.4.1 **Drive-Through Facilities** - In addition to meeting off-street parking requirements, all uses which provide drive-through facilities for serving customers within their automobile shall provide adequate off-street stacking space within a defined stacking lane which meets the following requirements:

- A. Each stacking lane shall be one-way and a minimum of twelve (12) feet in width.
- B. Clear identification and delineation between the drive-through facility and parking lot shall be provided. Drive-through facilities shall be designed in a manner, which promotes pedestrian and vehicular safety.
- C. Each drive-through facility shall have an escape lane to allow other vehicles to pass those waiting to be served.
- D. The number of stacking spaces per service lane shall be provided for the uses listed below. Each stacking space shall be computed on the basis of twenty (20) feet in length. When a use is not specifically mentioned, the requirements for off-street stacking space for the similar use shall apply and shall be determined by the Planning Commission.

# Off-Street Parking, Loading, and Site Access

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Use	Stacking Spaces Per Service Lane
Banks, Photo Service, Dry-Cleaning	4
Fast-food Restaurants	6
Auto Washes (self-service)	
<i>Entry</i>	<i>3 per bay</i>
<i>Exit</i>	<i>1 per bay</i>
Auto Washes (Automatic)	
<i>Entry</i>	<i>12 per wash line</i>
<i>Exit</i>	<i>2 per wash line</i>

6.4.2 **Off-Street Waiting Space** - Uses such as day cares, schools, hospitals, nursing homes, and churches, shall provide a safe and efficient means for passengers to be dropped off and picked up. Such off-street waiting spaces shall be clearly marked so as to ensure the safety of pedestrians and motorists.

## Section 6.5 Site Access Control

6.5.1 All sites shall comply with the minimum street frontage and access requirements set forth in Section 2.3.5 and Section 3.11 (Schedule of Regulations).

6.5.2 **General Provisions** - All principal permitted and conditional uses that are subject to site plan review shall meet the requirements contained in this Section. Access to public roads shall be controlled in the interest of public safety. Each building or group of buildings used for non-residential purposes, and its parking or service area, shall be physically separated from public roads by a curb, or other suitable barrier against unchanneled motor vehicle access, except as authorized herein.

6.5.3 **Driveway Performance Standards** - Driveways shall conform to standards adopted by the Jackson County Road Commission, and the following additional standards:

- A. Driveway design and placement must be compatible with internal circulation and parking design such that the entrance can absorb the maximum rate of inbound and outbound traffic during a normal weekday peak traffic period.
- B. There must be sufficient on-site stacking to accommodate vehicles waiting to park or exist without using any portion of the public right-of-way, obstructing existing vehicle sight distance, or otherwise interfering with street traffic.
- C. Provisions for circulation between adjacent parcels are encouraged through coordinated or joint parking systems.
- D. Driveways shall be designed to accommodate all vehicle types having occasion to enter the site, including delivery vehicles. There shall be clear delineation of entry and exist lanes within driveways.
- E. Driveway design and location shall ensure that loading and unloading activities will not hinder vehicle ingress or egress.
- F. Driveway design and location shall meet the sight distance requirements of the Jackson County Road Commission.

## Off-Street Parking, Loading, and Site Access

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- 6.5.4 **Driveway Spacing** - Driveway spacing will be determined according to the standards adopted by the Jackson County Road Commission.
- 6.5.5 **Traffic Impact Analysis** - The Township may require a traffic impact analysis in order to analyze the effect of development upon existing street traffic. The traffic impact analysis shall examine existing and proposed traffic flows, trip generation studies, impacts on major intersections, turning movement analysis, roadway capacity, parking generation and site ingress/egress. The traffic impact analysis shall be prepared by a registered professional engineer.



## Article 7

# Non-Conforming Uses, Structures, and Lots

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## Article 7 Non-Conforming Uses, Structures, and Lots

### Section 7.1 Intent

Certain existing lots, structures and uses of lots and structures were lawful before this Ordinance was adopted, but have become non-conformities under the terms of this Ordinance and its amendments. It is the intent of this Ordinance to permit such non-conformities to remain until they are discontinued or removed, but not to encourage their survival or, where discontinuance or removal is not feasible, to gradually upgrade such non-conformities to conforming status. Non-conformities shall not be enlarged, expanded, or extended, except as provided herein, and shall not be used as grounds for adding other structures and uses of lots and structures which are prohibited. Non-conformities are declared by this Ordinance to be incompatible with the structures and uses permitted in the various Districts.

### Section 7.2 Non-Conforming Lots

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance if the lot was lawful under the regulations of the preceding Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lots shall conform to the current regulations for the district in which such lot is located.

### Section 7.3 Non-Conforming Uses of Land

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

- 7.3.1 No such non-conforming uses shall be enlarged, increased, or extended in any way that enables the enlargements, increases, or extensions to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
- 7.3.2 No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance unless subject move decreases or eliminates those items of non-conformity.
- 7.3.3 If such non-conforming use of land ceases operation with the intent of abandonment for a period of more than six (6) months, any subsequent use of such land shall conform to the regulations specified by the current Ordinance for the district in which such land is located.

### Section 7.4 Non-Conforming Structures

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

## Non-Conforming Uses, Structures, and Lots

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following provisions:

- 7.4.1 No such structure may be enlarged or altered in any way, which increases its non-conformity. Nevertheless, enlargements or alterations are permitted to lawful non-conforming structures that are being improved/expanded in a dimension that is now conforming and will not become non-conforming in that dimension when improved or expanded.  
For clarification, adding a second story to a structure where one or more sides of the structure is currently non-conforming (e.g. closer to the property line than permitted) is permitted as long as the expansion does not add to the cubic foot volume of that part of the structure that is non-conforming
- 7.4.2 Should such structure, except residential structures, be destroyed by any means to an extent of more than fifty (50) percent of replacement value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the current Ordinance.
- 7.4.3 Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the current regulations for the district in which it is located after it is moved.

### Section 7.5 Non-Conforming Uses of Structures and Land

If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject of the following provisions:

- 7.5.1 No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- 7.5.2 Any non-conforming use may be extended throughout any part of a building which was obviously arranged or designed for such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
- 7.5.3 Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations pertaining to the uses permitted in the district in which such structure is located, and the non-conforming use may not thereafter be resumed. Section 7.4 shall apply to any non-conformity relating to the structure(s).
- 7.5.4 If such non-conforming use of land and structures ceases operation with the intent of abandonment for a period of more than six (6) months, any subsequent use of such land shall conform to the regulations specified by this Ordinance pertaining to the uses permitted in the district in which such land is located. Seasonal uses shall be exempted from this provision only so long as annual seasonal uses shall continue.
- 7.5.5 Where non-conforming use status applies to a structure and premises in combination,

## Non-Conforming Uses, Structures, and Lots

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removal, or destruction of the structure shall eliminate the non-conforming status of the land.

- 7.5.6 If no structural alterations are made, any non-conforming use of structure, or structure and premises, may be changed to another non-conforming use of the same or a more restricted classification provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the purpose and intent of this Ordinance. Where a non-conforming use of a structure, land, or structure and land in combination is hereafter changed to a more restrictive classification, it shall not thereafter be changed to a less restricted classification.

### Section 7.6 **Repairs and Maintenance**

On any building devoted in whole or in part to any non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing to an extent not exceeding fifty (50) percent of the replacement value of the building, provided that cubic content of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased.

### Section 7.7 **Uses Allowed As Conditional Uses, Not Non-Conforming Uses**

Any use for which a conditional use approval is permitted as provided in this Ordinance shall be deemed a conforming use in such district.

### Section 7.8 **Change of Tenancy or Ownership**

There may be a change of tenancy, ownership, or management of any existing non-conforming uses of land, structures, and premises provided there is no change in the nature of character of such non-conforming uses except in conformity with the provisions of this Ordinance.

### Section 7.9 **Land Division Restrictions**

The Township shall not allow the division of land whereby the newly created portions of land, or structures thereon, become non-conforming as provided by this ordinance.

## Non-Conforming Uses, Structures, and Lots

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# Article 8

## Site Plan Review

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### Article 8 Site Plan Review

#### Section 8.1 Site Plan Review Required in Specific Districts

The intent of this Section is to require site plan review and to provide for consultation and cooperation between the developer and the Township so as to realize maximum utilization of land and minimum adverse effects upon the surrounding land uses. Through application of these provisions, compliance with the Zoning Ordinance and the Land Use Plan, the Township will be assured, and the Township will develop in an orderly fashion consistent with public health, safety and welfare.

#### Section 8.2 When Site Plan Review is Required

Preliminary site plan review and approval shall be required for all conditional land uses as set forth in Article 9 (Conditional Land Use Provisions). A preliminary site plan shall meet all of the criteria and standards set forth in Section 8.3. No final site plan is required for conditional land use unless requested by the Planning Commission.

Preliminary and final site plan review and approval are required for all proposed uses or change of use except for one-family detached dwellings and agricultural uses. Site plan review and approval shall also be required for the following conditions

- A. A multiple-family building containing three (3) or more dwelling units;
- B. More than one multiple-family building on a lot, parcel, or tract of land or on a combination of lots under one ownership.
- C. A planned-unit residential development, or open space community development or site condominium development in accordance with the provisions specified in Articles 8 (Site Plan Review), 10 (Planned Unit Development) and 11 (Open Space Community).
- D. Any new building or new structure, or new out-of-doors operation in any commercial district or industrial district.
- E. Any alteration, addition, expansion, change, or conversion within any commercial district or industrial district which constitutes an increase to the floor plan of the original structure of three thousand (3,000) square feet or 10 percent of the original structure, whichever is less.
- F. Any alteration, addition, expansion, change, or conversion within any commercial district or industrial district, which would require a variance from the provisions of this Ordinance regardless of its size.
- G. More than one building or structure except a sign, on a lot, parcel, or tract of land or combination of lots under one ownership in any commercial or industrial district.
- H. A manufactured housing park or subdivision.

Preliminary and final site plan review and approval for existing principal or accessory structures or uses is also required where an alteration, addition, expansion, change or conversion:

- A. Constitutes an increase to the existing structure or use of 3,000 or more square feet or 10 percent, whichever is less; or
- B. Would require a variance from the provisions of this Ordinance, regardless of its size.

## Article 8

# Site Plan Review

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Final site plans shall meet all of the criteria and standards set forth in this Article.

### Section 8.3 Preliminary Site Plan

- 8.3.1 A preliminary site plan is a generalized site plan required to be submitted for review by the Township Planning Commission. The purpose of such preliminary review is to confirm compliance with Township standards, policies and relationship to the Land Use Plan, as well as to suggest changes necessary, if any, for the final site plan approval.
- 8.3.2 Any applicant shall file a preliminary site plan in conjunction with a conditional land use application, as set forth in Section 9.4.
- 8.3.3 The preliminary site plan shall be prepared with accuracy, clarity and completeness following the requirements listed later in this Section. The Planning Commission may request that the plan be prepared by a registered professional architect, engineer, or community planner.

The site plan shall include the following information.

- A. The description, location, size and shape of the property involved.
  - B. The shape, size and location of existing and proposed buildings, parking areas and service drives, loading zones, location of existing and proposed public streets serving the property, and natural features including topography and soils.
  - C. The location of all existing and proposed water and sewage treatment systems serving the property.
  - D. Any other information deemed necessary to properly illustrate the development concept to the Planning Commission.
  - E. The Township Zoning Administrator, or designee, shall provide the Planning Commission with all historical data relevant to the property under consideration, including, but not limited to, earlier approved site plans.
- 8.3.4 **Planning Commission Action** - The Planning Commission will consider the application and take one of the following actions within 90 days from receipt of the completed application:
- A. **Approval** - Upon finding that the Application and Site Plan meet the Criteria of Site Plan Review, the Planning Commission shall approve.
  - B. **Approval with Minor Revisions** - Upon finding that the Application and Site Plan meet the Criteria of Site Plan Review, except for minor revisions which can be made and confirmed without further technical review, the Planning Commission may approve, conditioned upon said revisions being made and reviewed by appropriate Township staff and/or consultants.
  - C. **Tabling** - Upon finding that the Application and Site Plan do not, but could, meet the Criteria of Site Plan Review, upon the making of revisions, confirmation of which requires further technical review, the Planning Commission may table its decision until the revised Plan is resubmitted to the Planning Commission.
  - D. **Denial** - Upon finding that the Application and Site Plan do not meet one or more

## Site Plan Review

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of the Criteria of Site Plan Review, and that revisions necessary to meet said Criteria are so extensive as to require the preparation of a new Site Plan, the Planning Commission shall deny.

Approval of the preliminary site plan by the Planning Commission shall vest no rights in the application regarding approval of the final site plan inasmuch as the specific details of a site plan prepared in accordance with Section 8.4 serves as the basis for determining that all Township standards have been met.

### Section 8.4 **Final Site Plan**

8.4.1 **Site Plan Submitted** - The final site plan shall be prepared with accuracy, clarity and completeness following the requirements listed later in this Section. The Planning Commission may request that the plan be prepared by a registered professional architect, engineer, or community planner.

Upon receipt of a complete application and site plan, it shall be scheduled for review by the Planning Commission.

- A. A completed application signed by the owner; if the owner is a corporation, the application must be signed by a corporate officer; if the owner is a partnership, the application must be signed by a general partner; if the owner is an individual or individuals, each individual owner must sign the application.
- B. Sufficient copies, as determined by the Zoning Administrator, of the final site plan meeting all informational requirements set forth, but not limited to, Articles 4 (General Provisions), 5 (Signs), 6 (Off-Street Parking, Loading, and Site Access), and 8 (Site Plan Review). Incomplete plans will not be accepted.
- C. **Required fees** - Upon receipt of a complete application and site plan, it shall be scheduled for review by the Planning Commission.

The Planning Commission shall not review the preliminary site plan and final site plan at the same meeting.

The Township may refer the site plan to the Township Planner and Engineer for review or any other agency it deems necessary.

8.4.2 **Planning Commission Review** - The Planning Commission will consider the application and take one of the following actions within 90 days from receipt of the completed application:

- A. **Approval** - Upon finding that the Application and Site Plan meet the Criteria of Site Plan Review in Section 8.5 the Planning Commission shall recommend approval.
- B. **Approval with Minor Revisions** - Upon finding that the Application and Site Plan meet the Criteria of Site Plan Review in Section 8.5, except for minor revisions which can be made and confirmed without further technical review, the Planning Commission may recommend approval, conditioned upon said revisions being made and reviewed by appropriate Township staff and/or consultants.
- C. **Tabling** - Upon finding that the Application and Site Plan do not, but could, meet the Criteria of Site Plan Review in Section 8.5 upon the making of revisions,



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confirmation of which requires further technical review, the Planning Commission may table its recommendation until the revised Plan is resubmitted to the Planning Commission.

- D. **Denial** - Upon finding that the Application and Site Plan do not meet one or more of the Criteria of Site Plan Review in Section 8.5 and that revisions necessary to meet said Criteria are so extensive as to require the preparation of a new Site Plan, the Planning Commission shall recommend denial.
- 8.4.3 **Township Board Review** - The Township Board will consider the application and take one of the following actions within 90 days from receipt of the completed application:
- A. **Approval** - Upon finding that the Application and Site Plan meet the Criteria of Site Plan Review in Section 8.5 the Township Board shall approve.
- B. **Approval with Minor Revisions** - Upon finding that the Application and Site Plan meet the Criteria of Site Plan Review in Section 8.5, except for minor revisions which can be made and confirmed without further technical review, the Township Board may approve, conditioned upon said revisions being made and reviewed by appropriate Township staff and/or consultants.
- C. **Tabling** - Upon finding that the Application and Site Plan do not, but could, meet the Criteria of Site Plan Review in Section 8.5 upon the making of revisions, confirmation of which requires further technical review, the Township Board may table its decision until the revised Plan is resubmitted to the Township Board.
- D. **Denial** - Upon finding that the Application and Site Plan do not meet one or more of the Criteria of Site Plan Review in Section 8.5 and that revisions necessary to meet said Criteria are so extensive as to require the preparation of a new Site Plan, the Township Board shall deny.
- 8.4.4 **Subsequent changes to the final site plan** - If any portion of the approved final site plan is changed by the applicant, the final site plan shall be revised accordingly by the applicant and re-submitted to the Planning Commission for review.

### Section 8.5 Criteria of Final Site Plan Review

The site plan shall be reviewed and approved upon a finding that the following conditions are met:

- 8.5.1 There is a proper relationship between major thoroughfares and proposed service drives, driveways and parking areas and provisions have been made for acceleration, deceleration and passing lanes or approaches so as to preserve the safety and convenience of pedestrian and vehicular traffic.
- 8.5.2 The location of buildings, outside storage receptacles, parking areas, screen walls and utility areas is such that the adverse effects of such uses will be minimized for the occupants of that use and surrounding areas.
- 8.5.3 It provides for proper development of roads, easements and public utilities and protects the general health, safety, welfare, and character of the Township.
- 8.5.4 It meets the requirements and standards for grading and surface drainage and for the

## Article 8

# Site Plan Review

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- design and construction of storm sewers, storm water facilities, parking lots, driveways, water mains, sanitary sewers and for acceleration, deceleration and passing lanes or approaches as determined by the Jackson County Drain Commission and Jackson County Road Commission prior to the site plan review.
- 8.5.5 Proper access to all portions of the site and all sides of any structure is provided. All structures or groups of structures shall be so arranged as to permit emergency vehicle access by some practical means to all sides. Site features such as, but not limited to, trees and other plant materials, fences, retaining walls, berms, outdoor furniture, outdoor structures, and natural and artificial water bodies shall be arranged to permit adequate emergency vehicle access.
- 8.5.6 Natural resources will be preserved to the maximum extent possible in the site design by developing in a manner which will not detrimentally affect or destroy natural features such as lakes, ponds, streams, wetlands, steep slopes, groundwater and woodlands.
- 8.5.7 The proposed development respects the natural topography to the maximum extent possible by minimizing the amount of cutting, filling and grading required.
- 8.5.8 The proposed development will not cause soil erosion or sedimentation.
- 8.5.9 Storm water management systems and facilities will preserve the natural drainage characteristics and enhance the aesthetics of the site to the maximum extent possible, and will not substantially reduce or increase the natural retention or storage capacity of any wetland, water body or water course, or cause alterations which could increase flooding or water pollution on or off site.
- 8.5.10 Wastewater treatment systems, including on-site septic systems, will be located and designed to minimize any potential degradation of surface water or groundwater quality.
- 8.5.11 Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals will be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater or nearby water bodies.
- 8.5.12 The location of buildings, parking, drives, landscaping and other improvements on the site is appropriate and consistent with good design standards for the lot size shape and general location.
- 8.5.13 Landscaping, including grass, trees, shrubs and other vegetation is provided to maintain and improve the aesthetic quality of the site and area, including the requirements of Section 4.2.
- 8.5.14 The proposed uses are in compliance with all Township Ordinances and any other applicable laws.

### Section 8.6 **Information Required on Final Site Plan**

Site Plans shall consist of an overall plan for the entire development. Sheet size shall be at least 24" x 36" with plan view drawn to a scale of 1" = 50' for property less than three acres or 1" = 100' for property three or more acres. A Site Plan submitted for review and approval shall contain all of the following data prior to its submission to the Planning Commission for

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# Site Plan Review

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review.

### 8.6.1 General Information

- A. Proprietors', applicants, and owners' names, addresses and telephone numbers.
- B. Date (month, day, year), including revisions.
- C. Title block.
- D. Scale.
- E. North point.
- F. Location map drawn at a scale of 1" = 2,000' with north point indicated.
- G. Architect, Engineer, Surveyor, Landscape Architect, or Planner's seal if applicable.
- H. Existing lot lines, building lines, structures, parking areas, etc., on the parcel, and within 100 feet of the site.
- I. Proposed lot line, property lines and all structures, parking areas, etc. within the site, and within 100 feet of the site.
- J. Centerline of existing and proposed right-of-way line of any street.
- K. Zoning classification of petitioner's parcel and all abutting parcels (Applicant may show this information on the location map required in Subsection F.
- L. Gross acreage figure.
- M. Proximity to major thoroughfares and section corners.

### 8.6.2 Physical Features

- A. Acceleration, deceleration and passing lanes and approaches.
- B. Proposed locations and dimensions of access drives, street intersections, driveway locations, sidewalks, bike paths, curbing and areas for public use.
- C. Location of existing and proposed service facilities above and below ground, including:
  1. Well sites.
  2. Septic systems and other wastewater treatment systems. The location of the septic tank and the drain field (soil absorption system) should be clearly distinguished.
  3. Chemical and fuel storage tanks and containers.
  4. Storage, loading, and disposal areas for chemicals, hazardous substances, salt and fuels.
  5. Water mains, hydrants, pump houses, stand pipes and building services and sizes, where applicable.
  6. Sanitary sewers and pumping stations, where applicable.
  7. Storm water control facilities and structures including storm sewers, scales,

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# Site Plan Review

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retention and detention basins, drainage ways and other facilities, including calculations for size.

8. Location and dimension of all easements.

D. Location and dimensions of all existing and proposed structures with foundation dimensions and square footage, setback and yard dimensions and typical structure elevation views.

E. Dimensioned parking spaces and calculation, drives and method of surfacing.

F. Exterior lighting locations and illumination patterns.

G. Location and description of all existing and proposed landscaping, berms, fencing and walls, including the requirements of Section 4.2.

H. Trash receptacle and transformer pad locations and methods of screening.

I. Dedicated road or service drive locations.

J. Entrance details including sign locations and size.

K. Designation of fire lanes.

L. Any other pertinent physical features.

### 8.6.3 Natural Features

A. Soil characteristics of the parcel to at least the detail provided by the current "Soil Survey of Jackson County, Michigan."

B. Existing topography with a maximum contour interval of two feet. Topography on the site and beyond the site for a distance of 100 feet in all directions should be indicated. Grading plan, showing finished contours at a maximum interval of two (2) feet, correlated with existing contours so as to clearly indicate required cutting, filling and grading.

C. Location of existing drainage courses and associated bodies of water, on and off site, and their elevations.

D. Location of existing wetlands.

E. Location of natural resource features, including woodlands and areas with slopes greater than 10 percent (one (1) foot of vertical elevation for every 10 feet of horizontal distance).

### 8.6.4 Additional Requirements for Residential Developments

A. Density calculations by type of unit by bedroom counts.

B. Designation of units by type and number of units in each building.

C. Carport locations and details where proposed.

D. Specific amount and locations of recreation spaces, open spaces, and common spaces.

E. Type of recreation facilities to be provided in recreation space.

F. Details of Community Building and fencing of swimming pool if proposed.

### 8.6.5 Additional Requirements for Commercial & Industrial Developments

## Article 8

# Site Plan Review

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- A. Loading/unloading areas.
- B. Total of usable floor area.
- C. Number of employees in peak usage.

### Section 8.7 **Notice of Action or Recommendation**

The Planning Commission Chairman shall note on a Final Site Plan any action, condition, or recommendation regarding that Plan and provide at least one copy of that Plan together with any required written findings, conditions, or reasons to the Township Clerk. A copy of the Planning Commission minutes shall be sufficient to satisfy this requirement.

### Section 8.8 **Building Permits and Conformity to Final Site Plan**

After filing of the approved application and final site plan, satisfaction of any conditions of said approval and compliance with this and other Township Ordinances, a building permit may be issued. All development and construction shall be in complete conformity with the site plan as approved, together with any conditions imposed.

### Section 8.9 **Expiration of Approval**

Final site plan approval is valid for a period of one year from the date of Planning Commission action within which time all necessary Building or Construction Permits shall be secured and construction substantially commenced. The Planning Commission may grant an extension on site plan approval for up to one year. All requests for extensions shall be made in writing and include a statement of why the extension is necessary and confirmation of ability to complete construction in conformity with the Site Plan as approved.

### Section 8.10 **Site Condominium Project Regulations**

8.10.1 **Intent** - Pursuant to the authority conferred by the Condominium Act, preliminary and final site plans shall be regulated by the provisions of this Ordinance and approved by the Planning Commission.

#### 8.10.2 **General Requirements**

- A. Each condominium lot shall be located in any residential, commercial, or industrial zoned district.
- B. Each condominium lot shall front on and have direct access to a public street or a private street approved by the Township Board. Approval for a private street may be conferred by the Township Board between preliminary and final site plan approval by the Planning Commission.
- C. For the purposes of this ordinance, each condominium lot shall be considered equivalent to a single lot and shall comply with all regulations of the zoning district in which located, and the provisions of any other statutes, laws, ordinances, and/or regulations applicable to lots in subdivisions.

8.10.3 **Site Plan Approval Requirements** - Preliminary approval of the site plan and final approval of the site plan and condominium documents by the Planning Commission shall be required as a condition to the right to construct, expand or convert a site condominium project. Preliminary and final approval shall not be combined.

#### A. **Preliminary Approval**

## Site Plan Review

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1. A preliminary site plan pursuant to the standards and procedures set forth in Article 8 (Site Plan Review) of this Ordinance shall be submitted to the Planning Commission for review.
2. Action taken by the Planning Commission shall be the same as set forth in Section 8.3.4.

### **B. Final Approval**

1. Following preliminary site plan approval, the applicant shall submit the Condominium Documents to the Township for the review by the Township Attorney and other appropriate staff and consultants. The Condominium Documents shall be reviewed by the Township including, without limitation: ongoing preservation and maintenance of drainage, retention, wetland and other natural and/or common area; construction and maintenance of private roads, if any; and maintenance of storm water, sanitary, and water facilities and utilities.
2. Following receipt of preliminary site plan approval, the applicant shall also submit a final site plan pursuant to the standards set forth in Article 8 (Site Plan Review) and engineering plans in sufficient detail to enable the Township to determine compliance with applicable laws, ordinances and design standards for construction of the project. The Township shall submit engineering plans to the Township Engineer for review.
3. Upon completion of the review of the Condominium Documents and engineering plans and receipt of the recommendation and findings from the Township Attorney and Engineer the site plan shall be submitted to the Planning Commission for final review.
4. If the site plan, Condominium Documents and/or engineering plans conform in all respects to applicable laws, ordinances and design standards, final approval shall be granted by the Planning Commission.
5. If the site plan, Condominium Documents, and/or engineering plans fail to conform, final approval shall be denied by the Planning Commission.
6. In the interest of insuring compliance with this Ordinance and protecting the health, safety and welfare of the residents of the Township, the Planning Commission, as a condition of final approval of the site plan, shall require the applicant to deposit a performance guarantee as set forth in Section 12.6 of the Zoning Ordinance for the completion of improvements associated with the proposed use.

