

300.000 - ZONING ORDINANCE Ord. No. 156 Adopted: November 1, 1976 Effective: January 1, 1977

An Ordinance to Provide for the establishment of zoning districts in the unincorporated portions of Comstock Township within which districts the use of land for agriculture, forestry, recreation, residence, industry, trade, soil conservation, water supply conservation and additional uses of land are encouraged, regulated or prohibited, and to divide unincorporated portions of Comstock Township into districts of a certain number, shape and area as may have been deemed best suited to carry out the provisions of 1943 PA 184, as amended; to adopt provisions designating or limiting the location, height, number of stories, and size of dwellings, buildings and structures that may hereafter be erected or altered, including tents and trailer coaches, and the specific uses for which dwellings, buildings and structures, including tents and trailer coaches may hereafter be erected or altered; to provide the area of yards, courts, and other open spaces, and the sanitary, safety and protective measures that shall be required for such dwellings, buildings and structures, including tents and trailer coaches; to provide for the maximum number of families which may be housed in buildings, dwellings and structures, including tents and trailer-coaches, hereafter erected or altered; to provide for penalties for violation of said ordinance and to repeal all ordinances or parts of ordinances in conflict herewith.

THE TOWNSHIP OF COMSTOCK, KALAMAZOO COUNTY, MICHIGAN ORDAINS:

ARTICLE 1.00

300.100 - TITLE, PURPOSE AND ENABLING AUTHORITY

300.101 - Title.

Sec. 1.01. This Ordinance shall be known and cited as the Comstock Township Zoning Ordinance.

300.102 - Purpose.

Sec. 1.02. An Ordinance to establish zoning districts within the unincorporated portions of the Township of Comstock, Kalamazoo County, Michigan, to regulate and encourage or prohibit certain uses of the land therein; and to provide for the administration, enforcement, and penalties for the violation thereof.

300.103 - Enabling authority.

Sec. 1.03. This Ordinance is adopted pursuant to Act 110 of the Public Acts of 2006 of the State of Michigan, as it may from time to time hereafter be amended.

(Amended: Ord. No. 430, § II, 6-19-06)

300.104 - Enactment.

Sec. 1.04. The provisions of this Ordinance are hereby declared to be immediately necessary for the preservation of the public peace, health, safety, and welfare of the people of the Township of Comstock, Kalamazoo County, Michigan, and are hereby ordered to be given immediate effect from and after the date of its passage by the Township Board and subsequent publication as required by law.

ARTICLE 2.00

300.200 - DEFINITIONS

300.201 - [Definitions generally.]

Sec. 2.01. For the purpose of enforcing the provisions of this Ordinance, certain terms and words used herein are defined as follows:

Sec. 2.01.1. *Accessory building*: A supplementary building or a portion of a building the use of which is incidental to that of the main building and which, unless expressly permitted otherwise in this Ordinance, is located on the same lot as the main building.

Sec. 2.01.1a. *Adult day care center*: A facility, other than a private residence, in which adults are given care and supervision for periods of less than 24 hours a day. For purposes of this Ordinance, this term shall not include facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

Sec. 2.01.1b. *Adult day care family home*: A private home in which 1 but fewer than 7 adults are received for care and supervision for compensation for periods of less than 24 hours a day, except adults related to an adult member of the family by blood, marriage or adoption. For purposes of this Ordinance, this term shall not include facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

Sec. 2.01.1c. *Adult day care group home*: A private home in which more than 6 but not more than 12 adults are given care and supervision for compensation for periods of less than 24 hours a day, except adults related to an adult member of the family by blood, marriage or adoption. For purposes of this Ordinance, this term shall not include facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

Sec. 2.01.1d. *Adult foster care family home*: A structure constructed for residential purposes that is licensed by the state under the Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, or 1973 PA 116, MCL 722.111 to 722.128 and provides residential services for six or fewer people under 24-hour supervision and care. For purposes of this Ordinance, this term shall not include facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

Sec. 2.01.1e. *Adult foster care small group home*: A structure constructed for residential purposes that is licensed by the state under the Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, or 1978 PA 116, MCL 722.111 to 722.128 and provides residential services for between seven and twelve persons under 24-hour supervision and care. For purposes of this Ordinance, this term shall not include adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

Sec. 2.01.2. *Agriculture*: The use of land for tilling of the soil, the raising of field or tree crops or animal husbandry, as a source of income.

Sec. 2.01.3. *Alley*: A public way not more than thirty (30) feet in width and which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Sec. 2.01.4. *Alterations*: Any change in the location or use of a building, or any change or modification in the supporting members of a building such as bearing walls, columns, beams, hoists, girders and similar components, or any structural changes in the roof or exterior walls, or any change in the type of occupancy, the consummated act of which may also be referred to herein as "altered" or "reconstructed".

Sec. 2.01.5. *Amusement park*: A parcel of land used for commercial use relative to swimming, boating, dancing, skating, merry-go-rounds, roller coasters, arcades, fun houses, carnivals or other similar uses and their related facilities, but not including shooting galleries, race tracks, zoos, stables, riding academies.

Sec. 2.01.6. *Appeal*: An entreaty or demand for a hearing or review of facts and/or actions in connection with the public enforcement of this Ordinance.

Sec. 2.01.6a. *Automobile repair facility*: A building or structure used as a place of business which engages in the business of performing or employing persons who perform major repairs on motor vehicles, including automobiles, tractors, trucks and other modes of conveyance. An automobile repair facility may also allow for the retail sale of fuel (stored only in underground tanks), but only as an incidental use to such business. The term "major repairs" shall include bumping, painting, refinishing, steam cleaning,

rust-proofing, repairs on automatic and manual transmissions, rear axle work, engine repairs, and front end repairs. An automobile repair facility may also engage in the sale of used cars, new cars, used trucks, new trucks, motorcycles, and other modes of conveyance.