**8.10.4 Information Required Prior to Occupancy** - Prior to the issuance of occupancy permits for any condominium units, the applicant shall submit the following to the Township Clerk:

- A. A copy of the recorded Condominium Documents (including exhibits).
- B. A copy of any recorded restrictive covenants.
- C. A copy of the site plan.

## Site Plan Review

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- D. Evidence of completion of improvements associated with the proposed use including two copies of an “as-built survey.”
- 8.10.5 **Revision of Site Condominium Plan** - If the site condominium subdivision plan is revised, the final site plan shall be revised accordingly and submitted for review and approval or denial by the Planning Commission before any building permit may be issued, where such permit is required.
- 8.10.6 **Amendment of Condominium Documents** - Any amendment to a master deed or bylaws that affects the approved preliminary or final site plan, or any conditions of approval of a preliminary or final site plan, shall be reviewed and approved by the Township Attorney and Planning Commission before any building permit may be issued, where such permit is required. The Planning Commission may require its review of an amended site plan if, in its opinion, such changes in the master deed or bylaws require corresponding changes in the site plan.



# Article 9

## Conditional Land Use Provisions

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### Article 9 Conditional Land Use Provisions

#### Section 9.1 Purpose

There are conditional land uses which may be necessary or desirable to allow in certain districts but because of their actual or potential impact on neighboring uses or public facilities, need to be carefully regulated with respect to their location for the protection of Napoleon Township.

#### Section 9.2 Applicability

The provisions of this Article shall apply to all conditional land uses.

#### Section 9.3 Authority to Grant Permits

The Planning Commission, as hereinafter provided, shall have the authority to recommend deny, approve, or approve with conditions, requests for conditional land uses. The decision on a conditional land use shall be incorporated in a statement of conclusions relative to the use under consideration. The decision shall specify the basis for the decision and any conditions imposed.

#### Section 9.4 Application and Fee

Application for any conditional land use permissible under the provisions of this Ordinance shall be made to the Planning Commission through the Napoleon Township Clerk by filing an application form; submitting a preliminary site plan in accordance with Article 8 (Site Plan Review) and depositing the required fee as established by resolution of the Napoleon Township Board, except that no fee shall be required of any governmental body or agency. No part of such fee shall be returnable to the applicant.

Expansion or alteration of an existing conditional land use shall be considered an amendment to such use and subject to the review and approval of the Planning Commission in accordance with all procedures and standards set forth herein.

#### Section 9.5 Application and Site Plan Requirements

An application for a conditional land use permit shall include the applicant's name and address in full, a statement of the applicant's ownership of the property or that the applicant is acting on the owner's behalf, the address of the property involved, and a preliminary site plan as specified in and in conformance with Article 8 (Site Plan Review) of this Ordinance. If a conditional land use and preliminary site plan approval is recommended by the Planning Commission, the applicant may be requested to submit a final site plan meeting the requirements of Section 8.4.

#### Section 9.6 Public Hearing

The Planning Commission shall hold a public hearing upon any application for conditional land use permit, notice of which shall be prepared, published and delivered pursuant to the requirements of Section 12.9.

#### Section 9.7 Required Standards and Findings for Making Determinations

The Planning Commission shall review the proposed conditional land use application and preliminary site plan in terms of the following standards, and shall find and record adequate data, information and evidence showing that such a use on the proposed site, lot or parcel

## Conditional Land Use Provisions

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meets or does not meet these standards.

The Planning Commission shall review the proposed conditional land use application and preliminary site plan in terms of the following standards and prepare a written statement of findings and conclusions which includes adequate data, information and evidence showing that such a use on the proposed site, lot or parcel meets or does not meet these standards as well as the justification for any conditions.

- 9.7.1 The proposed conditional land use shall be harmonious with and in accordance with the general objectives, intent, and purposes of this Ordinance.
- 9.7.2 The proposed conditional land use shall be designed, constructed, operated, maintained and managed so as to be harmonious and appropriate in appearance with existing or intended character of the general vicinity.
- 9.7.3 The proposed conditional land use shall be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately for such service.
- 9.7.4 The proposed conditional land use shall not be hazardous or disturbing to existing or future neighboring uses.
- 9.7.5 The proposed conditional land use shall not create excessive additional requirements for public facilities and services at the public's cost.
- 9.7.6 Development requirements for specific conditional land uses as listed under Section 9.11 are met.

### Section 9.8 Approval of Conditional Land Use Permit

#### 9.8.1 Planning Commission Approval

Upon review of the application and preliminary site plan in accordance with the standards established in Section 9.7, findings of the public hearing held in accordance with Section 9.6, and review of requirements of other provisions of this Ordinance as they apply to the proposed conditional land use, the Planning Commission shall recommend approval, approval with conditions, or denial of the conditional land use permit within thirty (30) days following the public hearing to the Township Board. This time limit may be extended by the Planning Commission with good cause.

#### 9.8.2 Napoleon Township Board Approval

Taking into consideration of the Planning Commission, the township Board must approve, approve with conditions, or deny the conditional land use permit. Upon approval of the conditional land use permit, a copy of the approved preliminary site plan shall be forwarded to the applicant, Clerk, Zoning administrator, and Planning Commission along with full documentation regarding the findings of the review and the approval or denial. The Zoning Administrator shall not issue a zoning compliance permit until receiving a copy of the approved site plan.

#### 9.8.3 Reapplication

No application for a conditional use permit which has been denied wholly or in part by the Township Board shall be resubmitted for a period of three hundred and sixty-

## Article 9

# Conditional Land Use Provisions

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five (365) days from the day of such denial.

### Section 9.9 **Imposition of Conditions**

- 9.9.1 Upon review of the application and preliminary site plan in accordance with the standards established in Section 9.7 and the requirements of the other provisions of this Ordinance, the Planning Commission may require reasonable conditions necessary to accomplish the following:
- A. Ensure that public services and facilities affected by the proposed land use or activity shall be capable of accommodating increased service and facility loads generated by the land use or activity.
  - B. Protect the natural environment and conserve natural resources and energy.
  - C. Ensure compatibility with adjacent land uses.
  - D. Promote the use of land in a socially and economically desirable manner.
  - E. Use does not create a potential nuisance.
- 9.9.2 Conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon mutual consent of the Planning Commission and the landowner.
- 9.9.3 Any approval of a conditional land use shall require submission and approval of a site plan prepared in accordance with Section 8.3.

### Section 9.10 **Voiding of Conditional Land Use Permit**

Any conditional land use permit granted under this Ordinance shall become null and void and fees forfeited unless substantial construction and/or use is commenced within one year (365 days).

Any conditional land use permit granted under this Ordinance shall become null and void if the permitted use is discontinued, for any reason, for a period of one year (365 days).

A violation of a requirement, condition or safeguard shall be considered a violation of this Ordinance and grounds for the Planning Commission to recommend to the Township Board to terminate and cancel such conditional land use permit.

### Section 9.11 **Additional Development Requirements for Certain Conditional Uses**

A conditional land use permit shall not be issued for the uses specified in this subsection unless complying with the site development requirements as herein specified. The Planning Commission may impose additional conditions and safeguards when deemed necessary.

#### 9.11.1 **Airports**

- A. The applicant must provide documentation that the area proposed shall be sufficient to meet the applicable Michigan Aeronautics Commission and Federal Aeronautics Administration's requirements for the class of airport proposed.
- B. There are no existing flight obstructions such as towers, chimneys or other tall

## Conditional Land Use Provisions

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structures, or natural obstructions outside the proposed airport boundaries which would fall within the approach zone to any of the proposed runways or landing strips of the airport.

- C. There is sufficient distance between the end of each usable landing strip and the airport boundary to satisfy the requirements of the Federal Aeronautics Administration or any other appropriate authority. In cases where air rights or easements have been acquired from the owners of abutting properties in which approach zones fall, satisfactory evidence thereof shall be submitted with the application.
  - D. Any building, hangers, or other structures shall be at least one hundred (100) feet from any street or lot line.
  - E. The site plan submitted for review and approval shall, in addition to the information required in Subsection 9.11.1(A) and Article 8 (Site Plan Review), include the proposed layout of runways, landing strips or areas, taxi trips, aprons, roads, parking areas, hangers, buildings and other structures and facilities; the location and height of all buildings, structures, trees, and overhead wires falling within the airport approach zone and within five hundred (500) feet distance from the boundary lines of the airport.
- 9.11.2 **Veterinary Clinics.** Except where animals are kept in soundproof, air conditioned buildings, no structure or area occupied by animals shall be within one hundred (100) feet of the property line of any adjacent lot.
- 9.11.3 **Automobile Service Stations and Automobile Washes**
- A. All gasoline pumps shall be located not less than fifteen (15) feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street or right-of-way.
  - B. All activities related to vehicle washing, service and repair shall be entirely enclosed within a building.
  - C. Driveways shall be designed to accommodate the type and volume of vehicular traffic using the site and location in a manner which is compatible with uses located adjacent to and across from the site.
  - D. Inoperative or unlicensed vehicles shall not be stored outside for more than seven (7) days. Such storage shall not occur in front of the building front line.
  - E. Vehicle sales shall not be permitted on the premises of any automobile service station or automotive wash.
  - F. Lighting shall be directed to prevent glare onto a public right-of-way or neighboring property.
- 9.11.4 **Automobile Repair Facilities**
- A. All activity related to vehicle repair shall be conducted entirely within an enclosed building and shall be located not less than one hundred (100) feet from any residentially zoned property.

## Conditional Land Use Provisions

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- B. Outdoor storage or parking of operational, wrecked or partially dismantled vehicles shall be prohibited for a period greater than thirty (30) days, unless enclosed within an area which is completely screened from view by a solid fence of at least eight (8) feet in height. In no case shall storage be permitted in front of the front building line.
- C. Driveways shall be designed to accommodate the type and volume of vehicular traffic using the site and located in a manner which is compatible with uses located adjacent to and across from the site.
- D. Lighting shall be directed to prevent glare onto a public right-of-way or neighboring property.

### 9.11.5 Campgrounds

- A. The minimum lot area shall be twenty (20) acres.
- B. A minimum one hundred (100) foot perimeter buffer shall be provided between any structure, including, but not limited to, a campsite, cabin, bathroom, picnic shelter or storage building and adjacent residentially zoned or used properties.
  - 1. The perimeter buffer shall be maintained in its natural state.
  - 2. Where the natural vegetation or land contour are insufficient to buffer the campground from the adjacent residentially zoned or used properties, the Planning Commission may require additional setback, landscaping and/or berming.
- C. Manufactured homes shall not be permitted to be located within a campground, except one (1) manufactured home may be permitted as a caretakers quarters. The caretaker shall be a bone fide employee of the campground.
- D. The use and occupancy of a campground shall be in strict compliance with the current laws and requirements which govern such uses in the State of Michigan.

### 9.11.6 Cemeteries

- A. The cemetery shall be designed to provide principal access directly to a County Primary Road or State highway.
- B. The minimum lot area shall be ten (10) acres.
- C. No mausoleum, crematory, or chapel shall be erected within fifty (50) feet of the lot or parcel boundary on which the cemetery is located, or ninety (90) feet from the centerline on major roads.
- D. The perimeter of the site shall be fenced.
- E. No grave shall be interned within fifty (50) feet of the lot or parcel boundary on which the cemetery is located or ninety (90) feet from the centerline on major roads.

### 9.11.7 Churches and other Buildings for Religious Worship

- A. The minimum lot area shall be three (3) acres.

## Conditional Land Use Provisions

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- B. The minimum lot width shall be three hundred (300) feet.
- C. All front, side and rear yard setbacks shall be a minimum of fifty (50) feet.

### 9.11.8 Group Day Care Home

In accordance with the Michigan Zoning Enabling Act as amended, 2006 PA 110, group day care homes must be approved if they meet the following conditions.

- A. Subject parcel shall meet the minimum lot area and yard requirements for the zoning district in which it is located. Day care homes located within an RM or MHP District shall meet the minimum lot area and yard requirements of the R-1 District.
- B. The group day care home will be located at least one thousand, five hundred (1,500) feet away from other group day care homes, adult foster care group homes, substance abuse treatment centers servicing seven (7) or more people, or community correction centers, resident homes and halfway houses for inmates under the jurisdiction of the Department of Corrections.
- C. Provide off-street parking for employees subject to the provisions of Article 6 (Off-Street parking, Loading, and Site Access) of this Ordinance.
- D. The property shall be maintained in a manner that is consistent with the character of the neighborhood.
- E. All outdoor play areas shall be enclosed by a fence that is designed to discourage climbing. The fence shall be at least four (4) feet in height, but no higher than six (6) feet, and in compliance with Section 4.3 of this Ordinance.
- F. The hours of operation shall not exceed sixteen (16) hours within a twenty-four (24) hours period.
- G. All signs on the property are subject to the provisions of Article 5 (Signs) of this Ordinance.
- H. Appropriate licenses with the State of Michigan shall be maintained.

A licensed or registered family or group day-care home that has operated prior to the effective date of the amendatory act that added this Section is not required to comply with the requirements of this Section.

This Section shall not prevent an inspection of a family or group day-care home for the home's compliance with the township's ordinance and enforcing the ordinance; if the ordinance is not more restrictive for the home than Child Care Organizations, as amended, 1973 PA 116 being within 1,500 feet of the licensed or registered group day-care home will not affect any subsequent special use permit to a licensed or registered group day-care home that does not meet the standards listed.

The distances specified shall be measured along a road, street, or place maintained by this state or a political subdivision of this state and generally open to use by the public as a matter of right for the purpose of vehicular traffic, not including an alley.

### 9.11.9 Day Care Center



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- A. The Day Care Center shall be served by public sewer and water or private water and waste water treatment system approved by the Jackson County Health Department.
- B. A separate drop-off and pick-up area shall be provided and located so as to not create congestion on the site or within a public roadway.
- C. There shall be an outdoor play area that is at least three thousand (3,000) square feet. Said play area shall not be located within a required front setback. All outdoor play areas shall be enclosed by a fence that is designed to discourage climbing and is at least four (4) feet in height but no higher than six (6) feet.
- D. Appropriate licenses with the State of Michigan shall be maintained.

### 9.11.10 **Public or Private Elementary, Intermediate, and High Schools**

- A. All schools shall conform to applicable State statues regarding site design.
- B. All schools shall conform to the minimum yard requirements for the district in which it is located.

### 9.11.11 **Golf Courses and Country Clubs**, including accessory clubhouses, driving ranges, pro shops, maintenance buildings and recreational facilities.

- A. The minimum site area shall be sixty (60) acres for a nine (9) hole course and one hundred twenty (120) acres for an eighteen (18) hole course. The minimum site area for a par-3 course may be reduced by fifty (50) percent.
- B. The location of structures such as the clubhouse and accessory buildings and their operations shall be reviewed by the Planning Commission to ensure minimum disruption of the adjacent properties and as much distance as is practical shall be provided between golf course structures and activities and abutting residential properties. In no case shall any structure be located any closer than two hundred (200) feet from adjacent residentially zoned or used property.
- C. All outdoor storage, service and maintenance areas when visible from adjoining residentially zoned or used land shall be screened from view either by a wall or fence at least six (6) feet in height or landscaped in accordance with the provisions of Section 4.2.2.

### 9.11.12 **Golf Driving Ranges**

- A. Adequate fencing and/or buffering shall be provided to prevent golf balls from landing on adjacent property.
- B. Lighting shall be directed to prevent glare onto a public right-of-way or neighboring property.
- C. All outdoor storage, service and maintenance areas when visible from adjoining residentially zoned or used land shall be screened from view either by a wall or fence at least six (6) feet in height or landscaped in accordance with the provisions of Section 4.2.2.

### 9.11.13 **Hospitals and Convalescent Homes**

- A. All such facilities shall be developed only on sites consisting of at least ten (10)



## Conditional Land Use Provisions

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acres in area or 1,500 square feet per bed, whichever is greater.

- B. The proposed site shall have direct access to a major road. The Planning Commission may permit access to a local road in cases where the traffic impact will not place an inordinate burden on the roadway or adjacent properties.
- C. The minimum distances between any hospital structure or accessory use and any adjacent residentially zoned or used property shall be at least one hundred (100) feet.
- D. Unless otherwise specified, hospitals and convalescent homes shall comply with the minimum yard requirements of the district in which located. Hospitals and convalescent homes located in an RM or MHP District shall meet the minimum yard requirements of the GC District.

### 9.11.14 **Bed and Breakfast**

- A. Each premise must be occupied and operated by its owner or the caretaker of the property.
- B. The proposed use shall not cause a nuisance to adjoining residences due to noise, odor, dust, lighting, or traffic.
- C. No bed and breakfast sleeping room shall be permitted that does not comply with the construction code.
- D. There shall be no separate cooking facilities used for bed and breakfast stay.
- E. Bed and breakfast bedrooms shall be a minimum of one hundred twenty (120) square feet for the first two (2) occupants and an additional thirty (30) square feet for each additional occupant.
- F. The stay of bed and breakfast occupants shall be no more than thirty (30) consecutive days and not more than sixty (60) days in any one (1) calendar year.
- G. One (1) bathroom for every three sleeping rooms shall be provided, with a minimum of two (2) bathrooms.
- H. Every bed and breakfast bedroom shall contain a functioning smoke detector. An approved fire extinguisher shall be located on each floor on which such sleeping room is located.
- I. One (1) identification sign shall be permitted subject to the approval by the Planning Commission.
- J. One (1) off-street parking space shall be provided within the interior side yard or rear yard area for each bed and breakfast bedroom. The Planning Commission may increase or decrease required parking in order to meet the purposes of this Section and protect the public health and safety.

### 9.11.15 **Kennels**

- A. A minimum lot size of five (5) acres shall be maintained.
- B. Any building or fenced area where animals are kept shall be located a minimum of two hundred (200) feet from any public right-of-way, one hundred (100) feet from any property line, and one hundred-fifty (150) feet from any residential dwelling

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located off the premises.

- C. The kennel shall be established and maintained in accordance with all applicable State, County and Township sanitation regulations. Odor, dust, noise, drainage or insects shall not constitute a nuisance to adjoining properties.

### 9.11.16 Commercial Horse Stables

- A. The minimum lot area required for a commercial stable shall be ten (10) acres. Six (6) horses shall be permitted on the first ten (10) acres. Thereafter, one (1) additional horse shall be permitted for each additional acre.
- B. A commercial stable shall be established and maintained in accordance with all applicable State, County and Township sanitation regulations. Odor, dust, noise, drainage or insects shall not constitute a nuisance to adjoining properties.
- C. Animals shall be confined in a suitable fenced area.

### 9.11.17 Self-Storage Facilities

- A. Self-storage facilities shall be devoted exclusively to the rental of enclosed storage space and outside storage space for vehicles. No wholesale, retail, industrial or other business use on, or operated from the facility shall be allowed.
- B. The storage of any toxic, explosive, corrosive, flammable or hazardous material is prohibited.
- C. Other than the storage of vehicles, all storage shall be contained within a building. All vehicle storage shall be screened from the view of neighboring properties and public roads in accordance with Section 4.2.2.
- D. All storage units must be accessible by safe drives which are clearly marked to distinguish direction of traffic flow and separate from the parking lanes. Parking lanes, a minimum of ten (10) feet wide, shall be provided for loading and unloading adjacent to all storage units. A combination parking lane-driveway must meet the following minimum standards:
  - 1. When storage units open on one side only, twenty-six (26) feet of width shall be provided for one-way traffic and thirty (30) feet for two-way traffic.
  - 2. When storage units open onto both sides, thirty-six (36) feet of width shall be provided for one-way traffic, and forty (40) feet of width for two-way traffic.

### 9.11.18 Mining and Extractive Operations

#### A. Application Contents

- 1. As a part of the application, the applicant shall submit a plan of operation. Such plan of operation shall include a topographic survey of the site drawn to a scale of 1 inch = 100 feet and prepared by a registered civil engineer or a registered land surveyor with contour intervals not to exceed ten (10) feet based upon U.S.G.S. datum. The drawing shall also clearly show the area in which mineral extraction and mining activity is to be undertaken, including existing areas and roads within three hundred (300) feet of all property lines, setbacks, areas for stockpiling, maintenance areas, berms, fencing, drainage

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facilities, location of utilities, location of equipment, and other use areas. The plan of operation shall be accompanied by a projected schedule including the following specific dates:

- a. Commencement and completion of operations.
  - b. Commencement and completion of erosion and drainage control.
  - c. Commencement and completion of fencing, roads, utilities, or any other structures or improvements to be located on the site as provided by the plan of operation.
2. The applicant shall also prepare and submit a plan of restoration. The plan of restoration shall be submitted in three (3) parts, as follows:
- a. A recent aerial photograph with a general plan of restoration as an overlay or as a separate drawing.
  - b. A restoration contour plat.
  - c. A description of restoration methods and materials proposed for renewal of topsoil and replanting. The general plan of restoration shall be presented at the same scale as the aerial photograph and shall provide the following information:
    - 1) The general area of completely restored land.
    - 2) The general area of restoration under way.
    - 3) The general area currently used for storage.
    - 4) The general area proposed for restoration during the one-year period of the license.
    - 5) The general area proposed for future storage.
    - 6) The acreage for each item shown on the overlay or separate drawing.
    - 7) A restoration contour plat with contour intervals not to exceed two (2) feet indicating the general grade and slope to which excavated areas are to be restored.
    - 8) A description of the methods and materials proposed for restoration of topsoil and the amount and type of planting which is a part of the restoration plan.
    - 9) The projected schedule of restoration operations, including the following specific dates:
      - a) Commencement and completion of restoration;
      - b) Commencement and completion of erosion and drainage control measures to be completed under the restoration plan; and
      - c) Commencement and completion of final grading, topsoil replacement, and replanting or landscaping as provided by the restoration plan.
3. All areas shall be progressively rehabilitated to mitigate hazards and to blend

## Conditional Land Use Provisions

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with the general surrounding ground form so as to appear reasonably natural.

4. Mineral extraction and mining operational and restoration plans shall be prepared to clearly depict and describe the sequence of mining operations, including existing conditions, mining underway, mining completed, restoration underway, restoration completed, mining proposed, restoration proposed, stockpiles, roadways, and similar land-use elements.

### **B. Fencing and Screening**

1. There shall be erected a fence not less than six (6) feet in height around the periphery of the development. Fences shall be adequate to prevent trespassing, and shall be placed no closer than fifty (50) feet to the top edge of any slope and shall be posted so as to indicate the danger of trespassing in the area. The minimum specifications for said fencing shall be as follows: No. 9 gauge top wire, No. 12 gauge bottom wire with spacing of 6 inches by 12 inches. All stays shall be of 14-gauge wire with spacing of support posts to be no greater than 16 feet apart.
2. All active mineral extraction and mining operations shall be visually screened from view from all adjacent public highways and property occupied for residential purposes such that the operations will be screened from the view of a person standing on the paved portion of the public highway or on the lot lines of adjacent residentially used parcels. The following methods are acceptable for visual screening:
  - a. Construction of a raised earth-berm area on the mining site along boundary lines thereof where such lines abut a public highway or abut privately owned property which is improved and occupied for residential purposes. This provision with regard to lands improved and occupied for residential purposes shall be applicable to any land upon which dwellings are built and occupied subsequent to the date of this Ordinance. The berm shall be sufficient in length and height to screen the mining area. During the planting season next following the placement of the berm and as often as may be necessary to assure the existence of a vegetative ground cover, the applicant shall seed or plant the berm in a manner suitable for the area and soil conditions so as to provide vegetation to check erosion and to provide a visible ground cover substantially similar to the vegetation cover growing in adjacent fields. Where the topography of the area acts as a screen, the Township Board may waive the berm requirement. The berm shall have slopes not in excess of one (1) foot vertical to two (2) feet horizontal.
  - b. Planting of coniferous trees along the boundaries of the property with sufficient rows and depth to permit effective screening of the mining area.
  - c. To the extent that the foregoing is not practical, the proposed licensee may submit alternate proposals.
  - d. The amount and extent of required screening shall be reasonable and

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practical as determined by the Township Board.

- C. **Hours of Operation** - Maximum hours of operation shall be 7 a.m. to 7 p.m. No operations shall take place on Sundays or legal holidays. In emergency situations, this time period may be modified by the Township Supervisor, provided such modification shall not be effective for more than 72 hours.
- D. **Road Access** - There shall be not more than one (1) entrance way from a public road to a licensed site for each five hundred (500) feet of front-lot line. All sites licensed under the provisions of this Ordinance shall have direct access to a County road having a minimum right-of-way width of 66 feet and improved to the specifications of the Jackson County Road Commission.
- E. **Road Maintenance** - Access roads within the licensed site shall be maintained by the operator so as to minimize the dust arising from the use of such roads. Such maintenance shall be accomplished through the application of chloride, water and/or similar dust retardant material. Application of oil shall be prohibited. A paved road from the entrance and exit, a distance of not less than three hundred (300) feet from the right-of-way line into the area of operation shall be provided in order to minimize the deposit of dirt and gravel from trucks onto the public highway.
- F. **Operation of Use** - All equipment and facilities used in the mining of sand, gravel, and stone shall be conducted, maintained, and operated in such manner so as to eliminate, insofar as practicable, noise, vibrations, or dust which interfere with the reasonable use and enjoyment of surrounding property.
  - 1. On any mining site, no digging or excavation below grade shall take place closer than fifty (50) feet from any lot line; provided, however, that the soil and angle of embankment shall be suitable so as to prevent cave in of the fifty (50) foot setback; provided, further, however, that, with respect to any mining site which existed as of the effective date of this Ordinance, and for which a variance from the fifty (50) foot setback requirement was previously granted by the Zoning Board of Appeals, operation of any such mining site within the setback as permitted by the terms of any such variance shall be allowed, subject always, however, to any restrictions upon operations within the setback imposed by the terms of any such variance.
  - 2. All fixed equipment and machinery shall be located at least one hundred (100) feet from any lot line and five hundred (500) feet from any residential zoning districts, but that in the event the zoning classification of any land within five hundred (500) feet of such equipment or machinery shall be changed to residential subsequent to the operation of such equipment or machinery, the operation of such equipment or machinery may continue henceforth but in no case less than one hundred (100) feet from any lot line.
  - 3. All roads, driveways, parking lots, and loading and unloading areas within one hundred (100) feet of any lot line shall be paved, watered, or chemically

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treated so as to limit adjoining lots and public roads the nuisance caused by wind borne dust.

4. Any odors, smoke, fumes, or dust generated on said lot by any digging, excavating, processing, stockpiling, or transportation operation and borne or able to be borne by the wind shall be confined within the lines of said lot so as to not cause a nuisance or hazard on any adjoining lot or public road.
  5. Removal processing or storage shall not be conducted so as to cause pollution or erosion, by any material, of any surface, watercourse, or body outside of the site on which the mining or excavation activity is located.
  6. Such removal, processing, or storage shall not be conducted as to cause or threaten to cause the erosion by water of any land outside of said lot or of any land on said lot so that earth materials are carried outside of the lines of said lot, that such removal shall not be conducted as to alter the drainage pattern of surface or subsurface waters on adjacent property, and that in the event that such removal, processing, or storage shall cease to be conducted, it shall be the continuing responsibility of the owner or operator thereof to assure that no erosion or alteration of drainage patterns, as specified in this paragraph, shall take place after the date of the cessation of operation.
- G. **Noise Standards** - Mining sites shall be operated such that the noise of operation or equipment vibration cannot reasonably be considered disturbing to neighboring uses of land. Objectionable noises due to intermittence, beat, frequency, or shrillness shall be muffled so as not to become a nuisance to adjacent uses. Equipment on licensed sites at any time or under any condition shall not be operated so as to result in noise exceeding the following levels reaching adjacent land when measured at the common-property line nearest the active work area:

## Conditional Land Use Provisions

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**Adjacent Use Maximum Sound Level**

Residential: 75 dBA

Commercial: 85 dBA

Industrial and Other: 90 dBA

The Township shall monitor noise levels using weighted decibel measurements (referenced to 20 micropascals) with" type of audio output meter approved by the United States Bureau of Standards.

- H. **Transportation Vehicle Standards** - All vehicles used to transport excavated material shall be required to be loaded in such manner that the material may not unintentionally be discharged from the vehicle.
- I. **Lighting** - All lighting used to illuminate the mining area, access roads, stockpile area, and similar use areas shall be directed away from all surrounding property. Shielding of lighting may be required by the Township Board where such lighting shines directly toward a residential use and/or a county road.
- J. **Drainage** - Proper drainage shall be provided at all times to prevent the collection and stagnation of water, and surface water shall at all times be directed in such a manner so as not to interfere with adjoining property; provided, however, that the maintenance of the natural flow of surface water shall not be deemed an interference. Any water areas, retention ponds, settling ponds, or similar water areas shall be fenced in accordance with Section 4.3 of this Ordinance. Erosion control measures shall be instituted to comply with Part 91 (Soil Erosion and Sedimentation Control) of the Natural Resources and Environmental Protection Act, as amended, 1994 PA 451.
- K. **Termination and Restoration** - Upon termination of mining operations, the licensee shall be responsible at its cost to restore the site in accordance with restoration plans previously submitted. If the licensee fails to restore the site, the Township, through the provisions of this Ordinance, may enter upon the site and restore the same in accordance with the restoration plan provided for under this Ordinance and approved by the Township Board and may utilize the bond proceeds provided pursuant to this Ordinance to defray the costs thereof.
- L. **Excavation/Filling** - All excavation of mining area shall be made either to a water-producing depth of at least ten (10) feet below the low-water mark for at least eighty percent (80%) of the water area, or shall be graded or back filled with noxious-free, non-inflammable, non-radioactive, non-hazardous, and non-combustible materials, to assure:
  - 1. Stagnant water shall not be permitted to collect and remain in the excavated area; and
  - 2. That the surface of any area which is not permanently submerged is graded or backfilled as necessary so as to reduce the peaks and depressions thereof, and so as to produce a gently rolling surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area.



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- M. **Bank Slopes** - The banks of all excavations shall be sloped to the water line in a water-producing excavation, and to the pit floor in a dry operation at a slope to a degree not less than that required to prevent accelerated erosion and to a degree sufficient to maintain vegetation, and the banks shall be restored with vegetation as provided for in this Ordinance.
- N. **Fill Material** - In the event filling of the mined area is necessary during restoration, said fill material shall be inert material only as defined by the Michigan Solid Waste Management Act, as amended, 1978 PA 641.
- O. **Security** - When not in active operation, access to the site shall be restricted by gates and locks at all entrances and exits.
- P. **Cessation of Operations** - Upon cessation of all mineral extraction and mining operations, except stockpiles, and within a reasonable period of time not exceeding six (6) months thereafter, all structures, stockpiles, and equipment shall be removed unless the same can be lawfully used in the zoning district in which the same are located. Storage and stockpiling of mined products after cessation of operations may be permitted by the Township Board by annual license for that purpose only. In no event shall any additional materials be added to these stockpiles and such a license shall not interfere with or excuse restoration as provided by this Ordinance.

### 9.11.19 Residential Living Units in Commercially Zoned Districts

The intent of this Section is to provide the ability to utilize sections of a building or structure in a commercially zoned district for residential living quarters. It is not the intent of this Section to circumvent any requirement of this zoning ordinance that is applicable. The following conditions shall apply:

- A. The Living Quarters shall be constructed as part of the building that encapsulates the commercial business. (This condition may be waived by the Zoning Administrator if the applicant can demonstrate a need for a stand alone living unit.
- B. The Living Quarters shall be separate and incidental from the business. There shall be no sharing of facilities between the living quarters and the commercial business.
- C. There shall be a separate entrance for the living quarters. (This condition may be waived by the Zoning Administrator if the living quarters are for the explicit use of the owner, employee or caretaker (and their immediate families) of the specific business being carried out at the site.
- D. The Living Quarters shall not create a nuisance or endanger the health, safety, welfare, or enjoyment of any other person in the area by reason of noise, odor, unsanitary or unsightly conditions, fire hazards, or the like.
- E. There shall be two (2) additional parking spaces for each living quarters added to the number of spaces required for the business. (This condition may be waived by the Zoning Administrator if the applicant can demonstrate that additional parking is not required).

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- F. The decisions of the Zoning Administrator in paragraphs A, C, and E above may be appealed to the Planning Commission which shall have final authority.

### 9.11.20 Small On-Site Wind Energy Systems

- A. The following small on-site wind energy systems will be considered as accessory structures/uses.
1. **Small On-Site Tower Mounted Wind Energy Systems:** Up to eighty (80) feet in total height with lot sizes of one (1) acre or greater.
  2. **Small On-Site Tower Mounted Wind Energy Systems:** Over eighty (80) feet in total height with lot sizes of two (2) acre or greater.
  3. **Structure Mounted Wind Energy Systems:** with a lot size of one (1) acre or greater that are attached to a structure's roof, walls, or other elevated surface and has a total height that does not exceed fifteen (15) feet as measured from the highest point on the roof, excluding chimneys, antennae, and other protuberances.
- B. **Site Development Standards:** Shall apply to all small on-site wind energy systems in the Township and shall be subject to all applicable requirements of the Site Plan Article and Sections of this Ordinance including the following:
1. **Blade/Ground Clearance:** The lowest extension of any blade or other exposed moving component shall be at least fifteen (15) feet above the ground (at the highest point of the natural grade within thirty (30) feet of the base of a tower) and, in addition, at least fifteen (15) feet above any outdoor surfaces intended for human use, such as decks, balconies or roof gardens, that are located below the Small Tower or Structure Mounted Wind Energy System.
  2. **Guy Wires:** If the small on-site wind tower mounted energy system is supported by guy wires, such wires shall be covered with a high visibility material or fenced so as to make them visible at a height of at least six (6) feet above the ground.
  3. **Setbacks Tower Mounted Wind Energy System:** shall be set back from an adjoining lot line or a public or private road right-of-way a distance equal to the total height of the wind turbine generator plus ten (10) percent, however no part of the wind turbine generator, including guy wire anchors, may extend closer to the property line or waterfront than the required setback for the district in which the unit is located. A small wind energy system shall have a setback of twenty (20) feet from all occupied buildings on the applicant's parcel. The Planning Commission may reduce the setback if the neighboring property is under the same ownership or based on other factors such as topography specific to the site.
  4. **Setbacks Structure Mounted Wind Energy System:** shall be set back a

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minimum of fifteen (15) feet from the property line, public or private right-of-way, easement, or overhead utility lines if mounted directly on a roof or other elevated surface of a structure. If affixed by any extension to the side, roof, or other elevated surface then the setback from the property line, public or private right-of-way or easement shall be a minimum of fifteen (15) feet. The setback shall be measured from the furthest outward extension of all moving parts.

5. **Noise:** Small on-site wind energy systems shall not cause a sound pressure level in excess of fifty-five (55) dBA as measured at the nearest property line. This level may be exceeded during short-term events such as utility outages and severe wind storms.
6. **Vibration:** Small on-site wind energy systems shall not cause vibrations through the ground which are perceptible beyond the property line of the parcel on which it is located.
7. **Reception/Signal Interference:** Small on-site wind energy systems shall not cause interference with communication systems such as, but not limited to, television, microwave, satellite emergency communications, wireless phone, navigational or radio reception to neighboring areas.
8. **Shadow Flicker:** Small on-site wind energy systems shall not cause shadow flicker upon any structure on a neighboring property. The wind turbine generator owner may obtain written agreements which allow shadow flicker to cross an occupied structure.
9. **Potential Ice Throw:** Ice throw or ice shedding from the wind turbine generator shall not cross the property lines of the site nor impinge on any right-of-way or overhead utility line.
10. **Safety:** Small on-site wind energy systems shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speed, and excessive pressure on the tower or building structure, rotor blades and other wind energy components unless the manufacturer certifies that a braking system is not necessary.
11. **Signs:** Small on-site wind energy systems shall not be used for displaying any advertising (including flags, streamers, or decorative items), except for the identification of the turbine manufacture, a clearly visible warning sign regarding voltage shall be placed at the base of a tower or structure mounted system, or any other required information (e.g. Underwriters Laboratory (UL) label, emergency contact phone number) such sign shall not exceed three square feet.
12. **Visual Appearance:** Small on-site wind energy systems including accessory structures shall be a non-reflective, non-obtrusive color (e.g. white, gray, black). The appearance of the system and any ancillary facilities shall be maintained throughout the life of the system.

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13. **Lighting:** Small on-site wind energy systems shall not be artificially lighted, except to the extent required by law or other applicable authority, or otherwise for the reasonable safety and security thereof.
14. **Utility Connection:** If the small on-site wind energy system is connected to a public utility (Consumers Energy) for net-metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's then-current service regulations meeting federal, state, and industry standards applicable to wind power generation facilities, and the connection shall be inspected by the utility.
15. **Other Regulations:** On-site wind energy systems shall comply with all applicable State construction and electrical codes, Regulations contained in the Jackson County Airport – Reynolds Field Airport Zoning Manual, Federal Aviation Administration requirements, Michigan Aeronautics Commission requirements, the Michigan Tall Structures Act, as amended, 1959 PA 259, and the Michigan Public Service Commission and Federal Energy Regulatory Commission standards.

### 9.11.21 Utility Grid, Large Wind Energy Facilities/Systems:

- A. **Site Development Standards:** Shall apply to all utility grid large wind energy facilities/systems proposed on lots with a minimum of 10 acres, including any applicable provisions of small on-site wind energy systems in the Township and shall be subject to all applicable requirements of the Site Plan Article and Sections of this Ordinance including the following:
- B. **Wind Energy Facilities and Anemometer Towers:** Anemometer Towers and wind energy facilities consisting of one (1) or more wind turbines whose main purpose is to supply electricity to off-site customers may be allowed as a Conditional Land Use and shall adhere to the following requirements in addition to the requirements contained in this Ordinance:
  1. **Principal or Accessory Use:** A wind energy facility or anemometer tower may be considered either a principal or an accessory use. A different existing use or an existing structure on the same parcel shall not preclude the installation of a wind energy facility or a part of such facility on such parcel. Wind energy facilities that are constructed and installed in accordance with the provisions of this Article shall not be deemed to constitute the expansion of a nonconforming use or structure.
  2. **Avian Analysis and Wildlife Impact:** An applicant shall submit an avian study to assess the potential impact of a proposed Wind Energy Facility upon bird and bat species. The avian study shall at a minimum report a literature survey for threatened and endangered species, and any information on critical flyways. The analysis shall also include the potential effects on species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection Law. The applicant

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must identify any plans for post-construction monitoring or studies. The analysis should also include an explanation of potential impacts and propose a mitigation plan, if necessary.

3. **State or Federal Requirements:** Any proposed wind turbine generator anemometer tower shall meet or exceed any standards and regulations of the Federal Aviation Administration (FAA), Michigan Aeronautics Commission (MAC), the Michigan Public Service Commission, National Electric Safety Code, Federal Energy Regulatory Commission, and any other agency of the state or federal government with the authority to regulate wind turbine generators or other tall structures in effect at the time the Conditional Land Use approval is approved.
4. **Sufficient Wind Resources:** The proposed site shall have documented annual wind resources, sufficient for the operation of the proposed wind turbine generator; provided, however, this standard shall not apply to an anemometer tower. No wind turbine generator shall be approved without submission of a wind resource study documenting wind resources on the site. The Township may retain the services of an independent, recognized expert to review the results of the wind resource study prior to acting on the application for conditional approval. All costs for the study shall be at the applicant expense.
5. **Minimum Site Area:** The minimum site area for a wind turbine generator or an anemometer tower erected prior to a wind turbine generator shall meet required setbacks and any other standards of this Article.
6. **Setbacks:** Each proposed wind turbine generator or anemometer tower shall meet the following applicable setback requirements:
  - a. **Setback from Property Line:** Each wind turbine generator shall be set back from any adjoining lot line a distance equal to the total height of the wind turbine generator including the top of the blade in its vertical position. The Planning Commission may reduce this setback to no less than one hundred (100) feet; provided the adjoining property is owned or leased by the applicant or an easement is obtained. If the adjoining property that is owned or leased by the applicant includes more than one (1) parcel, the properties may be considered in combination in determining setback relief. The amount of setback relief approved by the Planning Commission will be based on data provided by the applicant and prepared by a qualified professional. Such data shall satisfy the Planning Commission that any potential blade and ice throw will not cross the property line and that sound levels will comply with the provisions of the Small Wind Energy Section 5 (e) and in no case exceed the provisions of the Zoning Ordinance as stated under the Environmental Performance Standards Subsection Noise at the property line from the proposed

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setback. Data provided shall be specific to the proposed tower in the proposed location taking into consideration prevailing winds, topography, existing vegetation, and other relevant factors.

- b. **Setback from Road:** In addition to the above, a wind turbine generator shall, in all cases, be set back from a public or private road right-of-way a minimum distance equal to the height of the wind turbine generator total height plus 10% as defined in the Ordinance.
  - c. **Setback from Structures:** Each wind turbine generator shall be setback from the nearest inhabited structure a distance not less than one and one-half (1 ½) times the total height of the wind turbine generator.
  - d. **Setback from Communication and Power Lines:** Each wind turbine shall be set back from the nearest above-ground public electric power line or telephone line a distance of no less than four hundred (400) feet or one and one-half (150 %) times the total height, whichever is greater, determined from the existing power or communications lines.
  - e. **Building Setbacks:** Setbacks for buildings accessory to a wind turbine generator shall conform to the setbacks of the district.
7. **Height:** Regarding wind turbine height, the applicant shall demonstrate compliance with the Michigan Tall Structures Act (P.A. 259 of 1959, as amended), FAA guidelines, and Michigan Aeronautics Commission guidelines as part of the approval process.
  8. **Tower Separation:** Wind turbine separation distance shall be based on 1) industry standards, 2) manufacturer recommendation, and 3) the characteristics (prevailing wind, topography, etc.) of the particular site location. At a minimum, there shall be a separation between the towers of not less than three (3) times the turbine rotor diameter. Documents shall be submitted by the developer/manufacturer confirming specifications for tower separation.
  9. **Minimum Ground Clearance:** The lowest point of the arc created by rotating wind vanes or blades on a wind turbine generator shall be no less than twenty (20) feet.
  10. **Maximum Noise Levels:** The sound pressure level generated by the wind energy system shall not exceed fifty-five (55) dB (A) measured at neighboring property lines. This level may be exceeded during short-term events such as utility outages and severe wind storms.
  11. **Maximum Vibrations:** Any proposed wind turbine generator shall not produce vibrations through the ground humanly perceptible beyond the parcel on which it is located.



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12. **Potential Ice Throw:** Ice throw or ice shedding for a wind turbine generator shall not cross the property lines of the site nor impinge on any right-of-way or overhead utility line.
13. **Signal Interference:** No wind turbine generator shall be installed in any location where proximity to existing fixed broadcast, retransmission, or reception antennas for radio, television, navigation, emergency communication systems, wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception. No wind turbine generator shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference with the link's operation.
14. **Visual Impact, Lighting, Power Lines:**
- a. Wind turbines shall be mounted on tubular or lattice towers, painted a non-reflective, non obtrusive neutral color. The appearance of turbines, towers, and buildings shall be maintained throughout the life of the wind energy facility pursuant to industry standards (i.e. condition of exterior paint, signs, landscaping). A certified registered Michigan licensed engineer and authorized factory representative shall certify that the construction and installation of the wind energy facility meets or exceeds the manufacturer's construction and installation standards.
  - b. The design of the wind energy facility's buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening, and landscaping that will blend facility components with the natural setting and the environment existing at the time of installation. The Landscaping Requirements section of the Zoning Ordinance shall be complied with and addressed in the Site Plan.
  - c. Wind turbine generators shall not be artificially lighted, except to the extent required by the FAA or the MAC or other applicable authority, or otherwise necessary for the reasonable safety and security thereof. If lighting is required, the lighting alternatives and design chosen:
    - (1) Shall be the intensity required under State or federal regulations.
    - (2) Shall not be strobe lighting or other intermittent white lighting fixtures, unless expressly required by State or federal regulations. Such intermittent lighting shall be alternated with steady red lights at night if acceptable to State or federal regulations.
    - (3) May be a red top light that does not pulsate or blink.
    - (4) All tower lighting required by State or federal regulations shall be



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shielded to the extent possible to reduce glare and visibility from the ground.

- d. Wind turbines shall not be used to display any advertising (including flags, streamers, or decorative items), except the reasonable identification of the manufacturer or operator of the wind energy facility.
- e. The electrical collection system shall be placed underground within the interior of each parcel at a depth designed to accommodate the existing agricultural land to the maximum extent practicable. The collection system may be placed overhead adjacent to State and County roadways, near substations or points of interconnection to the electric grid or in other areas as necessary.

### **15. Shadow Flicker:**

- a. The wind turbine generator shall be designed in such a manner as to minimize shadow flicker on a roadway. The wind turbine generator shall be designed in such a manner as to prevent shadow flicker on any existing structures located off the property on which the wind turbine generator is located. If necessary to prevent shadow flicker from crossing occupied structures, the wind turbine generator may be programmed to stop rotating during times when the wind turbine generator shadow crosses these structures. The wind turbine generator operator may obtain written agreements which allow shadow flicker to cross an occupied structure.
- b. The Planning Commission may require the applicant to conduct an analysis of potential shadow flicker at occupied structures if it deems such an analysis necessary. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall identify problem areas where shadow flicker may affect the occupants of the structures and describe measures that shall be taken to eliminate or mitigate the problems. All costs for the analysis shall be at the applicant's expense.

### **16. Safety:**

- a. All collection system wiring shall comply with all applicable safety and stray voltage standards.
- b. Wind turbine towers shall not be climbable up to fifteen (15) feet above ground surfaces.
- c. All access doors to wind turbine towers and electrical equipment shall be lockable and/or fenced as appropriate, to prevent entry by non-authorized person(s).

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- d. Each wind turbine tower shall have one (1) sign, not to exceed three (3) square feet posted at the base of the tower and on the security fence if applicable. The sign shall contain at least the following:
    - (1) Warning High Voltage
    - (2) Manufacturer's and owner/operators name
    - (3) Emergency contact numbers (list more than one number)
  - e. All wind turbine generators shall be equipped with controls to control the rotational speed of the blades within design limits for the specific wind turbine generator and be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speed, and excessive pressure on the tower or building structure, rotor blades and other wind energy components.
  - f. The structural integrity of the tower(s) shall conform to the design standards of the International Electrical Commission, specifically "Wind Turbine Safety and Design," "Wind Turbine Certification," and "Blade Structural Testing," or similar successor standards.
- 17. Hazard Planning:** An application for a wind turbine generator shall be accompanied by a hazard prevention plan. Such plan shall contain:
- a. Certification that the electrical wiring between turbines and between turbines and the utility right-of-way does not pose a fire hazard or any life safety hazard.
  - b. Location of landscaping to be designed to avoid spread of fire from any source on the turbine; such preventative measures may address the types and locations of vegetation below the turbine and on the site. The landscaping shall be maintained to prevent the creation of life safety hazards (fire, emergency access, electrical contact). In addition to the above all landscaping shall comply with the provisions of the Landscaping Requirements of the Zoning Ordinance.
  - c. A listing of any hazardous fluids that may be used on site shall be provided, including Material Data Safety Sheets (MSDS). All spent lubricants, cooling fluids, and any other hazardous materials shall be properly and safely removed in a timely manner.
  - d. Certification that the turbine has been designed to contain any hazardous fluids shall be provided.
  - e. A statement certifying that the turbine shall be routinely inspected to ensure that no fluids are released from the turbine.
  - f. All towers shall be inspected annually by a certified Michigan licensed engineer and authorized factory representative to insure the structural integrity of the tower, appurtenances added to the tower,

## Conditional Land Use Provisions

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equipment added to the tower, and fixtures added to the tower. A report shall be provided to the Township Building Inspector on or before August 1<sup>st</sup> of each year.

18. **Approvals:** All required approvals from other local, regional, state or federal agencies must be obtained prior to approval of a site plan. In the case where site plan approval is a requirement for other local, regional, state, or federal agency approval, evidence of such shall be submitted with the site plan.

19. **Decommissioning/Removal of Wind Turbine Generators:**

- a. The applicant shall submit a decommissioning plan. The plan shall include:
  - (1) The anticipated life of the project.
  - (2) The estimated decommissioning costs in current dollars. Such costs shall not include credit for salvageable value of any materials.
  - (3) The method of ensuring that funds will be available for decommissioning and restoration shall be as provided for in the Performance Guarantee Required Section of the Zoning Ordinance.
  - (4) The anticipated manner in which the project will be decommissioned and the site restored.
- b. Any wind turbine generator or anemometer tower that is not operational for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such wind turbine generator or anemometer tower shall remove the same within one hundred eighty (180) days of abandonment. Failure to remove an abandoned wind turbine generator or anemometer tower within the one hundred eighty (180) day period provided in this subsection shall be grounds for the Township to remove the wind turbine generator or anemometer tower at the owner's expense.
- c. In addition to removing the wind turbine generator, or anemometer tower, the owner shall restore the site of the wind turbine generator or anemometer tower to its original condition prior to location of the wind turbine generator or anemometer tower, subject to reasonable wear and tear. Any foundation associated with a wind generator or anemometer tower shall be removed to a minimum depth of five (5) feet below the final grade and site vegetation shall be restored.
- d. The Planning Commission shall require the owner of the wind turbine generator to deposit a performance guarantee in an amount equal to the estimated costs associated with the removal of the wind turbine generator or anemometer tower and all associated equipment and

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accessory structures and restoration of the site to a reusable condition which shall include the removal of all underground structures to a depth of five (5) feet below the natural ground level at that location. The amount of the performance guarantee shall be reviewed every five (5) years. The performance guarantee shall be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township. The provisions of the Performance Guarantee Required Section of the Zoning Ordinance shall also apply if so recommended by the Planning Commission.

20. **Equipment Replacement:** Major components of the wind turbine generator may be replaced without a modification of the Conditional Use Permit, provided all regulations contained herein are adhered to.

# Planned Unit Development

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## Article 10 PUD–Planned Unit Development

### Section 10.1 Purpose and Intent

Planned Unit Development (PUD) district regulations are intended to provide for various types of land uses planned in a manner which shall; encourage the use of land in accordance with its character and adaptability; conserve natural resources and energy; encourage innovation in land use planning; provide enhanced housing, employment, shopping, traffic circulation and recreational opportunities for the people of the Township; and bring about a greater compatibility of design and use. The provisions of this Article provide enabling authority and standards for the submission, review, and approval of applications for planned unit developments.

### Section 10.2 PUD Regulations

10.2.1 A planned unit development (PUD) may be applied for in any zoning district comprising an area of not less than ten (10) contiguous acres of land. The grant of a planned unit development application shall require a rezoning by way of amendment of this Ordinance upon the recommendation of the Planning Commission and approval of the Township Board.

10.2.2 Any land use authorized in this Ordinance may be included in a planned unit development, subject to adequate public health, safety, and welfare protection mechanisms being designed into the development to ensure the compatibility of varied land uses both within and outside the development.

10.2.3 The applicant for a planned unit development must demonstrate all of the following criteria as a condition to being entitled to planned unit development treatment:

- A. Grant of the planned unit development will result in one of the following:
  - 1. A recognizable and material benefit to the ultimate users of the project and to the community, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the planned unit development regulations; or
  - 2. Long-term protection and preservation of natural resources and natural features of a significant quantity and/or quality, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the planned unit development regulations; or
  - 3. A non-conforming use shall, to a material extent, be rendered more conforming, or less offensive, to the zoning district in which it is situated.
- B. The proposed type and density of use shall not result in an unreasonable increase in the need for or burden upon public services, facilities, roads and utilities.
- C. The proposed development shall be consistent with the public health, safety and welfare of the Township.
- D. The proposed development shall not result in an unreasonable negative environmental impact on the subject site or surrounding land.
- E. The proposed development shall not result in an unreasonable negative economic impact upon surrounding properties.

# Planned Unit Development

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- F. The proposed development shall be under single ownership and/or control such that there is a single person having responsibility for completing the project in conformity with this Ordinance.
- G. The proposed development shall be consistent with the Goals and Policies of the Napoleon Township Land Use Plan.

## Section 10.3 Project Design Standards

### 10.3.1 Residential Design Standards

- A. Residential uses shall be permitted with the following maximum density, based upon the zoning district in which the property is situated immediately prior to classification under this Article. Public road rights-of-way and private road easements shall not be included in the gross density calculation.

District	Maximum Density Permitted (Dwelling Units/Gross Acres)
AG	Same as Section 3.1
RR	Same as Section 3.2
R-1	Same as Section 3.3
RM	Same as Section 3.4
MHP	Same as Section 3.5

- B. The Township, in its sole discretions, may consider additional density based upon a demonstration by the applicant that the proposed PUD project is consistent with the Township’s land use plan and will result in a material benefit to the Township, adjacent land uses, and/or the ultimate users of the project, where such benefit would otherwise be unlikely to be achieved without the application of the PUD regulations.

### 10.3.2 Non-Residential Design Standards

- A. Non-residential uses may be permitted in combination with other non-residential uses or as part of a common development with residential uses.
- B. The non-residential uses, including parking and vehicular traffic ways, shall be separated and buffered from residential units in a manner consistent with good land and community planning principals.

### 10.3.3 General Design Standards

- A. All regulations applicable to setback, parking and loading, general provisions, and other requirements shall be met in relation to each respective land use in the development based upon zoning districts in which the use is listed as a principal permitted use. In all cases, the strictest provisions shall apply.

Deviations from specific regulations may be granted as part of the overall approval of the planned unit development, provided there are features or elements demonstrated by the applicant and deemed adequate by the Township designed into the project plan for the purpose of achieving the objectives of this Article.

- B. To the maximum extent feasible, the development shall be designed so as to preserve the natural resources and natural features.

## Planned Unit Development

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- C. There shall be a perimeter setback and berming, as found to be necessary by the Planning Commission, for the purpose of buffering the development in relation to surrounding properties. If the planned unit development project includes non-residential uses adjacent to residential uses, such perimeter setback shall be established with a dimension from the property line of up to one hundred (100) feet at the discretion of the Planning Commission. The setback distance need not be uniform at all points on the perimeter of the development.
  - D. Thoroughfare, drainage, and utility design shall meet or exceed the standards otherwise applicable in connection with each of the respective types of uses served.
  - E. There shall be underground installation of utilities, including electricity, television, and telephone, as found necessary by the Planning Commission.
  - F. The pedestrian circulation system, and its related walkways and safety paths, shall be separated from vehicular thoroughfares, as found necessary by the Planning Commission.
  - G. Signage, lighting, landscaping, building materials for the exterior of all structures, and other features of the project, shall be designed and completed with the objective of achieving an integrated and controlled development, consistent with the character of the community, surrounding development or developments, and natural features of the area.
  - H. Where non-residential uses adjoin residentially zoned property, noise reduction and visual screening mechanisms such as earthen and/or landscape berms and/or decorative walls, shall be employed. The Planning Commission, at its discretion, shall review and approve the design and location of such mechanisms.
  - I. The Township Board upon recommendation of the Planning Commission shall resolve all ambiguities as to applicable regulations using the Zoning Ordinance, Land Use Plan, and other Township standards or policies as a guide.
- 10.3.4 **Water and Sewer Service** - If there is water or sewer service available to the site on which a planned unit development is proposed, the Planning Commission shall follow the requirements for the connection as stated in the Napoleon Sewer Ordinance and the Napoleon Water Ordinance.

### Section 10.4 Procedure for Review

- 10.4.1 **Pre-application Conference** - Prior to the submission of an application for planned unit development approval, the applicant shall meet with the Zoning Administrator, together with any staff and consultants he/she shall deem appropriate. The applicant shall present at such conference, a sketch plan of the proposed planned unit development, as well as the following information: The total number of acres in the project; a statement of the number of residential units, if any; the number and type of nonresidential uses, the number of acres to be occupied by each type of use; the known deviations from ordinance regulations to be sought; the number of acres to be preserved as open or recreational space; and, all known natural resources and natural



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features to be preserved.

The purpose of this initial meeting enables the Zoning Administrator to assist the applicant with the PUD process. This assistance may include, but not be limited to:

- A. Assistance in completing the application.
- B. Review of the PUD process.
  - 1. Requirements needed for the preliminary site plan review by the Planning Commission.
  - 2. Requirements needed for the final site plan review by the Planning Commission.
- C. A list of agencies and individuals that the applicant may need to contact.

Assistance by the Zoning Administrator shall vest no rights in the application regarding approval of the final plan or conditions imposed by the Planning Commission or the Township Board.

**10.4.2 Preliminary Plan** - Following the pre-application conference, the applicant shall submit a preliminary site plan of the proposed planned unit development to the Planning Commission for review. A narrative report shall accompany the site plan providing a description of the project, discussing the market concept and feasibility of the project, and explaining the manner in which the criteria set forth in Section 10.3 have been met.

- A. **Information Required** - The preliminary site plan for a PUD shall contain at a minimum the following information set forth below.
  - 1. A site plan meeting all requirements of Article 8 (Site Plan Review) of this Ordinance
  - 2. Evidence of ownership, location and description of site dimensions and areas.
  - 3. General topography; soil information.
  - 4. Scale, north arrow, date of plan.
  - 5. Existing zoning of site; existing land use and zoning of adjacent parcels; location of existing buildings, drives, and streets on the site and within five hundred (500) feet of the site.
  - 6. Location, type, and land area of each proposed land use; dwelling unit density (dwelling units per acre).
  - 7. Location, size, and uses of open space.
  - 8. General description of the organization, which will maintain common areas and facilities.
  - 9. General landscape concept showing tree masses to be preserved or added, buffer areas, and similar features.
  - 10. General descriptions of proposed water, sanitary, and storm drainage systems with calculations for sizing retention and detention basins with compliance and approval of the Jackson County Drain Commission and Jackson County

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Health Department.

11. Existing natural and man-made features to be preserved or removed; location of existing structures, streets, and drives; location, width, and purpose of existing easements.
12. General location, function, surface width, and right-of-way of proposed public and private streets.
13. General location of proposed parking areas and approximate number of spaces to be provided in each area.
14. Location and area of each development phase.
15. Evidence of compliance with the Napoleon Township Private Road Ordinance.

**B. Planning Commission Action** - The Preliminary Plan shall be noticed for public hearing before the Planning Commission pursuant to the requirements located in Section 12.9. The Planning Commission will take action pursuant to the procedures set forth in Article 8 (Site Plan Review).

**10.4.3. Final Plan** - Within six (6) months following receipt of the Planning Commission comments on the preliminary plan, the applicant shall submit a final plan and supporting materials conforming to this Section. If a final plan is not submitted by the applicant for final approval within six (6) months following receipt of Planning Commission comments, the preliminary plan approval becomes null and void.

**A. Information Required** - A final site plan and application for a PUD shall contain the following information:

1. A site plan which includes all requirements of Section 10.4.2 and meeting all requirements of Article 8 (Site Plan Review) of this Ordinance.
2. A separately delineated specification of all deviations from this ordinance which would otherwise be applicable to the uses and development proposed in the absence of this Article.
3. A specific schedule of the intended development and construction details, including phasing or timing.
4. A specific schedule of the general improvements to constitute a part of the development, including, without limitation, lighting, signage, the mechanisms designed to reduce noise, utilities, and visual screening features.
5. A specification of the exterior building materials with respect to the structures proposed in the project.
6. Signatures of all parties having an interest in the property.

**B. Planning Commission and Township Board Action** - The final plan shall constitute an application to amend this Ordinance, and shall be noticed for public hearing before the Planning Commission, pursuant to the regulations set forth in Section 12.9 and the procedures set forth in Article 8 (Site Plan Review) and otherwise acted upon by the County and the Township Board as provided by law.

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The Planning Commission shall, to the extent it deems appropriate, submit detailed recommendations relative to the planned unit development project including, without limitation, recommendations with respect to matters on which the Township Board must exercise discretion.

### Section 10.5 **Conditions**

10.5.1 Reasonable conditions may be required with the approval of a planned unit development, to the extent authorized by law, for the purpose of ensuring that public services and facilities will be sufficient to serve the proposed land use, protecting the natural environment, ensuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner.

10.5.2 Conditions imposed shall be: designed to protect public health, safety, and welfare reasonably related to the purposes affected by the planned unit development; necessary to meet the intent and purpose of this Ordinance; and related to the objective of ensuring compliance with the standards of this Ordinance. All conditions imposed shall be made a part of the record of the approved planned unit development.

### Section 10.6 **Phasing and Commencement of Construction**

10.6.1 **Phasing** - Where a project is proposed for construction in phases, each phase, upon completion, shall be capable of standing on its own in terms of the presence of services, facilities, infrastructure, and open space, and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area. In addition, in developments which include residential and non-residential uses, the relative mix of uses and the scheduled completion of construction for each phase shall be disclosed and determined to be reasonable in the discretion of the Township Board after recommendation from the Planning Commission.

10.6.2 **Commencement and Completion of Construction** - Construction shall be commenced within one (1) year following final approval of a planned unit development and shall proceed substantially in conformance with the schedule set forth by the applicant, as required by Section 10.4.3. If construction is not commenced within such time, any approval of a site plan on the project shall expire and be null and void, provided, an extension for a specified period may be granted by the Township Board upon good cause shown if such request is made to the Board prior to the expiration of the initial period. Moreover, in the event a site plan has expired, the Township Board, based on a recommendation from the Planning Commission, shall be authorized to rezone the property in any reasonable manner, and, if the property remains classified as PUD, a new application shall be required, and shall be reviewed in light of then existing and applicable law and ordinance provisions.

### Section 10.7 **Effect of Approval**

When approved, the planned unit development amendment, with all conditions imposed, if any, shall constitute the land use authorization for the property, and all improvement and use shall be in conformity with such amendment. Notice of adoption of the final PUD plan and

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conditions shall be recorded at the Jackson County Register of Deeds.

## Article 11

# Open Space Community

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### Article 11 **Open Space Community**

#### Section 11.1 **Intent**

The open space community district is established as an overlay district applicable to all residential districts.

It is the intent of this Article to offer an alternative to traditional subdivisions through the use of open space preservation legislation, as authorized by Section 506 of the Michigan Zoning Enabling Act, as amended, 2006 PA 110, for the purpose of:

- A. Encouraging the use of Township land in accordance with its character and adaptability;
- B. Assuring the permanent preservation of open space, agricultural lands, and other natural resources;
- C. Providing recreational facilities within a reasonable distance of all residents of the Open Space Community;
- D. Allowing innovation and greater flexibility in the design of residential developments;
- E. Facilitating the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
- F. Ensuring compatibility of design and the use between neighboring properties; and
- G. Encouraging a less sprawling form of development, thus preserving open space as undeveloped land.

These regulations are intended to preserve a traditional rural character to the land use pattern in the Township through the creation of small residential nodes contrasting with open space and less intensive land uses. This Article is not intended as a device of ignoring the zoning regulations of the Township, the standards set forth therein, nor the planning concepts upon which the Zoning Ordinance has been based.

These regulations are intended to result in a specific development substantially consistent with Zoning Ordinance standards, yet allow for modification from the general standards to ensure appropriate, fair, and consistent decision-making.

#### Section 11.2 **Scope**

For the purpose of this Article, “open space community” is defined as predominately single-family residential development in which dwelling units are placed together into one or more groupings within a defined project area. The dwelling units are separated from adjacent properties or other groupings of dwellings by substantial open space that is perpetually protected from development. Commercial uses allowed as permitted or conditional uses in the local and general commercial districts may be allowed within open space communities of fifty (50) acres or more.

#### Section 11.3 **Eligibility Criteria**

To be eligible for open space community consideration, the applicant must present a proposal for residential development that meets each of the following:

- A. **Recognizable Benefits** - An open space community shall result in a recognizable and substantial benefit, both to the residents of the property and to the overall quality of life in the Township. The benefits can be provided through site design elements in

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- excess of the requirements of this Ordinance, such as high quality architectural design, extensive landscaping, provide transition areas from adjacent residential land uses, unique site design features, unified access, preservation of woodlands and open space, particularly along major thoroughfares, and buffering development from lakes, rivers, streams, and wetlands. This benefit should accrue, in spite of any foreseeable detriments of the proposed development.
- B. Minimum Project Size** - The minimum size of an open space community development shall be five (5) acres of contiguous land. The Planning Commission may consider development of a site less than five (5) acres in area as an open space community, provided that the parallel plan shall be prepared at the existing zoning minimum lot size (i.e., there is no density bonus for sites less than five (5) acres).
- C. Open Space** - The proposed development shall provide at least one of the following open space benefits:
- 1. Significant Natural Assets** - The site contains significant natural assets such as woodlands, individual trees over twelve (12) inch diameter, measured at breast height, rolling topography with grades exceeding 15 percent, significant views, natural drainage ways, water bodies, flood plains, regulated or non-regulated wetlands, or natural corridors that connect quality wildlife habitats which would be in the best interest of the Township to preserve and which might be negatively impacted by conventional residential development. The Planning Commission shall make this determination after review of a site analysis plan, prepared by the applicant, which inventories these features. If animal or plant habitats of significant value exist on the site, the Planning Commission, as a condition of approval, may require that the open space community plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas.
  - 2. Recreation Facilities** - If the site lacks natural features, it can qualify if the development will preserve an existing recreation facility or provide usable recreating facilities to which all residents of the development shall have reasonable access. Such recreation facilities include areas such as a neighborhood park, golf course, passive recreational facilities, soccer fields, ball fields, bike paths, or similar facilities, which provide a feature of community-wide significance and enhance residential development.
  - 3. Creation of Natural Features** - If the site lacks existing natural features, it can also qualify if the development will create significant woodland features. The creation of significant woodland features shall be considered providing perimeter buffer plantings and interior street tree plantings at a rate of twice what is required by this Ordinance.
- D. Guarantee of Open Space** - The applicant shall guarantee to the satisfaction of the Township Planning Commission that all open space portions of the development will be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control,

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- provided notice of such transfer is provided to the Township and the land uses continue as approved in the open space community plan.
- E. **Cohesive Neighborhood** - The proposed development shall be designed to create a cohesive community neighborhood through common open space areas for passive or active recreation and resident interaction. All open space areas shall be equally available to all residents of the open space community.
  - F. **Unified Control** - The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.
  - G. **Density Impact** - The proposed type and density of use shall not result in an unreasonable increase in the need for or impact to public services, facilities, roads, and utilities in relations to the use or uses otherwise permitted by this Ordinance, and shall not place an unreasonable impact to the subject and/or surrounding land and/or property owners and occupants and/or the natural environment. The Planning Commission may require that the applicant prepare an impact statement documenting the significance of any environmental, traffic or socio-economic impact resulting from the proposed open space community. An unreasonable impact shall be considered an unacceptable significant adverse effect on the quality of the surrounding community and the natural environment in comparison to the impacts associated with conventional development. The Planning Commission may require that the applicant prepare a quantitative comparison of the impacts of conventional development and the open space community plan to assist in making this determination (such an overlay of conceptual development plan, on a natural features map, illustrating other site development options to demonstrate the impacts have been minimized to the extent practical). If the cumulative impact creates or contributes to a significant problem relative to infrastructure demand or environmental degradation, mitigation shall be provided to alleviate the impacts associated with the open space community.
  - H. **Township Land Use Plan** - The proposed development shall be consistent with and further the implementation of the Township Land Use Plan.

### Section 11.4 Project Design Standards

A proposed open space community shall comply with the following project design standards:

- 11.4.1 **Location** - An open space community may be approved within any of the following zoning districts: AG, RR, R-1, and RM
- 11.4.2 **Permitted Uses** - An open space community is generally restricted to single family detached or attached residential dwellings.
  - A. Unless modified by the Planning Commission following the standards herein, all residential dwellings shall meet the yard, lot width, and minimum setbacks, and bulk standards required by Article 3 (Zoning District Regulations), Section 3.11



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(Schedule of Regulations), except that single-family attached dwellings may have zero (0) side lot lines.

- B. In projects that qualify under the standards of Section 11.5, a commercial or multiple family component may be allowed by the Planning Commission.

**11.4.3 Dwelling Density** - The number of dwelling units allowable within an open space community project shall be determined through preparation of a parallel plan.

- A. The applicant shall prepare, and present to the Planning Commission for review, a parallel design for the project that is consistent with state, county, and township requirements and design criteria for a tentative preliminary plat. The parallel plan shall meet all standards for lot size (as shown in Subsection B), lot width and setbacks as normally required under Section 3.11, public roadway improvements and private parks, and contain an area which conceptually would provide sufficient area for storm water detention. Lots in the parallel plan shall provide sufficient building envelope size without impacting wetlands regulated by the Michigan Department of Environmental Quality. This design shall include all information as required by the guidelines adopted by the Planning Commission pursuant to Section 11.7.1.
- B. The parallel plan shall be prepared with the following minimum lot areas. The parallel plan is only used to determine allowable density for an open space community project. The following parallel plan minimum lot areas incorporate a density bonus for qualifying open space community projects that meet all requirements of this Ordinance.

Underlying Zoning District	Parallel Plan (Bonus) Minimum Lot Size
AG	35,000 square feet
RR	35,000 square feet
R-1 w/sewers	9,000 square feet
R-1 w/out sewers	14,000 square feet
RM	14,000 square feet

- C. The Planning Commission shall review the design and determine the number of lots that could be feasible constructed and be economically viable following the parallel design. This number, as determined by the Planning commission, shall be the maximum number of dwelling units allowable for the open space community project. The Planning Commission may grant a density bonus for exemplary projects that meet the conditions outlined in Section 11.5.

**11.4.4 Water and Sewer Service** - If there is public water or sewer service available to the site on which an open space community development is proposed, the Planning Commission shall follow the requirements for the connection as stated in the Napoleon Sewer Ordinance and the Napoleon Water Ordinance

**11.4.5 Base Zoning Regulations** - Unless specifically waived or modified by the Planning Commission, all Zoning Ordinance requirements for the underlying zoning district, except for a minimum lot area, and other Township regulations shall remain in full force.

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### 11.4.6 Regulatory Flexibility

- A. To encourage flexibility and creativity consistent with the open space community concept, the Planning Commission may grant specific departures from the requirements of the Zoning Ordinance as a part of the approval process for the following:
  1. Yard, lot width, minimum setbacks, and bulk standards may be modified, provided that such modifications result in enhanced buffering from adjacent land uses or public right-of-ways, or preservation of natural features. Any modification to the Natural River District standards must also be approved by the Michigan Department of Environmental Quality, if required.
  2. Standards that apply to entryway features such as decorative gates (non-closeable), walls and signs may be modified, provided that the overall entranceway design is reviewed by the Planning Commission and found to be consistent with the proposed open space community and the character of the surrounding area in terms of size, materials, color, lighting, and landscaping.
- B. Any regulatory modification shall be approved through a finding by the Planning Commission that the deviation shall result in a higher quality of development that would be possible using conventional zoning standards. Regulatory modifications are not subject to variance approval of the Zoning Board of Appeals. No part of an open space community plan may be appealed to the Zoning Board of Appeals.
- C. A table shall be provided on the site plan which specifically details all deviations from the established zoning area, height and setback regulations, off-street parking regulations, general provisions, or subdivision regulations which would otherwise be applicable to the uses and development proposed in the absence of this Article. This specification shall include ordinance provisions, from which deviation is sought, and the reasons and mechanisms to be utilized for the protection of the public health, safety, and welfare in lieu of the regulations from which deviations are sought. Only those deviations consistent with the intent of this ordinance shall be considered.

### 11.4.7 Open Space Requirements

- A. All land within a development that is not devoted to a residential unit, an accessory use, vehicle access, vehicle parking, a roadway, an approved land improvement, or, if applicable, a commercial use, shall be set aside as common land for recreation, conservation, agricultural uses, or preserved in an undeveloped state. Grading in the open space shall be minimal, with the intent to preserve existing topography.
- B. An open space community shall maintain a minimum of 40 percent (40%) of the gross area of the site as dedicated open space held in common ownership. Such open space may be reduced to 30 percent (30%) for lower density projects as described in Subsection I. Except as noted in Subsection C, any undeveloped land area within the boundaries of the site meeting the open space standards herein may be included as required open space. A minimum of 10 percent (10%) of the

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open space shall be upland area that is accessible to all residents of the open space community and not include golf course fairways.

- C. **Areas Not Considered Open Space** - The following land areas are not included as dedicated open space for the purposes of this Article:
1. The area of any street right-of-way proposed to be dedicated to the public. This provision shall not preclude the future dedication of a private road easement to a public road agency.
  2. Any portion of the project used for commercial purposes.
  3. The required setbacks surrounding a residential structure that is not located on an individual lot or condominium site.
- D. The common open space may be centrally located along the road frontage of the development, located to preserve significant natural features, or located to connect open space throughout the development. The open space along the exterior public roads shall generally have a depth of at least one hundred (100) feet, either landscaped or preserved in a natural wooded condition. The open space along the exterior public roads shall be landscaped with a minimum of one (1) evergreen tree or canopy tree for each twenty (20) feet of road frontage. Such plantings shall be planted in staggered rows or clustered into groupings to provide a natural appearance. Preservation of existing trees may be credited towards meeting the frontage-landscaping requirement.
- E. Connections with adjacent open space, public land, or existing or planned pedestrian/bike paths may be required by the Planning Commission.
- F. The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is found acceptable to the Planning Commission, such as:
1. Recorded deed restrictions,
  2. Covenants that run perpetually with the land, or
  3. A conservation easement established per the State of Michigan Conservation and Historic Preservation Act, as amended, 1980 PA 197.

Such conveyance shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. Such conveyance shall:

1. Indicate the proposed allowable use(s) of the dedicated open space. The Planning Commission may require the inclusion of open space restrictions that prohibit the following:
  - a. Dumping or storing of any material or refuse;
  - b. Activity that may cause risk of soil erosion or threaten any living plant material;
  - c. Cutting or removal of live plant material except for removal of dying or diseased vegetation;

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- d. Use of motorized off-road vehicles;
  - e. Cutting, filling, or removal of vegetation from wetland areas; and
  - f. Use of pesticides, herbicides, or fertilizers within or adjacent to wetlands.
2. Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.
  3. Provide standards for scheduled maintenance of the open space.
  4. Provide for maintenance to be undertaken by the Township of Napoleon in the event that the dedicated open space is inadequately maintained, or determined by the Township to be a public nuisance, with the assessment of costs upon the property owners of the open space community.
- G. Continuing Obligation** - The dedicated open space shall forever remain open space, subject only to uses approved by the Township on the approved site plan. Further subdivision of open space land or its use for other than recreation, conservation, or agricultural purposes, except for easements for utilities and septic systems, shall be strictly prohibited. Open space may include golf course area, provided that it forever remains outdoor recreation or natural undeveloped land.
- H. Allowable Structures** - Any structure(s) or building(s) accessory to a recreation, conservation, or agriculture use may be erected within the dedicated open space, subject to the approved open space plan. These accessory structure(s) or building(s) shall not exceed, in the aggregate, 1 percent (1%) of the required open space area.
- I. Large Lot Open Space** - Planning Commission has the discretion to allow lower density open space communities with larger lots and less open space. For these large lot open space communities, the required minimum open space may be reduced from 40 percent (40%) to 30 percent (30%) where the total number of dwelling units, determined under Section 11.4.3, is reduced by at least 10 percent (10%).
- 11.4.8 Compatibility with Adjacent Uses** - The proposed location of accessory uses or structures that are a significantly different scale or character than the abutting residential districts, such as access drives, parking areas, solid waste pick-up points, swimming pools, tennis courts, and facilities of a similar nature shall not be located near the boundary of the development or so as to negatively impact the residential use of adjacent lands.
- 11.4.9 Transition Areas** - Where the open space community abuts a single-family residential district, the Planning Commission may require a transition area. Grading within the transition area shall be minimal unless needed to provide effective buffering or accommodate drainage. If the grade change adjacent to single-family residential is to be varied by more than three (3) feet, the site plan shall include cross sections illustrating existing and proposed grades in relation to existing and proposed building heights. Perspective renderings from adjacent residential units are encouraged. The Planning Commission may review the proposed transition area to ensure compatibility. The Planning Commission may require that the transition area

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consist of one or more of the following:

- A. A row of single-family lots or condominium sites similar to adjacent single-family development in terms of density, lot area, lot width, setbacks, and building spacing.
- B. Woodlands, natural features, or a landscaped greenbelt sufficient to provide an obscuring effect.
- C. Open or recreation space.
- D. Significant changes in topography, which provide an effective buffer.

11.4.10 **Access** - Direct access onto a county road or State highway shall be required to an open space community.

11.4.11 **Internal Roads** - Internal roads within an open space community shall be consistent with the Napoleon Township Road Ordinance.

11.4.12 **Pedestrian Circulation** - The Planning Commission may require the construction of sidewalks for open space community within the area included in the Township's land use plan. Trails within the open space community may be constructed of gravel, woodchips, or other similar material, but the Planning Commission may require construction of eight (8) foot wide asphalt bike paths through portions of the development or along any public right-of-way abutting the open space community.

11.4.13 **Natural Features** - The development shall be designed to promote the preservation of natural features. If animal or plant habitats of significant value exist on the site, the Planning Commission, as a condition of approval, may require that the open space community plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas. The Planning Commission may also require a minimum of twenty-five (25) foot wide undisturbed open space setback from the edge of any lake, pond, river, stream, or wetland; provided that the Planning Commission may permit trails, boardwalks, observation platforms, or other similar structures that enhance passive enjoyment of the site's natural amenities within the setback.

11.4.14 **Existing Structures** - When a tract contains structures or buildings deemed to be of historic, cultural, or architectural significance, as determined by the Planning Commission, and if suitable for rehabilitation, the structures shall be retained. Adaptive reuse of existing structures for residential use or permitted accessory residential uses shall be permitted.

### Section 11.5 **Optional Provisions for Exemplary Projects**

The Planning Commission may allow an exemplary open space community to include one or more of the following optional provisions. In order to qualify for an optional provision, the applicant must demonstrate, to the satisfaction of the Planning Commission, that the proposed project exceeds the minimum standards for open space community eligibility under Section 11.3.

In order to qualify for development under the optional provisions of this Section, all structures within the project, including single-family dwellings, shall be subject to

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architectural review by the Planning Commission. Buildings shall provide harmony with adjacent uses in terms of texture, materials, peaked rooflines, and massing, but there shall be a variation of front facade depth and rooflines to avoid monotony. Building elevations shall be required for all structures.

**11.5.1 Density Bonus** - A density bonus of up to 20 percent (20%) may be allowed at the discretion of the Planning Commission, based upon a demonstration by the applicant of design excellence in the open space community. In order to qualify for consideration of a density bonus, an open space community must be served by public sanitary sewer and have a high level of clustered development where a minimum of 60 percent (60%) of the open space community is common open space. The following elements shall be considered when determining the open space density bonus, which shall not exceed a maximum 20 percent (20%).

- A. An integrated mixture of housing types and densities, including attached housing, elderly cottage housing opportunity (ECHO), and/or detached condominiums (similar to ECHO) consisting of twenty percent (20%) of the total number of units is encouraged.
- B. Providing perimeter transition areas along the roadway and on all other sides of the development. The transition area shall utilize a mixture of the following to create an aesthetically pleasing opaque wall: greenbelt areas, various landscape plantings, berming, and/or decorative walls/fencing. A minimum of 200 feet along the roadway and at least 150 feet on all other sides is recommended. However, the depth and location of the transition area may be modified and/or waived by the Planning Commission based on existing site conditions and adjacent uses.
- C. Utilizing creative architectural design that establishes a distinctive unity where all homes share a thematic character.
- D. Providing active recreational facilities such as golf course, baseball diamond, soccer field, tennis court, basketball court, sand volleyball court, fitness trails, playgrounds, or community clubhouses.
- E. Extensive cleanup of blighted site, including cleanup of site contamination. Cleanup of site contamination shall involve a baseline environmental assessment (BEA) approved by the Michigan Department of Environmental Quality.
- F. Additional elements as determined by the Planning Commission to provide a material benefit to all residents of the development and the Township in general.

**11.5.2 Multiple Family Component** - In an open space community with a gross area of fifteen (15) acres or more, up to 50 percent (50%) of the dwelling units may be other than single-family dwellings. Such units shall meet the following design standards:

- A. **Front Yard** - The minimum building setback from an internal road shall be twenty-five (25) feet from the public street right-of-way or private road easement. The Planning Commission may reduce the setback based upon a determination that off-street parking will be adequate and that the modification will preserve natural features or that the rear yard buffer will be increased by one (1) foot for



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each one (1) foot of reduction in front yard setback. In no instance shall the front yard setback be reduced below a minimum of fifteen (15) feet. Buildings that front on two streets must provide the required front yard setback from both streets.

- B. **Rear Yard** - A thirty-five (35) foot rear yard shall be maintained for all buildings. Where the rear of a building abuts the side or rear of another residential structure, the minimum spacing between the structures shall be the combined total of the two setback requirements.
  - C. **Side Yards** - A ten (10) foot setback shall be maintained to the side of all residential buildings. Where two buildings are located side by side, a thirty-five (35) foot spacing shall be maintained between apartment buildings.
  - D. **Off-Street Parking Lots** - Off-street parking lots serving three (3) or more dwelling units shall provide a ten (10) foot wide-open green space area around the perimeter of the parking lot.
  - E. The building setback requirements may be varied provided they are specifically indicated on the open space community plan and the Planning Commission determines the variation does not negatively impact adjacent properties and provides a recognizable benefit. Building setback requirements on the perimeter of the development shall not be reduced below thirty-five (35) feet.
- 11.5.3 **Commercial Component** - An open space community with a gross area of fifty (50) acres or more may incorporate a commercial land use component, provided that all of the following are met:
- A. A commercial component shall be located on a lot of sufficient size to contain all commercial structures, parking, and landscape buffering. The total area occupied by the commercial land uses may not exceed 5 percent (5%) of the gross area of the open space community or five (5) acres, whichever is less.
  - B. All commercial uses shall be compatible with the residential area.
  - C. The Planning Commission finds that the architectural design of the structure is compatible with the balance of the development.
  - D. All commercial structures are connected to a pedestrian access system servicing the project.
  - E. Vehicular access is available only from an access drive to the open space community that connects directly with a major road.
  - F. If a proposed project cannot provide direct access to a major thoroughfare as set forth above, the Planning Commission may approve a commercial land use component for an open space community project located on any paved County thoroughfare, subject to:
    - 1. The Planning Commission making the finding that the overall site layout, including the architectural design and the vehicular circulation pattern, is:
      - a. Compatible with the surrounding land uses, and
      - b. Will not have a significant detrimental effect on the character of surrounding residential uses.



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- G. All parking and loading areas serving the commercial uses shall be to the rear or side of the structure and full screened from view of any public roadway, except that the Planning Commission may allow up to 25 percent (25%) of the minimum number of required parking spaces in the front yard. Where the parking lot is visible from residential units or open space, it shall be planted with a landscape buffer consisting of earthen berms and/or living materials so as to maintain a minimum opacity of at least 80 percent. Opacity shall be measured by observation of any two (2) square yard area of landscape screen between one (1) foot above the established grade of the area to be concealed and the top or the highest point of the required screen. The plantings must meet this standard based upon reasonably anticipated growth over a period of three (3) years.
- H. The allowable commercial uses within such an area shall be recorded as a deed restriction on the property and shall be restricted to the following:
1. Food and beverage stores for the sale of groceries, fruit, meat, baked goods, dairy products, beverages, and liquor.
  2. Personal service establishments, such as barbershops, beauty salons, laundry pick up, and similar uses.
  3. Childcare or day care centers.
  4. Offices for the professions or occupations of doctor, dentist, attorney, engineer, accountant, architect, financing consultation or broker, publisher, real estate broker, secretarial services, and similar uses as determined by the Planning Commission that:
    - a. A use is consistent with the intent of this Article, and
    - b. Provides no significant negative impact on the open space community project or other surrounding land uses.
- I. No structure within the commercial land use component of an open space community shall be granted an occupancy permit from the Township unless:
1. A certificate of occupancy may be approved only for uses identified in subsection 12.5.1. Approval shall not be granted to a use that is inconsistent with the intent and/or requirements of this Article.
  2. The occupancy permit for a commercial structure or portion of a commercial structure within the open space community shall not be approved until 50 percent (50%) of the physical improvements related to the residential components of the total open space community plan are complete, notwithstanding an approved scheduled for project phasing.
- J. An occupancy permit may be revoked by action of the Zoning Administrator if a use is conducted in a manner that does not comply with the intent of this Article and/or any other requirements of this Ordinance.

### Section 11.6 **Project Standards**

In considering any application for approval of an open space community site plan, the Planning Commission shall make its determinations on the basis of the standards for site plan

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approval set forth in Article 8 (Site Plan Review) as well as, the following standards and requirements:

- 11.6.1 **Compliance with the Open Space Community Concept** - The overall design and land uses proposed in connection with an open space community shall be consistent with the intent of the open space community concept as well as, with specific design standards set forth herein.
- 11.6.2 **Compatibility with Adjacent Uses** - The proposed open space community plan shall set forth in detail all specifications with respect to height, setbacks, density, parking, circulation, landscaping, views, and other design features that exhibit due regard for the relationship of the development to surrounding properties, the character of the site, and the land uses. In determining whether this requirement has been met, consideration shall be given to:
- A. The bulk, placement, and materials of construction of proposed structures.
  - B. Pedestrian and vehicular circulation.
  - C. The location and screening of vehicular use or parking areas.
  - D. The provisions of landscaping and other site amenities.
- 11.6.3 **Impact of Traffic** - The open space community shall be designed to minimize the impact of traffic generated by the proposed development on surrounding uses.
- 11.6.4 **Protection of Natural Environment** - The proposed open space community shall be protective of the natural environment. It shall comply with all applicable environmental protection laws and regulations.
- 11.6.5 **Compliance with Applicable Regulations** - The proposed open space community shall comply with all applicable Federal, State, and local regulations.
- 11.6.6 **Township Land Use Plan** - The proposed open space community shall be consistent with and further the implementation of the Township's land use plan.
- 11.6.7 **Conditions** - Reasonable conditions may be required with the special approval of an open space community to the extent authorized by law for the purpose of ensuring 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, protecting the natural environment and conserving natural resources and energy, ensuring compatibility with adjacent uses of land, promoting the use of land in a socially and economically desirable manner, and further the implementation of the Township Land Use Plan. Conditions imposed shall be designed to protect natural resources and the public health, safety, and welfare of individuals in the project, those immediately adjacent, and the community as a whole; shall be reasonably related to the purposes affected by the open space community; shall be necessary to meet the intent and purpose of this Ordinance and implement the Township Land Use Plan; and be related to the objective of ensuring compliance with the standards of this Ordinance. All conditions imposed shall be made a part of the record of the special approval.

### Section 11.7 Procedure for Review

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**11.7.1 Pre-application Conference** - Prior to the submission of an application for open space community development approval, the applicant shall meet with the Zoning Administrator, together with any staff and consultants he/she shall deem appropriate. The applicant shall present at such conference, a sketch plan of the proposed open space community development, as well as the following information: Total number of acres in the project; a statement of the number of residential units, if any; the number and type of nonresidential uses, the number of acres to be occupied by each type of use; the known deviations from ordinance regulations to be sought; the number of acres to be preserved as open or recreational space; and, all known natural resources and natural features to be preserved.

The purpose of this initial meeting enables the Zoning Administrator to assist the applicant with the open space community process. This assistance may include, but not be limited to:

- A. Assistance in completing the application.
- B. Review of the open space community process.
- C. Requirements needed for the preliminary site plan review by the Planning Commission.
- D. Requirements needed for the final site plan review by the Planning Commission.
- E. A list of agencies and individuals that the applicant may need to contact.

Assistance by the Zoning Administrator shall vest no rights in the application regarding approval of the final plan or conditions imposed by the Planning Commission or the Township Board.

**11.7.2 Preliminary Plan** - Following the Pre-application Conference, the applicant shall submit a preliminary site plan of the proposed open space community development to the Planning Commission for review. A narrative report shall accompany the site plan providing a description of the project, discussing the market concept and feasibility of the project, and explaining the manner in which the criteria set forth in Section 11.6 have been met.

- A. **Information Required** - The preliminary site plan for open space community development shall contain at a minimum the following information set forth below.
  - 1. A preliminary site plan meeting all requirements of Article 8 (Site Plan Review) of this Ordinance
  - 2. Evidence of ownership, location and description of site dimensions and areas.
  - 3. General topography; soil information.
  - 4. Scale, north arrow, date of plan.
  - 5. Existing zoning of site; existing land use and zoning of adjacent parcels; location of existing buildings, drives, and streets on the site and within five hundred (500) feet of the site.
  - 6. Location, type, and land area of each proposed land use; dwelling unit density

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(dwelling units per acre).

7. Location, size, and uses of open space.
8. General description of the organization, which will maintain common areas and facilities.
9. General landscape concept showing tree masses to be preserved or added, buffer areas, and similar features.
10. General descriptions of proposed water, sanitary, and storm drainage systems with calculations for sizing retention and detention basins with compliance and approval of the Jackson County Drain Commission and Jackson County Health Department.
11. Existing natural and man-made features to be preserved or removed; location of existing structures, streets, and drives; location, width, and purpose of existing easements.
12. General location, function, surface width, and right-of-way of proposed public and private streets.
13. General location of proposed parking areas and approximate number of spaces to be provided in each area.
14. Location and area of each development phase.
15. Evidence of compliance with the Napoleon Township Private Road Ordinance.

**B. Planning Commission Action** - The Preliminary Plan shall be noticed for public hearing before the Planning Commission pursuant to the requirements of Section 12.9. The Planning Commission will take action pursuant to the procedures set forth in Article 8 (Site Plan Review).

**11.7.3. Final Plan** - Within six (6) months following receipt of the Planning Commission comments on the preliminary plan, the applicant shall submit a final plan and supporting materials conforming to this Section. If a final plan is not submitted by the applicant for final approval within six (6) months following receipt of Planning Commission comments, the preliminary plan approval becomes null and void.

**A. Information Required** - A final site plan and application for an open space community shall contain the following information:

1. A final site plan which includes all requirements of Section 11.7.2 and meeting all requirements of Article 8 (Site Plan Review) of this Ordinance.
2. A separately delineated specification of all deviations from this ordinance, which would otherwise be applicable to the uses and development, proposed in the absence of this Article.
3. A specific schedule of the intended development and construction details, including phasing or timing.
4. A specific schedule of the general improvements to constitute a part of the development, including, without limitation, lighting, signage, the mechanisms

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designed to reduce noise, utilities, and visual screening features.

5. A specification of the exterior building materials with respect to the structures proposed in the project.
6. Signatures of all parties having an interest in the property.

**B. Planning Commission and Township Board Action** - The final plan shall constitute an application to amend this Ordinance, and shall be noticed for public hearing before the Planning Commission, pursuant to the requirements of Section 12.9 and the procedures set forth in Article 8 (Site Plan Review) for the Planning Commission and Township Board and otherwise acted upon by the County and the Township Board as provided by law.

The Planning Commission shall, to the extent it deems appropriate, submit detailed recommendations relative to the planned unit development project including, without limitation, recommendations with respect to matters on which the Township Board must exercise discretion.

### Section 11.8 General Requirements

- 11.8.1 **General Application Requirements** - The application for approval of an open space community shall be made according to procedures and guidelines adopted by resolution of the Planning Commission. The required materials shall be submitted to the Township Zoning administrator with all required fees.
- 11.8.2 **Effect of Approval** - All improvements and uses of the site shall be in conformity with the approved open space community site plan and comply fully with any conditions.
- 11.8.3 **Recording of Action** - The applicant shall record an affidavit with the register of deeds containing the full legal description of the project site, specifying the date of final Township approval and declaring that all improvements will be carried out in accordance with the approved open space community plan unless an amendment is adopted by the Township. In addition, all deed restrictions and easements shall be duly filed with the register of deeds of the County and copies of recorded documents presented to the Township.
- 11.8.4 **Land Use Permit** - Following final approval of the open space community site plan and final approval of the engineering plans by the Township Engineer, a land use permit may be obtained. It shall be the responsibility of the applicant to obtain all other applicable Township, County, State, and Federal permits.
- 11.8.5 **Initiation of Construction** - If construction has not commenced within twelve (12) months of final approval, all Township approvals become null and void. The applicant may apply in writing to the Planning Commission for an extension, not to exceed six (6) months. A maximum of two (2) extensions may be allowed.
- 11.8.6 **Continuing Adherence to Plan** - Any property owner who fails to maintain an approved site design shall be deemed in violation of the use provisions of the Zoning Ordinance and shall be subject to the penalties for same.
- 11.8.7 **Performance Guarantee** - The Planning Commission may recommend that a

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performance guarantee, in accordance with Section 12.6 of the Zoning Ordinance, be deposited with the Township to ensure completion of improvements.

### Section 11.9 **Scheduled Phasing**

11.9.1 **Scheduled Phasing** - When proposed construction is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the open space community and the residents of the surrounding area.

11.9.2 **Timing of Phases** - Each phase of the project shall be commenced within twelve (12) months of the schedule set forth on the approved site plan. If construction of any phase is not commenced within the approved time period, approval of the plan shall become null and void.

### Section 11.10 **Revision of Approved Plans**

#### 11.10.1 **Minor Changes**

A. Minor changes to an approved open space community plan may be permitted by the Planning Commission following normal site plan review procedures outlined in Article 8 (Site Plan Review) for the following:

1. Reduction of density;
2. Changing non-single family dwelling units to single-family dwelling units;
3. Realignment of roads;
4. Modifications to setbacks;
5. Increasing the amount of open space;
6. Changes to landscaping, provided the number of plantings is not decreased;
7. Change in the size of retention ponds by no more than 10 percent (10%);
8. Changes to phasing plan; and
9. Other minor changes similar to the above as determined by the Planning Commission.

B. Minor Changes shall be subject to the finding of all of the following:

1. Such changes will not adversely affect the initial basis for granting approval;
2. Such minor changes will not adversely affect the overall open space community in light of the intent and purpose of such development as set forth in this Article; and
3. Such changes shall not result in the reduction of open space area as required herein.

11.10.2 **Major Revisions** - Approved plans for an open space community that do not qualify as minor under Section 11.10.1, may be revised by resubmitting a final open space community site plan for approval following the procedures of this Article.



## Article 12

# Administration of the Ordinance

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### Article 12 Administration of the Ordinance

#### Section 12.1 Purpose

It is the purpose of this Article to provide the procedures for the administration of this Ordinance, issuance of permits, inspection of properties, collection of fees, handling of violators, and enforcement of the provisions of this Ordinance and amendments thereto.

#### Section 12.2 Administration

Except when herein otherwise stated, the provisions of this Ordinance shall be administered by the Zoning Administrator.

#### Section 12.3 Duties of Zoning Administrator

The Zoning Administrator shall:

- 12.3.1 Receive all applications for site plan review, conditional use permits, planned unit developments, and open space communities which the Planning Commission is required to decide under this Ordinance and implement the decisions of the Planning Commission.
- 12.3.2 Receive all applications for appeals, variances, or other matters, which the Zoning Board of Appeals is required to decide under this Ordinance and refer such applications with recommendations to the Zoning Board of Appeals for determination.
- 12.3.3 Receive all applications for amendments to this Ordinance and report to the Planning Commission all such applications together with recommendations.
- 12.3.4 Maintain a map or maps showing the current zoning classifications of all land in the Township, which will conform to the true copy to be maintained by the Township Clerk.
- 12.3.5 Maintain written records of all actions taken by the Zoning administrator and meet with the Planning Commission upon request.
- 12.3.6 Be responsible for providing forms required by the Planning Commission, Township Board, or Zoning Board of Appeals, as required by this Ordinance and be responsible for information necessary on such forms for the effective administration of this Ordinance, subject to the general policies of the Township Board, Planning Commission, and Zoning Board of Appeals.
- 12.3.7 Grant zoning compliance permits, temporary dwelling permits, certificates of occupancy and make periodic site inspections of the Township to determine Ordinance compliance and answer complaints on Zoning Ordinance violations.
- 12.3.8 Maintain a list of non-conforming uses.
- 12.3.9 Receive all applications for construction and/or erection of signs and fences.

#### Section 12.4 Zoning Compliance Permits

##### 12.4.1 Issuance of Zoning Compliance Permits

- A. No building or structure, or part thereof, shall hereafter be located, erected, constructed, reconstructed, altered, converted, or enlarged or moved; nor shall any



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change be made in the use of any building, structure, or land without a zoning compliance permit having been obtained from the Zoning Administrator for such building, structure, or land. A zoning compliance application shall be filled out and submitted to the Zoning Administrator.

- B. The Zoning Administrator may require that all applications for zoning compliance permits shall be accompanied by plans and specifications including a plot plan in duplicate, drawn to scale, showing the following information:
1. The actual dimensions and shape of the lot to be built upon; and
  2. The exact size and location of existing structures on the lot, if any; and
  3. The location and dimensions of the proposed structure or alteration.

When required, one (1) copy of the plans shall be returned to the applicant by the Zoning Administrator after such copy has been approved or disapproved, and attested to same by the Zoning Administrator's signature on such copy. The Zoning Administrator shall retain the original copy, similarly marked, for his files.

- C. Whenever the buildings, structures, and uses as set forth in the application are in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue the applicant a zoning compliance permit within ten (10) days of the filing thereof. Where action of the Board of Appeals or the Planning Commission is required in any case, as set forth in this Ordinance, the Zoning Administrator shall issue such permit promptly following such action.

**12.4.2 Voiding of Zoning Compliance Permit** - Any zoning compliance permit granted under this Ordinance shall become null and void and fees forfeited if any facts are knowingly falsified or misrepresented by the petitioner, and unless construction is completed and use initiated within five hundred forty-five (545) days of the date of issuance. A zoning compliance permit shall be renewable upon reapplication and upon payment of the fee, subject however, to the provisions of all ordinances in effect at the time of renewal.

### Section 12.5 Certificate of Occupancy, Final Inspection

**12.5.1 Issuance of Certificate of Occupancy** - No building or structure, or part thereof, shall be occupied by or for any use for which a zoning compliance permit is required by this Ordinance unless and until a certificate of occupancy shall have been issued for such use. The holder of a zoning compliance permit for the construction, erection, or moving of any building, structure or part thereof, for the establishment of a use shall make application to the Zoning Administrator immediately upon the completion of the work authorized by the zoning compliance permit for a final inspection.

A certification of occupancy shall be issued by the Zoning Administrator within five (5) days after receipt of such application if it is found that the building or structure, or part thereof, is in accordance with the provisions of this Ordinance.

**12.5.2 Voiding of Certificate of Occupancy** - Any certificate of occupancy granted under this Ordinance shall become null and void if such use, buildings, or structure for which said certificate was issued are found by the Zoning Administrator to be in

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violation of this Ordinance. The Zoning Administrator, upon finding such violation, shall immediately notify the Napoleon Township Board of said violation and void the certificate of occupancy.

- 12.5.3 **Fees, Charges, and Expenses** - The Napoleon Township Board shall establish a schedule of fees, charges, and expenses, and a collection procedure for site plans, special land uses, rezoning, zoning compliance permits, certificates of occupancy, appeals, temporary dwelling permits and application for appeal and other matters pertaining to the Ordinance. The schedule of fees shall be posted in the office, and may be altered or amended only by the Napoleon Township Board. No permit, certificate, conditional use approval, temporary dwelling permits, application for appeal, or variance shall be issued unless or until such costs, charges, fees, or expenses listed in this Ordinance have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals, unless or until preliminary charges and fees have been paid in full.

From time to time, the Napoleon Township Board may refer any matter pertaining to the administration or enforcement of this Ordinance to one or more expert consultants. The cost of such services shall be borne by the applicant.

12.5.4 **Violations and Penalties: Nuisance per se: Abatement**

- A. **Notice of Violation** - The individual or individuals who are appointed by the Township Board to the position of Zoning Administrator shall be authorized to serve a notice of violation or order on any person responsible for the erection, construction, alteration, extension, repair, use, or occupancy of a structure, parcel or lot in violation of this Ordinance or in violation of a certificate of zoning compliance issued hereunder. Such notice or order shall direct the discontinuance of the illegal action or condition and abatement of the violation.
- B. **Stop-Work Order** - Upon notice from the Zoning Administrator that work on any structure or premises is being performed contrary to the provisions of this Ordinance, such work shall be immediately stopped. A stop-work order shall be posted on the property. A stop-work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work; and shall state the conditions under which the work may be resumed. Any person who shall continue any work in or about the structure or premises after having been served with a stop-work order, except such work as such person is directed by the Zoning Administrator to perform in order to discontinue the commission of violations or remedy unsafe conditions, shall be liable for the penalties set forth in paragraph C below.
- C. **Violations Penalties** - any person who shall violate a provision of this Ordinance or shall fail to comply with any of its requirements, or who shall erect, construct, alter or repair a structure in violation of an approved plan or directive of the Zoning Administrator, or of a certificate or permit issued under this ordinance, shall be responsible for a municipal civil infraction as defined by Michigan law and shall be subject to a civil fine of not less than One Hundred (\$100) Dollars nor more than Five Hundred (\$500) Dollars, plus costs, which may include all

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direct or indirect expenses which have been incurred by the Township in connection with the violation. In no case, however, shall costs of less than Fifteen (\$15) Dollars be ordered. A person found to be in violation of this Ordinance shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under Michigan law. Each day a violation of this Ordinance continues to exist shall constitute a separate violation.

- D. **Nuisance Per Se** - Any structure which is erected, altered, or converted, or any use of any structure, parcel, or lot which is commenced or changes after the effective date of this Ordinance, in violation of any of the provisions hereof, is hereby declared to be a nuisance per se, and may be abated by order of any court of competent jurisdiction.
- E. **Rights and Remedies** - The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.
- F. **General Responsibility** - The Township Board or its duly authorized representative is hereby charged with the duty of enforcing the Ordinance and said Board is hereby empowered, in the name of said Napoleon Township to commence and pursue any and all necessary and appropriate actions and/or proceedings in the Circuit Court of Jackson County, Michigan, or any other court having jurisdiction, to restrain and/or prevent any non-compliance with or violation of any of the provisions of this Ordinance, and to correct, remedy and/or abate such non-compliance or violation.

### Section 12.6 Performance Guarantee Required

In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety, and welfare of the residents of the Township and future users or inhabitants or an area for which a site plan for a proposed use has been submitted, the Township Board upon the recommendation of the Planning Commission shall require the applicant to deposit a performance guarantee as set forth herein. The purpose of the performance guarantee is to ensure completion of improvements connected with the proposed use as required by this Ordinance, including but not limited to, roadways, lighting, utilities, sidewalks, safety paths, drainage, fences, screens, walls, landscaping, and widening strips.

- 12.6.1 Performance guarantee as used herein shall mean a cash deposit, certified check, irrevocable bank letter of credit or corporate surety bond in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the Township.
- 12.6.2 Where the Township Board requires a performance guarantee, a copy of said performance guarantee shall be provided to the Township Treasurer prior to the issuance of a building permit by the Township for the development and use of the land. Upon providing a copy of the performance guarantee, the Township shall issue the appropriate building permit.
- 12.6.3 The approval shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The

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period will begin from the date of the issuance of the building permit.

- 12.6.4 In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Township the performance guarantee (bond) shall be forfeited to the Township, and the Township shall have the right to use the performance guarantee to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the Township to complete the improvements for which it was posted, the applicant shall be required to pay the Township the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee. Should the Township use the performance guarantee or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the Township's administrative costs including, without limitation, attorney fees, planning consultant fees, and engineering consultant fees in completing the improvement with any balance remaining being refunded to the applicant. At the time the performance guarantee is issued and filed with the Township and prior to the issuance of a building permit, the applicant shall enter an agreement incorporating the provisions hereof with the Township regarding the performance guarantee.

### Section 12.7 Checklist of Steps for Rezoning of Property

The purpose of this Article is intended to provide the necessary steps required by the Planning Commission and the Township Board during the procedure to rezone property.

#### A. Steps To Be Taken by Planning Commission

1. Receive application with fee established by Township Board and information required pursuant to Zoning Ordinance such as:
  - a. Name and address of applicant and owner of land proposed to be rezoned.
  - b. Street number or other common description of land proposed to be rezoned.
  - c. Legal description of land proposed to be rezoned.
  - d. Present zoning classification and requested zoning classification of land proposed to be rezoned.
2. Schedule public hearing on rezoning request at regular meeting or proper special meeting if public hearing is not scheduled on regular meeting date.

If proposed rezoning is inconsistent with Township Land Use Plan, consideration of amendment of land use plan is advisable before or contemporaneous with approval of requested rezoning, and any such proposed amendment of land use plan must be referenced in Notice of Public hearing and otherwise processed in accordance with applicable legal requirements.
3. Prepare, Publish and Deliver Notice of Public Hearing of Planning Commission on requested zoning pursuant to the requirements located in Section 12.9.
4. Procedure during public hearing on requested rezoning.
  - a. Open hearing for public comment.

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- i. Receive comments of applicant/owner(s) on proposed rezoning.
    - ii. Acknowledge written comments received on proposed rezoning.
    - iii. Receive comments on proposed rezoning by persons attending hearing.
    - iv. Close public hearing.
  - b. Planning Commission discussion.
    - i. The Planning Commission will determine whether proposed re-zoning is consistent with the Township land use plan.
    - ii. The Planning Commission will review permitted uses and special exception uses which the property could be used for if re-zoning is approved.
    - iii. The Planning Commission will evaluate whether property is appropriate to be used for uses allowed in the requested zoning district.
    - iv. Approve motion recommending approval or disapproval of proposed re-zoning.
5. Submit recommendation to County Zoning Coordinating Committee for advisory review and recommendation.
6. Submit to the Township Board a summary of comments received at Planning Commission's public hearing and recommendations of Planning Commission and County Zoning Coordinating Committee on proposed rezoning.

The matter is referred to Township Board regardless of whether Planning Commission and County Zoning Coordinating Committee recommend approval or disapproval of proposed rezoning.

### **B. Steps To Be Taken by Township Board**

1. The Township Board may, but is not required to, hold additional hearings on the proposed rezoning. Notice of any such public hearing before the Township Board must be prepared, published, and delivered pursuant to the requirements located in Section 12.9.
2. The Township Board may consider the Planning Commission's recommendation at any regular meeting or at a proper special meeting, and either agrees or disagrees with the Planning Commission's recommendation, or resubmits the matter back to the Planning Commission for further consideration.
  - a. If the Planning Commission recommends approval of the applicant's request and the Township Board agrees with that recommendation, skip to Subsection C of this section.
  - b. If the Planning Commission recommends disapproval of the applicant's request but the Township Board approves the applicant's request, skip to Subsection C of this Section.
  - c. If the Planning Commission recommends approval of the applicant's request but the Township Board disapproves the applicant's request, the property is not rezoned and the matter is concluded.

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- d. If the Planning Commission recommends disapproval of the applicant's request and the Township Board agrees with that recommendation, the property is not rezoned and the matter is concluded.
- e. If the Township Board sends the applicant's request back to the Planning Commission for further consideration, stating the reasons for doing so, go back to Subsection A of this Section.

After the Township Board reviews the resubmitted report from the Planning Commission, a public hearing before the Township Board is not required unless a property owner requests such a hearing by certified mail addressed to the Township Clerk. If such a request for public hearing is received, a notice must be prepared, published, and delivered pursuant to the requirements located in Section 12.9. The Township Board may request the Planning Commission to attend such a public hearing before the Township Board.

- C. Steps to be taken only if proposed rezoning is to be considered for adoption by the Township Board.
  - 1. Township Board will adopt the rezoning, including amending the zoning map, by motion approved by the majority of Township Board members, on roll call vote.
  - 2. Change the Zoning Map, and if applicable, distribute copies of the revised rezoning map to members of Township Board, Planning Commission, Zoning Board of Appeals, Zoning Administrator, and other appropriate Township officials.

### Section 12.8 Checklist of Steps for Zoning Ordinance Text Amendments

The purpose of this Article is intended to provide the necessary steps required by the Planning Commission and the Township Board during the procedure to change the text of the zoning ordinance.

#### A. Steps To Be Taken by Planning Commission

- 1. Text amendment is initiated by Planning Commission, Township Board, or citizen.
- 2. Schedule public hearing on proposed amendment, at regular meeting or proper special meeting if public hearing is not scheduled on regular meeting date.
- 3. Prepare notice of public hearing on proposed amendment for publication pursuant to the requirements located in Section 12.9.
- 4. **Procedure during Public Hearing on proposed amendment**
  - a. Open hearing for public input
    - i. Introductory comments on proposed amendment by Planning Commission or other initiating party.
    - ii. Acknowledge written comments received on proposed amendment.
    - iii. Receive comments on proposed amendment by persons attending hearing.
    - iv. Close public hearing.
  - b. Planning Commission discussion.
    - i. The Planning Commission will determine whether the proposed text



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amendment is consistent with the goals set forth in Section 1.2 of this ordinance.

- ii. Approve motion recommending approval or disapproval of proposed amendment.
5. Submit Planning Commission recommendation to County Planning Commission for advisory review and recommendation.
6. Submit to the Township Board a summary of comments received at the Planning Commission's public hearing and recommendations of the Planning Commission and County Planning Commission on proposed amendments.

This matter is referred to the Township Board regardless of whether the Planning Commission and the County Planning Commission recommend approval or disapproval of the proposed amendment.

### **B. Steps to be taken by Township Board**

1. The Township Board may, but is not required to, hold additional hearings regarding the proposed amendment. Notice of any such public hearing must be prepared, published, and delivered pursuant to the requirements located in Section 12.9.
2. The Township Board may consider the Planning Commission's recommendation at any regular meeting or at a proper special meeting, and either agree or disagree with the Planning Commission's recommendation, or resubmits the matter back to the Planning Commission for further consideration.
  - a. If the Planning Commission recommends approval of the proposed amendment, and the Township Board agrees with that recommendation, skip to subsection C of this Section.
  - b. If the Planning Commission recommends disapproval of the proposed amendment but the Township Board approves the request, skip to Subsection C of this Section.
  - c. If the Planning Commission recommends approval of the proposed amendment but the Township Board disapproves the request, the property is not rezoned and the matter is concluded.
  - d. If the Planning Commission recommends disapproval of the proposed amendment, and the Township Board agrees with that recommendation, the text of the ordinance is not amended and the matter is concluded.
  - e. If the Township Board sends the proposed amendment back to the Planning Commission for further consideration, stating the reasons for doing so, go back to Subsection A of this Section.

After the Township Board reviews the resubmitted report from the Planning Commission, a public hearing before the Township Board is not required unless a property owner requests such a hearing by certified mail addressed to the Township Clerk. If such a request for public hearing is received, a notice must be prepared, published, and delivered pursuant to the requirements located in Section 12.9. The Township Board may request the Planning Commission to attend such



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a public hearing before the Township Board.

- C. Steps to be taken only if proposed text amendment is to be considered for adoption by the Township Board.
  - 1. Township Board will adopt the new ordinance text (amending the Zoning Ordinance) by motion approved by the majority of Township Board members, on roll call vote.
  - 2. File ordinance with Township Clerk within 15 days after adoption.
  - 3. Publish notice of ordinance adoption in required form, with either ordinance in its entirety or a legally proper summary of ordinance, one time within 15 days after adoption of ordinance.
  - 4. File affidavit of publication from newspaper in township ordinance records.
  - 5. Record ordinance in Township ordinance book within one week after publication of ordinance, with Certificate of Township Clerk recording date of adoption of ordinance, names of members voting thereon, how each member voted, date of publication and name of newspaper in which ordinance was published, and date of filing of ordinance with County Clerk.
  - 6. Distribute copies of revised zoning ordinance to members of the Township Board, Planning Commission, Zoning Board of Appeals, Zoning Administrator, and other appropriate Township officials.

### Section 12.9 Public Hearing Noticing Requirements

#### 12.9.1 Public Notification

All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, as amended, 2006 PA 110, and the other provisions of this Section with regard to public notification.

- A. **Responsibility** - When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice, publishing it in a newspaper, and mailing or personally delivering it as provided in this Section.
- B. **Content** - All mail, personal and newspaper notices for public hearings shall:
  - 1. **Nature of the request** - Identify whether the request is for a rezoning, text amendment, conditional use permit, planned development, variance, appeal, ordinance interpretation, or other purpose.
  - 2. **Location** - Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses need be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.

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3. **When and where** - Indicate the date, time, and place of the public hearing(s) at which the request will be considered.
  4. **Written comments** - Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.
  5. **Handicap access** - Provide information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.
- C. **Published Notice** - The Zoning Administrator shall be responsible for publishing the notice in a newspaper of general circulation in Napoleon Township and filing the affidavit of publication from the newspaper in the Township Ordinance Records.
- D. **Personally Delivered and Mailed Notice**
1. **General** - When the provisions of this Ordinance or state law require that a personally delivered or mailed notice be provided, notice shall be provided to:
    - a. The owner(s) of property for which approval is being considered, and the applicant, if different that the owner(s) of the property.
    - b. All occupants of and persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of Napoleon Township, except for rezoning requests involving eleven (11) or more adjacent properties or an ordinance interpretation request that does not involve a specific property. If the name of the occupant is not known, the term “occupant” may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure whom shall be requested to post the notice at the primary entrance to the structure. The list will be developed from the latest notification listing from the Township Assessor.
    - c. All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to Section 12.9.2, Registration to Receive Notice by Mail.
    - d. Other governmental units or infrastructure agencies within one (1) mile of the property involved in the application.
  2. **Notice by mail/affidavit** - Notice shall be deemed mailed by its deposit in the United States mail, first class, property addressed, postage paid. The Zoning Administrator shall prepare a list of property owners and registrants to whom

## Administration of the Ordinance

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notice was mailed, as well as of anyone to whom personal notice was delivered.

- E. **Timing of notice** - Unless otherwise provided in the Michigan Zoning Enabling Act, as amended, 2006 PA 110, or this Ordinance where applicable, notice of public hearing shall be provided not less than fifteen (15) days before the date the application will be considered for approval for a public hearing on an application for a rezoning, text amendment, conditional use, planned unit development, variance, appeal, or ordinance interpretation. This means it must be published in a newspaper of general circulation and for those receiving personal notice, received by mail or personal notice, not less than fifteen (15) days before the hearing.

### 12.9.2 Registration to Receive Notice by Mail

- A. **General** - Any neighborhood organization, public utility company, railroad, or any other person may register with Zoning Administrator to receive written notice of all applications for development approval pursuant to Section 12.9.1 (C) 1 (c), Personal and Mailed Notice, or written notice of all applications for development approval within the zoning district in which they are located. The Zoning Administrator shall be responsible for providing this notification. Fees may be assessed for provision of this notice, as established by the legislative body.
- B. **Requirements** - The requesting party must provide the Zoning Administrator information on an official form to ensure notification can be made. All registered persons must register bi-annually to continue to receive notification pursuant to this Section.

### 12.9.3 Posting of Public Hearing Notices Scheduled For Special Meetings

A notice of public hearing for a public hearing scheduled during a special meeting shall be posted at the Township Hall at least 18 hours prior to the meeting.

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## Article 13

# Zoning Board of Appeals

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### Article 13 Zoning Board of Appeals

#### Section 13.1 Board of Appeals Established

There is hereby established a Board of Appeals, which shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act, as amended, 2006 PA 110, in such a way that the objectives of this Ordinance shall be observed, the public health and safety secured, and substantial justice done.

- 13.1.1 **Membership** - The Board of Appeals shall be composed of one (1) member of the Planning Commission, one (1) member of the Board of Trustees, three (3) other regular members selected from the electors of Napoleon Township and one (1) alternate member also selected from the electors of the Township.
- 13.1.2 **Terms of Office** - Members of the Board of Appeals shall be appointed for three (3) years, with the exception of the member from the planning commission and the member from the Board of Trustees whose terms shall be limited to the time they are members of those bodies. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.
- 13.1.3 **Removal of Members** - A member of the Board of Appeals may be removed by the Board of Trustees for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.
- 13.1.4 **Election of Officers** - The Board of Appeals shall elect a Chairperson. The member from the Board of Trustees may not serve as the Chairperson.
- 13.1.5 **Conduct of Business** - The Board of Appeals shall not conduct business unless a majority of the regular members of the Board of Appeals are present. The Board shall also establish bylaws which establish other regulations in addition to those listed above.

#### Section 13.2 Duties of the Board of Appeals

The Board of Appeals shall hear and decide only such matters as the Board of Appeals is specifically authorized to pass on as provided in this Ordinance and has an interpreting function.

#### Section 13.3 Variance

- 13.3.1 **Filing** - To determine if an application for a variance is necessary, the record owner of the property in question, or person(s) authorized to act on the record owner's behalf, shall meet with the Zoning Administrator, who shall determine if an application is required. The Zoning Administrator shall have seven (7) working days to ascertain a decision and notify the record owner or agent. If it is determined that an application for a variance is necessary, an application for a variance shall be filed at the Napoleon Township Office; by the record owner of the property or his or her agent. The application shall consist of a completed application form, the current fee of the Township, and other required information as required by the Township. The

## Zoning Board of Appeals

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Township Clerk shall transmit copies of the application and information to each member of the Board of Appeals and the Zoning Administrator within seven (7) business days of the filing date.

**13.3.2 Application** - The following information shall be included in the application:

- A. The applicants name, address, and telephone number.
- B. The names and addresses of all record and known owners and proof of ownership.
- C. The applicant's interest in the property, and if the applicant is not the fee-simple owner, the owners signed authorization for the application.
- D. Recorded legal description, address, and tax parcel number of the property.
- E. An accurate scaled drawing of the property, showing all property lines, dimensions, and bearings or angles correlated with the legal description; all existing and proposed structures and uses on the property; and dimensions of structures and their dimensional locations; lot area and all calculations necessary to show compliance and/or non-compliance with the regulations of this Ordinance. Upon completion of site inspections, the Board of Appeals may require a prepared drawing by a registered surveyor or registered engineer.
- F. A detailed description of the proposed use. The proposed variance shall be physically marked on the site, as well as all property corner markers, so that each member of the Board of Appeals may make an on-site review of the proposed variance.
- G. The fee shall be paid to the Township Clerk at the time of filing the application and shall be deposited in the Township general fund.

**13.3.3 Request**

- A. A variance from the terms of this Ordinance shall not be granted by the Board of Appeals unless and until a written application for a variance is submitted, demonstrating one or both of the following:
  1. That practical difficulties exist which are peculiar to the land, structure, or building involved and which do not exist in other lands, structures, or buildings in the same general area.
  2. That literal interpretation and strict compliance with the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same general area under the terms of this Ordinance.
- B. A variance from the terms of this Ordinance shall NOT be granted by the Board of Appeals if the Board determines that any of the following to be factual:
  1. That the exceptional or extraordinary conditions and circumstances noted above, resulted from the actions of any person with a current or previous interest in the property.
  2. That granting the variance request would confer on the applicant a special privilege denied by this Ordinance to other lands, structures, or buildings in the same general area.

## Zoning Board of Appeals

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3. That non-conforming uses of neighboring lands, structures, or buildings in the same general area, or non-conforming uses of lands, structures, or buildings in other districts, were the grounds for requesting the variance.
- C. The Board of Appeals shall make the following findings before the application is approved:
1. That the requirements of the Ordinance have been met by the applicant.
  2. That the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building or structure
  3. That the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and the public interest, will not be a detriment to adjacent properties, will not alter the essential character of the area, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
  4. That the granting of the variance will not impair an adequate supply of light and air to adjacent properties, substantially increase the congestion in public streets or roads, adversely impact drainage patterns, increase the danger of fire or endanger the public safety, restrict access of emergency vehicles, or substantially diminish property values within the area.
  5. That the granting of the variance shall in no manner guise or be construed to allow a change of use but shall allow only a variation or modification to the applicable requirements of this ordinance.

### 13.3.4 Conditions

- A. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under the provisions of this Ordinance.
- B. Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved or any use expressly or by implication prohibited by the terms of this Ordinance in said district.
- C. Any decision of the Board favorable to the applicant shall remain valid only as long as the information or data relating thereto are found to be correct, and the conditions upon which the decision was based are maintained.
- D. The Board may reconsider an earlier decision, if, in the opinion of the Board, circumstances justify taking such action.

### Section 13.4 Voiding and Reapplication for Variance

- A. Each variance granted under the provisions of this ordinance shall become null and void unless:
  1. The construction authorized by such variance or permit has been commenced within



## Zoning Board of Appeals

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- one hundred and eighty (180) days after the granting of such variance and pursued diligently to completion.
2. The occupancy of land or buildings authorized by such variance has taken place within one hundred and eighty (180) days after the granting of such variance.
- B. No application for a variance which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of three hundred and sixty-five (365) days from such denial, except on grounds of new evidence or proof of changed conditions found by the Board of Appeals to be valid.

### Section 13.5 Appeals to the Board of Appeals

- 13.5.1 **How Appeals Are Taken** - All questions concerning administrative decisions under this Ordinance shall first be presented to the applicable Township official or agency. Such questions shall be presented to the Board of Appeals only on appeal from the applicable Township Official or agency. Appeals may be taken from any administrative zoning decision, except conditional uses and planned unit developments, expansion of non-conforming buildings and structures. Appeals shall be filed within sixty (60) days of the decision in question at the Township office. The Appellant shall submit a clear description of the order, requirements, decision, or determination from which the appeal is made and the grounds of the appeal. The Appellant may be required to submit additional information to clarify the appeal.
- 13.5.2 **Fee for Appeal** - A fee prescribed by the Township Board shall be paid to the Board of Appeals at the time of filing the notice of appeal which the Board of Appeals shall pay over, within thirty (30) days after deciding the appeal, to the general fund of the Township.
- 13.5.3 **Effect of Appeal; Restraining Order** - An appeal stays all proceedings in the furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal shall have been filed with him, that by reason of the facts stated in the certificate, a stay in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by the Circuit Court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- 13.5.4 **Hearing By the Appeals; Request; Notice; Hearing** - When a request for appeals has been filed in proper form with the Board of Appeals, a notice shall be prepared, published, and delivered pursuant to the requirements located in Section 12.9.
- 13.5.5 **Representation during Hearing** - Upon the hearing, any party or parties may appear in person or by agent or by attorney.
- 13.5.6 **Decisions of the Board of Appeals and Appeals to the Circuit Court** - The Board of Appeals shall decide upon all matters appealed from within a reasonable time and may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Zoning Inspector or Township Board from

## Zoning Board of Appeals

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whom the appeal is taken. The Board of Appeals decision of such appeals shall be in the form of a resolution containing a full record of the findings and determination of the Board of Appeals in each particular case. Any aggrieved party shall have the right to appeal the resolution to the Circuit Court on question of law and fact.

### Section 13.6 **Non-Exempt Public Utility Facilities**

The Board of Appeals shall have the power to permit any public service corporation to erect and use a building or an addition to an existing building, or a structure for public utility purposes on a different lot area, lot width, or lot coverage, or with different yard and setback requirements, or to a different height than the district requirements herein established, providing the Board of Appeals finds such modifications necessary for public convenience and service.

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Zoning Board of Appeals

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Article 14

# Repeal, Interpretation, and Vested Right

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Article 14 **Repeal, Interpretation, and Vested Right**

Section 14.1 **Repeal of Existing Zoning Ordinance**

The existing zoning regulations of the Township of Napoleon, being the Napoleon Township Zoning Ordinance, adopted as amended, are hereby repealed. The adoption of this Ordinance, however, shall not affect or prevent any pending or future prosecution of, or action to abate, any existing violation of the aforementioned Ordinance, as amended, if the use so in violation is in violation of the provisions of this Ordinance.

Section 14.2 **Interpretation and Conflict**

A. **Interpretation** — In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comforts, morals, prosperity and general welfare.

B. **Conflicts with Other Laws** — Conflicting laws of a more restrictive nature are not affected or repealed by this Ordinance. The provisions of this Ordinance shall be considered as a minimum. Conflicting laws of a less restrictive nature, or those conflicting in ways other than degree or restrictedness, are hereby repealed.

This Ordinance is not intended to abrogate or annul any easement, covenant or other private agreement provided that where any provision of this Ordinance is more restrictive or imposes a higher standard or requirement, the easement, covenant or other private agreement shall be governed by the provisions of this Ordinance.

C. **Conflicts within the Ordinance** — Conflicting requirements within this Ordinance shall be governed by the more restrictive or those imposing the higher standard. The Planning Commission or the Township Board, totally at their discretion, may accept the less restrictive requirement or standard, provided however, that the less restrictive requirement or standard does not diminish the goals of this Ordinance.

Section 14.3 **Vested Right**

It is hereby expressly declared that nothing in this Ordinance be held or construed to give or grant to any person, firm, or corporation any vested right, license, privilege or permit.

Section 14.4 **Effective Date**

This Ordinance was adopted by the Napoleon Township Board at a public meeting held on \_\_\_\_\_, and notice ordered published in \_\_\_\_\_, a newspaper having general circulation in Napoleon Township.

Date: \_\_\_\_\_ Supervisor: \_\_\_\_\_

Denise Butler

Date: \_\_\_\_\_ Clerk: \_\_\_\_\_

Dan Wymer

Section 14.5 **Amendments**

This Ordinance may be amended from time to time by adoption of such amendments by the Napoleon Township Board. Dates of amendments are noted in parenthesis following the amendment in the body of this Ordinance.

## **Repeal, Interpretation, and Vested Right**

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### **Section 14.6 Validity and Severability Clause**

If any court of competent jurisdiction shall declare any part of this Ordinance to be invalid, such ruling shall not affect any other provisions of this Ordinance not included in said ruling. If any court of competent jurisdiction shall declare invalid the application or any provision of this Ordinance to a particular land, parcel, lot, district, use, building or structure such ruling shall not affect the application of said provision to any other land, parcel, lot, district, building use, or structure not specifically included in said ruling.

### **Section 14.7 Period of Effectiveness**

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

## Article 15

# Definitions and Illustrations of Terms

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### Article 15 Definitions and Illustrations of Terms

Any term not defined herein shall have the meaning of common or standard use.

#### Section 15.1 Definitions

For the purpose of this Ordinance, certain terms are herewith defined. When not inconsistent with the context, the present tense includes the future; the words used in the singular number include the plural number, and the plural includes the singular. The word “shall” is always mandatory. The word person always includes a firm, association, organization, partnership, trust, company or corporation as well as an individual. The words “used” or “occupied” include the words “intended”, “designed”, or “arranged to be used or occupied”.

Any term not defined herein shall have the meaning of common or standard use.

**Accessory Buildings** - A permanent or temporary supplementary building or structure occupied by or devoted exclusively to any accessory use.

**Accessory Use** - A use which is incidental and subordinate to the principal use of the property or the buildings on the property.

**Adult Foster Care Home** - A non-profit or for-profit boarding home for the sheltered care of persons with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services, and transportation.

**Agricultural Product** - Any product directly produced from the conduct of agriculture, not including tobacco or tobacco products. Except for on-site handling, not more than one (1) level of raw material processing, or only that which is necessary to meet statutory health requirements and packaging, may be rendered before the product is sold.

**Airport** - A tract of level land where aircraft can take off and land. Usually equipped with a hard surfaced landing strip and may include appurtenances used or acquired for airport buildings or other airport facilities, and all other appurtenant rights of way or other existing or future interests.

- A. **Airport Hazard** - Any structure or tree within the airport hazard area, which exceeds the height limitations, established by this Ordinance, or any use of land or appurtenances within the airport hazard area, which interferes with the safe use of the airport by aircraft.
- B. **Airport Manager** - That term as defined in Section 10 of the Aeronautics Code of the state of Michigan, 1945 PA 327, MCL 259.10.
- C. **Airport Zoning Plans** - Graphical drawings, which depict height limitations and land, use guidelines within the airport hazard area.
- D. **Airport Zoning Regulations** - Means airport zoning regulations under the Airport Zoning Act, 1950 (Ex Sess) PA 23, for an airport hazard area that lies in whole or part in the area affected by a zoning ordinance under this act.
- E. **Airspace** - Space within the air above the land and water of the state, above the minimum altitudes of flight prescribed by laws of the State and Federal aviation regulations.
- F. **AGL** - Denotes the Above Ground Level of a structure or tree based upon an overall height of a structure or tree measured from ground level to the top point of the structure or tree

## Definitions and Illustrations of Terms

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G. **FAA** - The Federal Aviation Administration

**Alter** - Any structural change in the supporting or load bearing members of a building such as bearing walls, columns, beams, joists, girders, and similar components, or any substantial change in the roof or exterior walls.

**Automatic Teller Machine** - An automated device that performs banking or financial functions at a location remote from the controlling financial institutions.

**Automobile Repair** - General repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair, overall painting, and vehicle rust proofing.

**Automobile Service Station** - Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication, minor repairs and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, body fender work, or automobile repairs are conducted.

**Automobile Wash** - A building, or portion thereof, the primary purpose of which is that of washing vehicles either by automatic or self-service means.

**Banquet Hall/ Reception Hall / Convention Center** - A facility or group of facilities where a formal assembly of members, representatives, or delegations of a group, such as a political party, fraternal society, or service club, and including but not limited to wedding receptions, proms, graduations, birthday, and other specialized events where food and beverages, including alcohol, may be served and where such facilities are not open to the general public or have regular operating hours.

**Basement** - That portion of a building having more than one-half (1/2) of the height below grade.

**Bed and Breakfast** - A single family residential structure in which sleeping rooms are provided and breakfast is provided to transient tenants.

**Bedroom** - A bedroom is a dwelling room used for, or intended to be used in whole or in part, for sleeping purposes by human beings.

**Board of Appeals** - As used in this Ordinance, the term Board of Appeals means the Township of Napoleon, Michigan, Zoning Board of Appeals.

**Building** - An enclosed structure having a roof supported by columns or walls.

**Building Frontage** - The side of a building which faces a public right-of-way.

**Building Setback Line** - The line established by the minimum required setbacks forming the area within a lot in which a building may be located, unless otherwise provided for by this Ordinance.

**Building, Main or Principal** - A building in which is conducted the primary use of the lot on which it is situated.

**Campground** - A parcel of land in which sites are offered for the use of temporary living quarters for recreational units. For purposes of this Ordinance, the following additional terms are defined:



## Definitions and Illustrations of Terms

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A. **Recreational Unit** - A tent or vehicular-type structure, primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. A tent means a collapsible shelter of canvas or other fabric stretched and sustained by poles and used for camping outdoors.

B. **Temporary living quarters** - As related to camping, means a recreational unit or a building within a modern camp, which is occupied or used for more than four (4) hours between the hours of 10:00 p.m. to 6:00 a.m., which is not intended to be occupied or used in excess of three (3) consecutive months.

**Canal** - An artificial waterway for transportation or irrigation.

**Caretaker** - A caretaker shall be a bone fide employee of the business for which he or she care takes or be a legal owner of the real property. A bone fide employee shall include, but not be limited to, an employee on the payroll of the business for which he or she care takes.

**Central Sanitary Sewerage System** – Generally a municipal department duly authorized to furnish under federal, state or municipal regulations a sanitary sewerage disposal system from a using facility to a central location or plant for disposal.

**Central Water Supply System** – Generally a municipal department duly authorized to furnish under federal, state or municipal regulations potable water from an offsite source to the using facility.

**Channel** - A manmade or natural watercourse with a definite bed and banks that confine and conduct the normal continuous or intermittent flow of water.

**Chimney** - A structure containing one or more flues for drawing off emissions from stationary sources of combustion.

**Club** - An organization of persons for special purposes for the promulgation of agriculture, sports, arts, science, literature, politics, or the like, but not operating for profit.

**Clustered Development** - A development design technique, approved by the Township, which concentrates single family lots in specific areas on a site to allow the remaining land to be used for recreation, common open space, and/or preservation of natural resources and features.

**Condominium** - A form of property ownership in which living units or other forms of units in a structure are owned individually but the associated land is owned in common or jointly with owners of other structures on the site.

A. **Condominium Development** - Any development undertaken under the provisions of the Michigan Condominium Act, as amended, 1978 PA 59, or any other act of the legislature of the State of Michigan providing for development of property under joint or concurrent ownership.

B. **Condominium Documents** - The master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the master deed or by-laws, which affects the rights and obligations of a co-owner in the condominium.

C. **Condominium Lots** - The land in a condominium unit, together with the land in the adjacent and appurtenant limited common element, if there is such a limited common

## Definitions and Illustrations of Terms

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element.

- D. **Condominium Subdivision Plan** - The drawings and information prepared in accordance with Section 66 of the Condominium Act.
- E. **Condominium Unit** - The portion of a condominium project designed and intended for separate ownership and use, as described in the master deed.
- F. **Conservation Easement** - That term as defined in Section 2140 of the Natural Resources and Environmental Protection Act, 1994 PA 451.
- G. **Consolidating Master Deed** - The final amended master for a contractible or expandable condominium project or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed.
- H. **Contractible Condominium** - A condominium project from which any portion of the submitted land or buildings may be withdrawn in accordance with this Ordinance and the Condominium Act
- I. **Master Deed** - The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the by-laws for the project and the condominium subdivision plan for the project and all other information required by Section 8 of the Condominium Act.
- J. **Notice of Proposed Action** - The notice required by Section 71 of the Condominium Act, to be filed with Napoleon Township and other agencies.
- K. **Site Condominium** - A condominium development containing residential, commercial, office, industrial, or other structures or improvements for uses permitted in the zoning district in which located, in which each co-owner owns exclusive rights to a volume of space within which a structure or structures may be constructed, herein defined as a condominium unit, as described in the master deed.

**Convalescent Home** - A convalescent home or nursing home is a state licensed facility for the care of children or the aged or the infirm, or a place of rest for those suffering serious bodily disorders.

**Convenience Store** – A retail establishment offering for sale, for off-site consumption, a variety of prepackaged food, sandwiches, drinks and other food products, household items, newspapers, magazines, and other miscellaneous items, but not including the sale of gasoline or other motor fuel.

**Dairy Products-Basic** - Eggs, milk, milk products, cream, butter, and cheese, not including ice cream and ice cream products.

### **Daycare**

- A. **Camp** - Children’s camp, residential, day, troop, nature or travel camp conducted in a natural environment for more than 4 school age children apart from their parents, relatives, or legal guardians for 5 or more days in a 14 day period. A children’s camp provides care and supervision for the same group of children for usually not more than 12 weeks. Child Care Organizations, as amended, 1973 PA 116, Rule 400.11106 effective January 1, 2001.

## Definitions and Illustrations of Terms

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**B. Family and Group Day-Care Homes** - Family Day-Care Home and Group Day-Care Home mean those terms as defined in Section 1 of Child Care Organizations, as amended, 1973PA 116, MCL722.111 and only apply to the bona fide private residence of the operator of the family or group day-care home.

1. **Family Child Care Home** - means a private home in which 1 but not more than 6 minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

Family Child Care Home licensed or registered under Child Care Organizations shall be considered a residential use of property for the purpose of zoning and a permitted use in all residential zones, including those zoned for single family dwellings, and shall not be subject to a special use or conditional use permit or procedure different from those required for other dwellings or similar density in the same home.

2. **Child Care Center or Day Care Center** - means a facility, other than a private residence, receiving 1 or more preschool or school-age children for care for periods of less than 24 hours a day, where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school. Parent cooperative preschool, play group, before-or-after school program, or drop-in center. Child Care Center or Day Care Center does not include any of the following:

- a. Sunday School, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are attending for not more than 3 hours per day for an indefinite period or for not more than 8 hours per day for a period not to exceed 4 weeks during a 12 month period.
- b. A facility operated by a religious organization where children are in the religious organization's care for not more than 3 hours while persons responsible for the children are attending religious services.
- c. A program that is primarily supervised, school-age-child-focused training in a specific subject, including, but not limited to, dancing, drama, music, or religion. This exclusion applies only to the time a child is involved in supervised, school age child focused training.
- d. A program that is primarily an incident of group athletic or social activities for school age children sponsored by or under the supervision of an organized club or hobby group, including, but not limited to, youth clubs, scouting, and school-age recreational or supplementary education programs. This exclusion applies only to the time the school age is engaged in the group athletic or social activities and if the school age child can come and go at will.

## Definitions and Illustrations of Terms

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A Child Care Center or Day Care Center shall require a special use permit, conditional use permit, or similar permit. (see Sec 9.11.9).

3. **Group Child Care Home** - means a private home in which more than 6 but not more than 12 minor children are given 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.

A Group Day Care Home shall require a special use permit, conditional use permit, or similar permit (see Sec. 9.11.8).

**Farmland Preservation Act** – 1974 PA 116 permits certain property owners to contract with state government to retain land in agriculture or open space in exchange for tax advantages and immunity to special assessments not of benefit to the property under current use conditions.

**Deceleration Lane** - A speed-change lane, including taper, for the purpose of enabling a vehicle to leave the through traffic lane at a speed equal to or slightly less than the speed of traffic in the through lane and to decelerate to a stop or to execute a slow speed turn.

**Deck Line** - The intersection of two roof surfaces of a mansard or gambrel roof forming the highest horizontal line of the steeper roof slope.

**District** - A portion of the Township within which certain uses of land and/or buildings are permitted and within which certain regulations and requirements apply under the provisions of this Ordinance.

**Drive-In or Drive-Through Establishment** - A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicle to service patrons of restaurants, cleaners, banks, and theaters while in said vehicle.

**Dwelling** - A dwelling is any building or portion thereof having cooking facilities, which is occupied wholly as the home, residence or sleeping place of one (1) family, either permanently or transiently, but in no case shall a travel trailer, motor home, trailer coach, automobile chassis, tent or other portable building be considered a dwelling in single- multiple- or two-family residential areas. In cases of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this Ordinance and shall comply with the provisions thereof relative to dwellings.

- A. **Dwelling, Single-Family** - A detached building designed for or occupied exclusively by one (1) family.
- B. **Dwelling, Two-Family** - A detached building designed for or occupied exclusively by two families living independently of each other. Also known as a duplex dwelling.
- C. **Dwelling, Multiple** - A building used for and designed as a residence for three (3) or more families living independently of each other and each having their own cooking

## Definitions and Illustrations of Terms

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facilities therein, including apartment houses, townhouses, and apartment hotels, but not including manufactured homes.

**Dwelling Unit** - One or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

**Essential Services** - The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment or accessories reasonably in connection therewith for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or general welfare.

**Excavating** - Excavating shall be the removal of sand, stone, gravel, or fill dirt to below-the-average grade of the surrounding land and/or the finished grade, whichever shall be highest, excepting common household gardening.

### **Family**

- A. An individual or a group of two or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit, or
- B. A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

**Farm** - The land, buildings, and machinery used in the commercial production of farm products. For purposes of this Ordinance, the following additional definitions shall apply:

- A. **Farm operation** - A condition or activity which occurs on a farm in connection with the commercial production of farm products, and includes, but is not limited to, marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation pumps; ground and aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides generally associated with farm operations; and the employment and use of labor.
- B. **Farm product** - Those plants and animals useful to human beings and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock, including breeding and grazing, fruits, vegetables, flowers, seeds, grasses, trees, fish, apiaries, equine and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur.

**Farm Market** – An on-farm location established in accordance with local ordinance and operated in compliance with Act No. 92, the Michigan Food Law, where an individual farmer

## Definitions and Illustrations of Terms

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may sell to the public fruits, vegetables or other agricultural products. On-farm markets may operate intermittently but for licensing purposes will be considered a permanent operation.

**Farmers Market** – A location established in accordance with local ordinance and operated in compliance with Act No. 92, the Michigan Food Law, where farmers may transport and sell to public fruits, vegetables or other agricultural products. Farmers market vendors may operate intermittently but for licensing purposes will be considered a permanent operation.

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

**Finished Grade** - The final elevation at ground level of a building after development. The term “finished grade” may also mean the natural grade when no terrain alteration is proposed or where otherwise applicable.

- A. **Finished Grade-Front** - The average elevation of the finished grade measured along the exterior of the building facing the front lot line.
- B. **Finished Grade-Rear** - The average elevation of the finished grade measured along the exterior of the building the rear lot line.
- C. **Finished Grade-Average** - The midpoint elevation between the Front Finished Grade and the Rear Finished Grade.

**Floor Area** - The sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The “floor area” of a building shall include the basement floor area when more than one-half ( $\frac{1}{2}$ ) of the basement height is above the finished lot grade.

**Hazardous Substances** - Hazardous substances include hazardous chemicals as defined by the Michigan Department of Public Health and the Michigan Department of Labors; flammable and combustible liquids as defined by the Michigan Department of State Police, Fire Marshal Division; hazardous materials as defined by the U.S. Department of Transportation; critical materials, polluting materials, and hazardous waste as defined by the Michigan Department of Natural Resources, and hazardous substances as defined in the Hazardous Substances Act, as amended, 1965 PA 188 and the Federal Comprehensive Environmental Response Compensation and Utility Act of 1980, Public Act 96-510, 94 STAT 2767, as amended.

**Home Occupation** - An occupation that is carried on in the home by resident members of the family or living unit, being clearly incidental and secondary to the principal residential use. For the purpose of this ordinance, there are two types of home occupations:

- A. **Type One Home Occupation** - An occupation or profession that is clearly a customary, incidental, and secondary use of a residential dwelling unit, and which does not negatively impact the residential character of the neighborhood in which the home occupation is located. A Type One Home Occupation shall exhibit no evidence that a business is being conducted from the premises.
- B. **Type Two Home Occupation** - An occupation or profession that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not negatively impact the residential character of the neighborhood in which the home occupation is



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located, but which displays evidence that a business is being conducted from the premises.

**Hospital** - An institution providing health services, primarily for in-patients and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities, and staff offices.

**Infrastructure** - General reference is to the network of physical systems such as streets, water supply, sewerage, and storm drains that are essential in urban areas.

**Intensive Livestock Operation** - An agricultural operation in which animals are bred and/or raised within a confined area, at concentrated densities. Such operations are further characterized as having an animal feeding building or feedlot, which is a facility, other than a pasture, where animals are fed and/or confined.

**Intensity of Development** - The height, bulk, area, density, setback, use, and other similar characteristics of development.

**Intersection** - The location where two or more roadways cross at grade without a bridge.

**Intersection Sight Distance** - The sight distance provided at intersections to allow the drivers of stopped vehicles a sufficient view of the intersection roadways to decide when to enter the intersection roadway or to cross it. The time required is the sum of the perception reaction time plus the time to accelerate and cross or enter the major roadway traffic stream.

**Junkyard** - A place, structure, parcel or use of land where junk, waste, discard, salvage, or similar materials such as old iron or other metal, wood, lumber, glass, paper, rags, cloth, leather, rubber, bagging, cordage, barrels, containers, etc., are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including auto wrecking yards, inoperative machines, used lumber yards, house wrecking, and structural steel materials and equipment and including establishments for the sale, purchase, or storage of salvaged machinery and for the processing of used, discarded, or salvaged materials, for any thirty (30) consecutive days.

**Junk Vehicles, Repair of** - The following definitions shall apply in the interpretation and enforcement of this code.

- A. Costs mean the expense of removing, storing or selling a junked vehicle.
- B. Hobby means the repairing, reconditioning or rebuilding of all vehicles, which is done for personal enjoyment or entertainment only, with no profits or compensation or reimbursements of any kind involved.
- C. Junk vehicle means any self propelled vehicle designed for highway travel under its own power which is not capable of such travel in its existing mechanical condition, or any dismantled, partially dismantled, discarded, wrecked, demolished or partially demolished vehicle; or any vehicle designed for highway travel not bearing a current license plate or license certificate.
- D. Vehicle means a machine propelled by power other than human power designed to travel along the ground, in the air or through water by use of wheels, treads, runners, slides, wings or hulls and to transport persons or property or pull non self propelled vehicles or machinery and includes, without limitation, automobile, airplane, boat, truck, trailer,



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motorcycle, motor scooter, moped tractor, buggy and wagon.

- E. Fully enclosed structure means any commercial or residential garage and any other man made or natural barrier, which effectively prevents viewing of the area, screened and its contents from adjacent walkways, roadways or alleys.

**Kenel** - A commercial establishment in which dogs or domesticated animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation.

**Lakefront Property** - A property that has frontage on a water body of reasonably- sized impoundment of water including channels or canals.

**Land Splits / Divisions** - Actions that divide a parcel into additional smaller parcels. When acreage is involved the reference is usually to part of the larger parcel for a building site; in subdivisions it refers to the division of a lot with parts attached to adjacent lots. Land Division Act, as amended, 1996 PA 591.

### Lighting Definitions

- A. **Cutoff** - The point at which all light rays emitted by a lamp, light source, or luminaries are completely eliminated (cut off) at a specific angle above the ground.
- B. **Cutoff Angle** - The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source, above which no light is emitted.
- C. **Cutoff Type Luminaries** - A unit of illumination with elements such as shield, reflectors, or refractor panels that direct and cut off the light at a cutoff angle less than 90 degrees.
- D. **Light Fixtures, Spacing and Height** - Spacing of standards shall be equal to approximately four times the height of the standard. The maximum height of standards shall not exceed the maximum building height permitted, or 25 feet, whichever is less. The height and shielding of lighting standards shall provide proper lighting without hazard to drivers or nuisance to residents.
- E. **Light Trespass** - The shining of light produced by a luminary beyond the boundaries of the property on which it is located
- F. **Luminaire** - A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.

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

**Lot** - A lot is a parcel of land occupied or intended to be occupied by a building, structure or use, or by other activity permitted thereon and including the yards and open spaces required under this Ordinance.

- A. **Lot Area** - The total area within the lot lines of a lot.
- B. **Lot, Corner** - A lot abutting two (2) intersecting streets.
- C. **Lot Depth** - The average distance from the road right-of-way upon which the lot or parcel fronts to the rear lot line; or in the case of a waterfront lot, from the closest water frontage

## Definitions and Illustrations of Terms

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line to the road right-of-way.

- D. **Lot, Double Frontage** - A lot, other than a corner lot, having frontage on two roads which are more or less parallel.
- E. **Lot, Waterfront** - A lot having frontage directly upon a lake, river, or other reasonably sized impoundment of water, including navigable streams, channels and canals. The portion adjacent to the water shall be designated as the water frontage of the lot, and the opposite side shall be designated the road frontage of the lot.
- F. **Lot, Width** - The required horizontal distance between the side lot lines measured at the two points where the required minimum front yard setback line intersects the side lot lines.
- G. **Lot Lines** - Any line dividing one lot from another or from right-of-way, and thus constitutes the property lines bounding a lot.
1. **Lot Line, Front** - In the case of an interior lot, the front lot line shall mean the line separating the lot from the road, private road, or easement. In the case of a double frontage lot, the front lot line shall be that line separating said lot from that road, private road, or easement which is designated as the front. In the case of a corner lot, there shall be a front yard for each road front.
  2. **Lot Line, Rear** - The rear lot line is that lot line which is opposite from the designated front lot line of the lot. In the case of an irregular or triangular shaped lot, a line ten (10) feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot shall be considered to be the rear lot line for the purpose of determining depth of rear yard.
  3. **Lot Line, Side** - Any lot line not a front lot line or a rear lot line. In the case of a corner lot, there shall only be one side lot line.
- H. **Lot of Record** - A lot of record is a lot, the dimensions of which are shown on a subdivision plat recorded in the Office of the Register of Deeds for Jackson County, or a lot or parcel described by metes and bounds, the accuracy of which is attested to by a Professional Engineer or Registered Surveyor, so designated by the State of Michigan, and said description so recorded or on file with the County. A lot of record shall meet the requirements of the district in which it is located.

**Measuring Setbacks** – Setbacks are measured from the face of the structure (building, fence, wall, etc.). The measurement will be the shortest distance between any point of the structure face to the closest point of the applicable lot line of the property. Setbacks must be measured for the front, sides, and rear of the structure (applicable to a building) in relationship to the lot lines.

Eaves, roof, overhangs, and fireplaces may extend 24” into setback.

Attached decks, cantilevers and appurtenances must be included in the measurement of setbacks unless the specific item is covered as an exception in Article 2, Section 2.2.3.F. (See illustration later in this Article)

**Medical marihuana terms** – The following terms are associated with medical marihuana as regulated by the Township of Napoleon.

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- A. **Marihuana** – Marihuana, according to the Public Health Code (MCL 333.1101), ”means all parts of the plant *Canabis sativa L.*, growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted there from, fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.”
- B. **Medical marihuana** – Medical marihuana, according to the MMMA (see below), “means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered patient’s debilitating medical condition or symptoms associated with the debilitating medical condition.”
- C. **Michigan Medical Marihuana Act (MMMA)** – The MMMA (MCL 333.26421 et. seq.) is an initiation of legislation to allow under state law the medical use of marihuana; provide protections for the medical use of marihuana; and provide for a system of registry identification cards for qualifying patients and primary caregivers. The MMMA is supplemented by administrative rules promulgated by the Michigan Department of Community Health (R 333.101 et seq). The MMMA defines the following specific categories of people:
1. **Primary caregiver** – A primary caregiver is an individual, as defined by the MMMA, and is authorized by and registered through the Michigan Department of Community Health (MDCH) to grow and distribute medical marihuana to qualified patients. The primary caregiver must have a valid registry card.
  2. **Qualifying patient** – A qualifying patient is an individual, as defined by the MMMA, that has been diagnosed by a licensed physician, as defined by the MMMA, as having a medical condition alleviated by the use of medical marihuana, and who is registered through the Michigan Department of Community Health (MDCH) to grow and/or consume medical marihuana. The qualifying patient must have a valid registry card.
- D. **Medical marihuana caregiver grow operation** – A medical marihuana caregiver grow operation is an establishment used by 1 registered primary caregiver for the purposes of the growing and dispensing of medical marihuana outside the privacy of a personal dwelling for up to 5 qualifying patients (as well as the caregiver if he or she is also a qualifying patient), but where there is no consumption of marihuana on the premises.
- E. **Medical marihuana home use** – A medical marihuana home use is a dwelling where a qualifying patient grows or uses medical marihuana for personal consumption in the privacy of their own dwelling, and/or where a registered primary caregiver, serving not more than 1 qualifying patient who resides with the primary caregiver, grows or distributes medical marihuana for the qualifying patient in the privacy of the primary caregiver’s own dwelling, and is allowed as a use by right wherever dwellings are permitted.

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**Mineral Extraction and Mining** - The terms mineral extraction and mining shall be defined to apply to, and include, the extraction, excavation, removal, or processing of peat, gravel, sand, clay, or other minerals, and the storage of such materials on a site, the transportation of such materials from a site, or the restoration of the site after extraction and mining activity has been concluded.

A. **Exemptions** - For purposes of this Ordinance, the following extraction and mining activities are not included within the definition of mineral extraction and mining and are exempted from the licensing requirements of this Ordinance.

1. Excavation approved and undertaken by a governmental unit in conjunction with the installation and/or maintenance of publicly owned and operated utilities, drainage facilities, roads, or other, similar, publicly owned and operated improvements, where the extraction and mining activity is limited to the site of the public property or improvement.
2. Extraction and excavation activity which is, by its nature, of limited scope and duration and which is undertaken primarily for the development and immediate use of the property where the activity is taking place, such as for purposes of building construction, septic tanks, swimming pools, burial sites, and the like.
3. Extraction and excavation activity undertaken in conjunction with legitimate farming operations conducted in accordance with generally accepted agricultural practices, including, but not limited to, agricultural drainage work incidental to farming operations, irrigation, and stock-watering ponds, provided that no material is removed from the property on which such activity is undertaken.
4. Other extraction and mining activity which the Township Board determines, in its sole discretion, is unlikely to result in that type of adverse consequence which frequently accompanies such activity and which is sought to be regulated by this Ordinance. The determination by the Township Board pursuant to the provisions of this subparagraph shall be based on a review of the purpose, location, extent, and/or duration of the proposed activity and other factors which may bear on the potential of any such activity to adversely affect the public health, safety, or general welfare of the community. Such factors may include, but shall not be limited to, noise, dirt, dust, topographical and geological changes, standing water, steep banks and hillsides, shifting earth, and other like considerations.

B. **Site** - A parcel or unit of land used, or proposed to be used, for mineral extraction and mining purposes.

C. **Township** - Napoleon Township.

D. **Township Board** - Napoleon Township Board of Trustees.

E. **Zoning Administrator** - The Administrator of this Ordinance. The Zoning Administrator shall be appointed by resolution of the Township Board. The Zoning Administrator shall serve at the pleasure of the Township Board and may be removed from office by majority vote of the Township Board at any time, for any reason.

**Manufactured Home** - A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with a permanent foundation, when connected

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to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. “Manufactured Home” does not include a recreational vehicle.

**Manufactured Housing Park** - A parcel or tract of land under the control of a person upon which three or more manufactured homes are located on a continuous non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with a building, structure, enclosure, street, equipment, or facility used or intended for use incidental to the occupancy of a manufactured home and which is not intended for use as a temporary trailer park.

**Motel** - A building or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for automobile travelers and having a parking space adjacent to a sleeping room. An automobile court or a tourist court with more than one unit or a motor lodge shall be deemed a motel.

**Non-Conforming Building** - A non-conforming building is a building or portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto, and which does not conform to the provisions of the Ordinance in the zoning district in which it is located.

**Non-Conforming Use** - A non-conforming use is a use which lawfully occupied a building or land at the effective date of this Ordinance, or amendments thereto, and that does not conform to the use regulations of the zoning district in which it is located.

**Nuisance** - Anything that interferes with the use or enjoyment of property, or endangers personal health or safety. Zoning is generally intended to separate uses that constitute a nuisance to adjoining properties, but zoning law cannot be invoked to abate all nuisances.

**Occupied** - The word “occupied” includes arranged, designed, built, altered, converted to, rented or leased, or intended to be inhabited; not necessarily for dwelling purposes.

**Off-Street Parking Lot** - A facility providing vehicular parking spaces along with adequate drives and aisles. Adequate maneuvering space shall be provided which allows unrestricted ingress and egress plus on-site parking space for at least (2) vehicles.

**Open Air Business** - The retail sales of goods, which are principally displayed outside, such as automobiles, building material, and nursery and garden products.

**Open Land** - Everything not occupied by a structure.

**Open Space Preservation Developments** - Notwithstanding the generally applicable minimum lot frontage/lot width and minimum lot area per dwelling unit requirements of the Ordinance, land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units that could otherwise be developed on the land under Section 506 of the Michigan Zoning Enabling Act, as amended, 2006 PA 110, as it applies to single family residential development, and rules on not more than 50% of the land, if all of the following apply:

- A. The land is zoned at a density equivalent to 2 or fewer dwelling units per acre; or, if the land is served by a public sewer system, 3 or fewer dwelling units per acre.
- B. Not less than 50% of the land area will remain perpetually in an undeveloped state by

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means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land.

- C. The development does not depend upon the extension of a public sewer or public water supply system, unless development of the land without the exercise of the development option provided by this provision would also depend upon such an extension.
- D. The development option provided pursuant to this section has not previously been exercised with respect to the subject property.
- E. The development of land under this section is subject to all other applicable ordinances, laws, and rules including but not limited to:
- F. The provisions of the Zoning Ordinance that are not in conflict with and preempted by Section 506 of the Michigan Zoning Enabling Act.
- G. The Land Division Act, as amended, 1996 PA 591 (formerly the Subdivision Control Act).
- H. Any ordinance regulating the division of land, the platting of land into subdivisions, or the creation of a site condominium.
- I. Rules relating to suitability of groundwater for on site water supply for land not served by public water.
- J. Rules relating to suitability of soils for on-site water supply for land not served by public water.
- K. Rules relating to suitability of soils for on-site sewage disposal for land not served by public sewers.
- L. A developer may develop the same number of units that would be allowed under existing zoning. The developer must submit two preliminary sketch plans. The first plan should be a viable plan under the existing ordinance, which would then establish the number of units that could be developed in the open space preservation plan under the Site Plan Review rules.

All residential projects shall be subject to the provisions, rules, regulation and procedures set forth in this Ordinance for Agricultural AG-1), Rural Residential (RR), and Residential 1 (R-1). The Planned Residential Development District shall apply to any residential projects of the zoning district in which the project is situated or located. Provided the development projects shall be subject to the requirements of the Site Plan Review process.

**Original Structure** - Earliest filed site plan for construction.

**Ornamental Fence** - A fence, which does not restrict visual access to or from the enclosing property by more than 50 percent (50%).

**Patio** - A level, landscaped, and/or surfaced area, also referred to as a terrace, directly adjacent to a principal building at or within twelve (12) inches of the finished grade and not covered by a permanent roof.

**Person** - Person shall include any individual, corporation, or partnership.

**Planned Unit Development (PUD)** - A form of development usually characterized by the



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flexible application of zoning district regulations and a unified site design for a number of housing units, clustering buildings, providing common open space, and a mix of building types and land uses. It permits the planning of a project and the calculation of densities over the entire development, rather than on an individual lot-by-lot basis. It also refers to a process, mainly revolving around site-plan review, in which the Township will have considerable involvement in determining the nature of the development.

**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 unenclosed 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 an integral roof with the principal building or structure to which it is attached.

**Portable Pool** – A small pool, without filtration device, usually constructed of canvas, plastic or rubber, temporary erected upon the ground, holding less than 350 gallons of water, and can be easily emptied, carried, and stored after each daily use.

**Private Road** - An area of land which is privately owned which provides vehicular access to more than one (1) lot and has not been dedicated to public use other than access by emergency and public safety vehicles and is maintained by private owners.

**Public Utility** - Any person, firm, corporation, municipal department, board or commission duly authorized to furnish and furnishing and under Federal, State or municipal regulations, to the public; electricity, gas, steam, communications, telegraph, transportation, or water.

**Purchase of Development Rights (PDR) Rights** - A program under Section 507 of The Michigan Zoning Enabling Act for the purchase of development rights.

**Recreational Vehicle** - A vehicular-type portable structure without permanent foundation that can be towed, hauled, or driven and primarily designed as a temporary living accommodation for recreational, camping, and travel use and including but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

### **Religious Land Use and Institutionalized Persons Act of 2000**

A. **General Rule** - No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly or institution:

1. Furthers a compelling governmental interest and
2. Is the least restrictive means of furthering that interest.

B. **Scope of Application** - Applies in any case which:

1. The substantial burden is imposed in a program or activity that receives Federal financial assistance, even if the burden results from a rule of general applicability; or
2. The substantial burden affects, or removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, even if the burden results from a rule of general applicability.



## Definitions and Illustrations of Terms

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The substantial burden is imposed in the implementation of a land use regulation or system of land use regulations, under which a government makes, or has in place formal or informal procedures or practices that permit the government to make, individualized assessments of the proposed uses for the property.

**Required Yard** - The aggregate of the front, side, and rear setbacks.

**Retaining Wall** - A structure constructed and erected between lands of different elevations to protect structures and/or prevent erosion, water runoff, etc. and shall be built no higher than reasonably necessary to accomplish the intended purpose.

**Right-of-Way** - A legal right of passage over real property typically associated with roads and railroads.

**Right to Farm Act** - A farm or farm operation shall not be found to be a public or private nuisance if the farm or farm operation conforms to generally accepted agricultural and management practices and if the farm or farm operation existed before a change in the land use or occupancy of land within one mile of the boundaries of the farm land. Michigan Right to Farm Act, 1981 PA 93.

**Roadside Stand** - A temporary operation established in accordance with local ordinance and operated in compliance with Act No. 92, the Michigan Food Law, where an individual farmer may transport and sell to the public fruits, vegetables or agricultural products.

### **Roadway Access**

A. **Access** - A way or means of approach to provide vehicular or pedestrian entrance or exit to a property from an abutting property or a public roadway.

B. **Access Connection** - Any driveway, street, road turnout or other means of providing for the movement of vehicles to or from the public road system or between abutting sites.

C. **Access Management** - The process of providing and managing reasonable access to land development while preserving the flow of traffic in terms of safety, capacity, and speed on the abutting roadway system.

D. **Access Management Plan** - A plan establishing the preferred location and design of access for properties along a roadway or the roadways in a community. It may be a freestanding document, or a part of a community master or comprehensive plan, or a part of a corridor management plan.

### **E. Access Point**

1. The connection of a driveway at the right-of-way line to a road.

2. A new road, driveway, shared access or service drive.

F. **Ingress** - Used to refer to traffic outlets from public roadways to private property or entrances to buildings or other facilities.

G. **Marginal Access Road** - A service roadway parallel to a feeder road/street; and which provides access to abutting properties and protection from through traffic.

**Self-Storage Facility** - A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods.

**Setback** - The minimum required horizontal distance between the building or structure and

## Definitions and Illustrations of Terms

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the front, side, and rear lot lines.

**Sexually Oriented Business** includes, but is not limited to, an adult bookstore, adult video store, adult cabaret, adult motion picture theater, sexual device shop, sexual encounter center, or an establishment that regularly features live performances characterized by the exposure of a specific anatomical area or by a specific sexual activity or in which persons appear in a state of nudity or semi nudity in the performance of their duties. However, sexually oriented business does not include a business solely because it shows, sells, or rents materials that may depict sex.

**Sign** - A name, identification, description, display, light, balloon, banner, flag or illustration which is affixed to, or painted, or otherwise located or set upon or in a building, structure or parcel of land which directs attention to an object, product, place, activity, person, institution, organization or business and which is visible from any public street, sidewalk, alley, park, public property or from other private property. The definition includes interior and exterior signs, which are directed at persons outside the premises of the sign owner, but not signs primarily directed at persons within the premises of the sign owners. The definition does not include goods for sale displayed in a business window. The following additional definitions are provided.

A. **Animated, Flashing, or Changing Message Sign** – Any sign, either inside or outside a building and which is visible from a public right-of-way, which includes action, motion, blinking, chasing, scrolling, animation effects, the optical illusion of action or motion, or color changes of all or any part of the sign facing; requires electrical energy or is set in motion by movement of the atmosphere or a sign made up of a series of sections that turn and stop to show two (2) or more pictures or messages in the copy area. (An Electronic Message Sign is one type of this sign).

B. **Billboard** - An outdoor sign advertising services or products, activities, persons, or events that are not made, produced, assembled, stored, distributed, leased, sold or conducted upon the premises upon which the billboard is located. The definition of billboard shall include the following types of billboards:

1. **Double-faced** - A billboard with two (2) parallel back-to-back faces, each facing in the opposite direction.
2. **V-Type** - A billboard with two (2) non-parallel back-to-back faces, each facing in the opposite direction.
3. **Tandem** - A billboard with two (2) faces, located side-by-side, each facing in the same direction.
4. **Stacked** - A billboard with two (2) faces, located one on top of the other, each facing in the same direction.

C. **Electronic Message Sign** – A sign capable of displaying words, symbols, figures, images, animated graphics and video, etc., that can be electronically or mechanically changed manually, or by remote or automatic means.

1. **Fade**: A mode of message transition on an electronic message sign accomplished by varying the light intensity, where the first message gradually and uniformly reduces in

## Definitions and Illustrations of Terms

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tensity to the point of not being legible and the subsequent message gradually and uniformly increases intensity to the point of legibility.

- 2. Dissolve:** A mode of message transition on an electronic message sign accomplished by varying the light intensity or pattern, where the first message gradually and uniformly appears to dissipate and lose legibility simultaneously with the gradual and uniform appearance and legibility of the second message.

**D. Electronic Display Screen:** A sign or a portion of a sign, that displays an electronic image or video, which may or may not include text. Electronic display screens include television, plasma, digital, flat, LED screens, video boards, holographic displays, or other technologies of a similar nature.

**E. Electronic Message Center:** A sign or portion of a sign that uses changing lights to form a message or messages in text form wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic process.

**F. Freestanding Sign -** A sign which is attached to or part of a completely self-supporting structure. The supporting structure shall be placed in or below the ground surface and not attached to any building or any other structure whether portable or stationary.

**G. Portable Sign –** Any sign not permanently attached or anchored to the ground or a building, not requiring a building permit for installation.

**H. Roof signs -** Any sign that projects above the top of the wall or beyond the end of the building.

**I. Temporary Sign -** A sign which is temporary in nature, easily movable, and not permanently attached to the ground or a building.

**J. Wall Sign -** Any sign that shall be affixed parallel to the wall or printed or painted on the wall of any building. For the purpose of this ordinance, any sign display surface that is affixed flat against the sloping surface of a mansard roof shall be considered a wall sign.

**K. Sign Surface -** That part of the sign upon, against, or through which the message is displayed or illustrated.

**L. Total Surface Area of the Sign -** The sum total of all exterior surfaces of the sign, computed in square feet. In the case of a broken sign (a sign with open spaces between the letters, figures, numbers or symbols) the total surface area shall be measured by multiplying the height of the individual letters or combination of letters by the distance between the outer edges of the two (2) outermost letters, figures, numbers or symbols.

**Sketch Plan -** A concept, informal map of a proposed subdivision or site plan of sufficient accuracy to be used for the purpose of discussion and classification.

**Spas/Tanning Salons -** Facility offering indoor tanning and/or physical fitness.

**Stable, Commercial -** A stable with a capacity of five (5) or more horses, mules or donkeys which are rented, hired, used or boarded on a commercial basis or for compensation.

**Stable, Hobby -** A stable with a capacity of four (4) or fewer horses, mules or donkeys where

## Definitions and Illustrations of Terms

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are used by the owners of the property.

**Story** - That portion of a building, included between the surface of any floor and the floor above it, or if there be no floor above it, then the space between the floor and the ceiling above it.

**Street** - The public or private thoroughfare which allows traffic circulation and provides principal means of access to abutting property.

**Structure** - Anything constructed or erected, the use of which requires a temporary or permanent location on the ground or is attached to something having a permanent location in, on, or below the ground except parking lots, driveways, sidewalks, and signs.

1. **Permanent Structure**– Anything artificially constructed, erected, or placed with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground, or constructed or placed below the surface of the ground, except fences, drives, paving, sidewalks, parking lots, and/or paved ramps.
2. **Temporary Structure** – A structure, with or without any foundation or footings, that is designed to be easily moved or removed.

**Swimming Pool** – A structure, either permanent or temporary, intended for swimming, recreational bathing or wading, constructed in-ground, above ground or on ground, meeting **one** or more of the following criteria:

1. The structure is capable of having a depth of two (2) feet or more at any point when filled to capacity.
2. The structure is designed for the attachment of a filtration device.
3. The structure is **not** designed for daily erection and removal.

**Telecommunication Facilities** -A telecommunication facility shall mean and include all structures and accessory facilities relating to the use of radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to radio towers, television towers, cellular towers, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), satellite dish facilities, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial radio service facilities, paging and similar services which are licensed and marketed to the general public, except preemption's as stated in the Federal Telecommunications Act of 1996. Not included in this definition are citizen band radio facilities, short wave receiving facilities, federally licensed amateur (ham) radio facilities, and government facilities that are subject to state or federal law or regulations which pre-empt municipal regulatory authority.

**Telephone Service Provider** - A telephone service provider shall include wireless, non-wireless, digital, and analog services where a customer or subscriber's lines are joined or connected to switching equipment of connecting customers or subscribers to each other.

**Telework Center** - Satellite work facility incorporating sufficient technology to permit employees to reduce their commute trip or to work closer to home. The goal of such centers is to reduce the distance traveled in a commute trip by at least half.

**Temporary Facilities** – A building or structure not meeting the definition for a Permanent

## Definitions and Illustrations of Terms

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Building or Structure, at which merchandise is sold (such as consumer and low impact fireworks), including the following: (a) Retail Stands, (b) Tents, (c) Canopies, (d) Membrane Structures.

**Terrace** - A level, landscaped, and/or surfaced area, also referred to as a patio, directly adjacent to a principal building at or within twelve (12) inches of the finished grade and not covered by a permanent roof.

**Undeveloped State** - A natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreation trail, picnic area; children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.

**Use** - The lawful purpose for which land or premises or a building thereon is designed, arranged, intended, or for which it is occupied, maintained, let or leased.

**Use, Legal Non-Conforming** - An existing use of land and structures, as of the effective date of this Ordinance, which does not conform to the uses specified as permitted in a District.

**Use, Illegal Non-Conforming** - An existing use of land and structure, created after the effective date of this Ordinance, and which does not conform to the uses specified as permitted in a District.

**USGS** - Denotes the United States Geological Survey, which is responsible for mapping and re-mapping of the continental United States and its territories.

**Variance** - A variance is a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance is authorized only for height, area and size of yards and open spaces and parking space; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning division or district or adjoining zoning division or districts.

**Vending** – The act of offering merchandise for sale from a fixed place not within a building. From a vehicle or from a fixed place in a tent, canopy or similar shelter, not including merchants offering merchandise for sale upon commercial premises permanently occupied by them; and the act of offering merchandise for immediate sale, or for sale by sample, description or otherwise for delivery or sale at a future time, by going door to door, house to house, person to person, or car to car; not including the act of offering merchandise for wholesale to retailers or for resale to manufactures for use in their process; also not including regular route delivery persons delivering products.

**Water Body** - Any natural or artificial collection of water, whether permanent or temporary.

**Watercraft** - Any device for the transportation of people or goods over water for the purpose of commerce or pleasure including but not limited to, boats, canoes, houseboats, yachts, rafts, or personal water craft (IE: jet skis).

**Waterfront Property** - See Lakefront Property.

## Definitions and Illustrations of Terms

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### **Yard**

- A. **Yard, Front** - An open, unoccupied space extending the full width of the lot between the front lot line and the nearest line of the principal building on the lot.
- B. **Yard, Rear** - An open, unoccupied space extending the full width of the lot between the rear line of the lot and the rear line of the principal building.
- C. **Yard, Side** - An open, unoccupied space on the same lot with the principal building, between the side line of the closest building and the adjacent side line.

Please see Section 2.3.3 for information on the application of yard regulations

**Wind Energy Facility:** A power generating facility consisting of one or more wind turbines under common ownership or operation control, and includes substations, MET towers, cables/wires, and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customers.

- A. **Ambient Noise:** Ambient is defined as the background noise in an area or environment being a composite of sounds from varying sources at varying distances.
- B. **Anemometer:** A device used to measure wind speed.
- C. **dB(A):** The sound pressure levels in decibels. Refers to the "a" weighted scale defined by ANSI, a method for weighting the frequency spectrum to mimic the human ear.
- D. **Decibel:** The unit of measure used to express the magnitude of sound pressure and sound intensity.
- E. **Decommissioning:** The process of terminating operation and completely removing a Wind Facility and all related buildings, structures, foundations, access roads, and equipment and restoration of the property to a condition that is reasonably close to the original property prior to construction.
- F. **Hub Height:** The distance measured from the ground level to the center of the turbine hub.
- G. **Meteorological Tower (met tower):** Includes the tower, base plate, anchors, guy wires, equipment housing, and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment for anemometers and vanes, data loggers, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
- H. **Modification:** Any change to the small wind energy system that materially alters the size, type or location of the small wind energy system. Like-kind replacements shall not be considered to be a modification.
- I. **Nacelle:** The encasement which houses all of the generating components, gear box, drive train, and other equipment.
- J. **Net Metering:** The difference between the electricity supplied to a customer over the electric distribution system and the electricity generated by the customer's small wind energy system that is fed back into the electric distribution system over a billing period and is a special metering and billing agreement between the utility company and the customer.
- K. **Occupied Building:** A residence, school, hospital, church, public library, business, or other building used for public gatherings.



## Definitions and Illustrations of Terms

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- L. **SCADA Tower (supervisory control and data acquisition system):** see MET Tower.
- M. **Small Tower-Mounted On-Site Wind Energy System:** A wind energy conversion system consisting of a wind turbine (horizontal or vertical axis), a tower, and associated control or conversion electronics which has a rated capacity of not more than one hundred (100) kW and is intended to primarily reduce on-site consumption of utility power.
- N. **Small Structure-Mounted Wind Energy System:** A wind energy conversion system consisting of a wind turbine (horizontal or vertical axis), and associated control or conversion electronics which has a rated capacity of not more than five (5) kW and is intended to primarily reduce on-site consumption of utility power.
- O. **Shadow Flicker:** Is an alternating change in light intensity which is caused by the moving blades of a wind turbine casting a shadow(s) on the ground and stationary objects such as windows of a dwelling.
- P. **Sound Pressure:** Average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.
- Q. **Sound Pressure Level:** The sound pressure mapped to a logarithmic scale and reported in decibels (dB).
- R. **Utility Grid /Large Wind Energy Facility System:** A Utility Grid wind energy system is designed and built to provide electricity to the electric utility grid.
- S. **Wind Site Assessment:** An assessment to determine the wind speeds at a specific site and the feasibility of using that site for the construction of a wind facility.
- T. **Wind Turbine Generator:** A wind energy conversion system which converts wind energy into electricity. All components for a system shall be designed and built by licensed and regulated engineering and manufacturing firms and facilities to ensure that the safety and structural integrity of the towers and generators meet the standards of the International Electrical Commission including a tower, pylon, or other structure, and all accessory facilities, upon which any, all, or some combination of the following are mounted:
  - 1. A wind vane, blade, or series of wind vanes or blades, or other devices mounted on a rotor for the purpose of converting wind into electrical or mechanical energy.
  - 2. A shaft, gear, belt, or coupling device used to connect the rotor to a generator, alternator, or other electrical energy-producing device.
  - 3. A generator, alternator, or other device used to convert the energy created by the rotation of the rotor into electrical energy.
- U. **Wind Turbine Generator Total Height:**
  - 1. **Horizontal Axis Wind Turbine Rotors:** The distance between the ground and the highest point of the wind turbine generator, plus the length by which the rotor wind vanes or blades mounted on a horizontal axis wind turbine rotor exceeds the height of a wind turbine generator.
  - 2. **Vertical Axis Wind Turbine:** The distance between the ground and the highest point of the wind turbine generator including the top of the blade in its vertical position.

**Zoning administrator** - The administrative official designated by the Township Board to administer and enforce the Zoning Ordinance.



## Definitions and Illustrations of Terms

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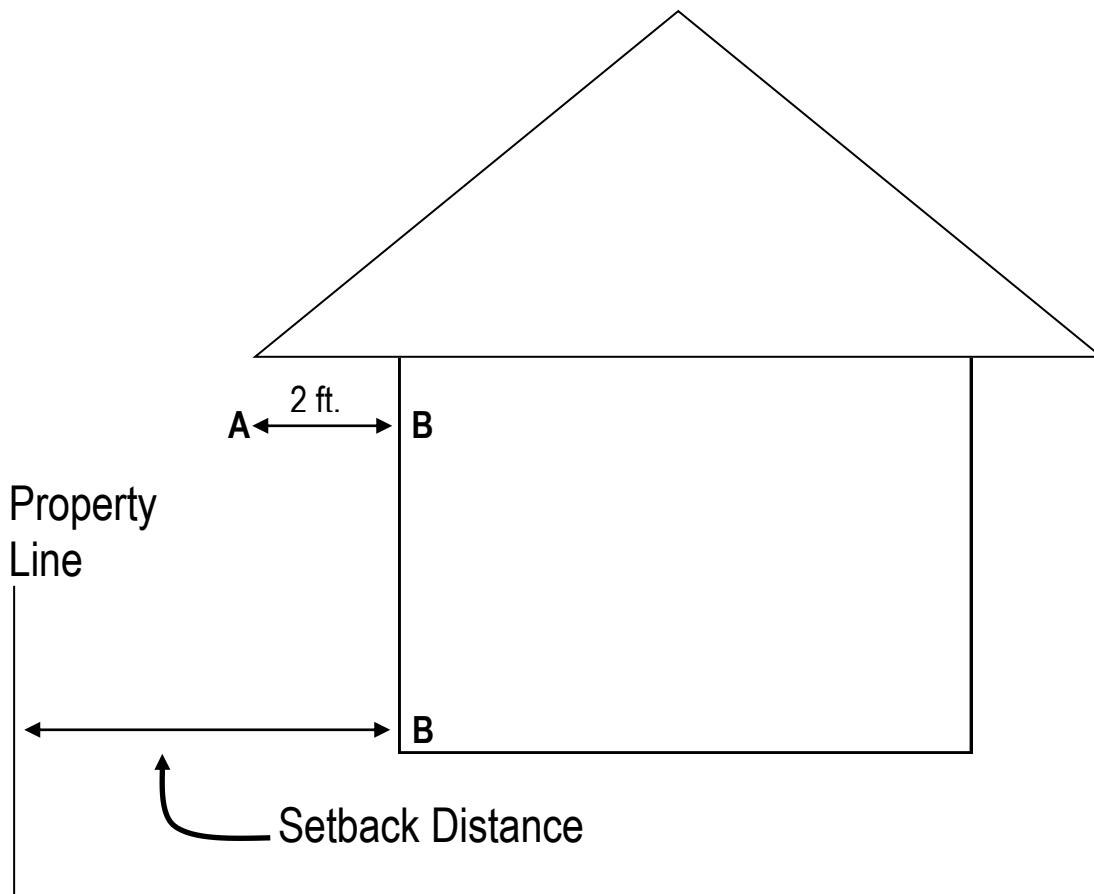
**Zoning Board of Appeals** - The body required to consider appeals from administrative zoning decisions and other zoning actions. The ZBA is authorized to make adjustments in how zoning standards are applied.

**Zoning Classification** - The name given to types of zones such as single family residential, rural residential, agricultural, regional shopping, neighborhood shopping, office, industrial, etc.

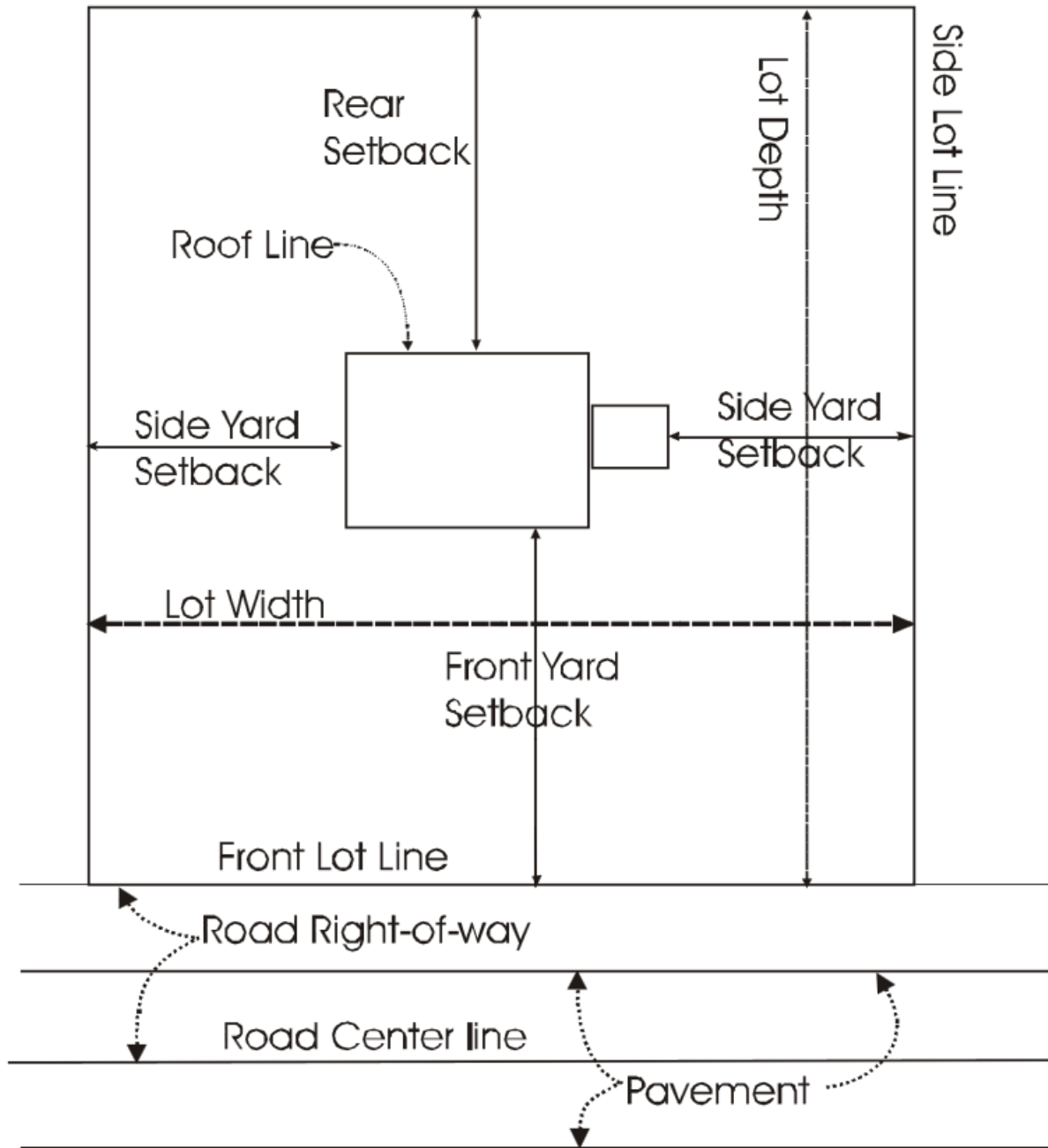
### Section 15.2 **Illustrations of Terms**

Illustrations of key zoning terms are provided on the following pages. In all cases, the specific definition as provided in Section 15.1 shall apply.

## Setback Distance Illustration



## Setbacks



## Definitions and Illustrations of Terms

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# Article 15

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