Sec. 2.01.7. *Automobile service station*: One or more buildings or structures designed or used for the retail sale of fuel, lubricants, air, water, and other operating commodities for motor vehicles, aircraft or boats, and including the customary space and facilities for the installation of such commodities on or in such vehicles. Such buildings or structures may include space for facilities for the storage, servicing and minor repairs of such motor vehicles. The term "minor repairs" shall be deemed to include only such services as the repair of brakes, engine tune-ups, repair of electrical systems, oil changes and lubrications, and such other minor repairs as are determined by the Board of Appeals to be consistent with the above in terms of impact on the surrounding area. An automobile service station may include convenience store, restaurant and/or automobile wash operations. An automobile service station shall not include an automobile repair facility as defined herein.

Sec. 2.01.8. *Automobile wash establishment*: A building, or portion thereof, the primary purpose of which is that of washing vehicles.

Sec. 2.01.9. *Basement*: That portion of a building wholly or partly below grade, but so constructed that the vertical distance from the average grade to the basement floor is greater than the vertical distance from the average grade to the basement ceiling. A basement shall not be included as a story for height measurement, except as provided in Section 2.01.85b.

Sec. 2.01.10. *Bedroom*: A room in a dwelling unit used for or intended to be used solely for sleeping purposes by human beings.

Sec. 2.01.11. *Repealed*.

Sec. 2.01.12. *Block*: The property abutting one (1) side of a street and lying between the two (2) nearest intersection streets, crossing or terminating; or between the nearest such street and railroad right-of-way; unsubdivided acreage, lake, river, or live stream; or between any of the foregoing and any other barrier to the continuity of development.

Sec. 2.01.13. *Boarding house*: A dwelling where meals, or lodging and meals, are provided for compensation to two (2) or more persons by prearrangement for definite periods of not less than one (1) week. A boarding house is to be distinguished as other than a hotel, motel, convalescent home or nursing home.

Sec. 2.01.13.a. *Boarding kennel*: A kennel which rents space for the maintenance of another person's dog. This definition shall not include any keeping of dogs that is accessory and incidental to the operation of a veterinary hospital or clinic. (See also "kennel", Section 2.01.49).

Sec. 2.01.14. *Board of Appeals*: The term Board of Appeals shall mean the Comstock Township Zoning Board of Appeals.

Sec. 2.01.14.a. *Boat house*: An accessory building located immediately adjacent to a body of navigable water and used for the primary purpose of storing one or more boats and/or boating accessories.

Sec. 2.01.14.b. *Brewery*: A facility operated by a brewer duly licensed by the State of Michigan which produces at that facility 30,000 barrels of beer or more per year for sale to licensed wholesalers.

Sec. 2.01.14.c. *Brewpub*: A facility duly licensed by the State of Michigan as a brewpub to manufacture and brew not more than 5,000 barrels of beer per calendar year in Michigan and sell at the licensed premises the beer produced for consumption on or off the licensed brewery premises.

Sec. 2.01.15. *Building*: An independent structure having a roof supported by columns or walls, intended and/or used for the shelter or enclosure of persons or chattels. When any portion thereof is completely separated from every other part by division walls from the ground up, and without openings, each portion of such building shall be deemed a separate building. A building includes a structure erected on site, a mobile home or mobile structure, and a premanufactured or precut structure situated above or below ground.

Sec. 2.01.16. *Building Inspector*: This term shall refer to the Building Inspector of Comstock Township, or his authorized representative.

Sec. 2.01.17. *Building setback line*: The line which pertains to and defines those minimum (building) setback lines which are established parallel to the front street or right-of-way line and within which setback area no part of a building shall project or be located, except as otherwise provided by this Ordinance. Such line when adjacent to a building is normally formed by the junction of the outer projection of the building or enclosure wall with the finish grade or surface or the adjoining ground.

Sec. 2.01.18. *Building, main or principal*: A building in which is conducted the principal use of the lot upon which it is situated.

Sec. 2.01.19. *Building permits*: The written authority issued by the Building Inspector of the Township permitting the construction, removal, moving, alteration, or use of a building in conformity with the provisions of this Ordinance.

Sec. 2.01.20. *Canal*: An artificially constructed or excavated channel intended to connect two (2) bodies of water; used for navigation purposes or boat docks; and as a means of ingress or egress to other bodies of water; or for building lots on the banks thereof; shall be known as a canal and must have a minimum width of twenty-five (25) feet at the waterline and a minimum depth of water at the center line of ten (10) feet. All banks must be at a minimum angle of forty-five (45) degrees and completely sodden to prevent wash or erosion thereof.

Sec. 2.01.20a. *Child care facility*: A facility for the care of children under 18 years of age, as licensed and/or registered and regulated by the State under Act No. 116 of the Public Acts of 1973 and the associated standards and rules promulgated by the State Department of Social Services. Such organizations shall be further defined as follows:

- (a) "Child care center" means a facility, other than a private residence, receiving one or more preschool or school age children for group care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day.

The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. "Child care center" does not include (i) a Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not greater than 3 hours per day for an indefinite period, or not greater than 8 hours per day for a period not to exceed 4 weeks during a 12-month period; or (ii) a facility operated by a religious organization where children are cared for not greater than 3 hours while persons responsible for the children are attending religious services.

- (b) "Family child care home" means a private home which is the bona fide private residence of the operator of the family child care home and in which one or more, but less than seven, 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 includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year.

- (c) "Group child care home" means a private home which is the bona fide private residence of the operator of the group child care home and in which more than six but not more than twelve 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. It includes a home that gives care to an unrelated child for more than 4 weeks during a calendar year.

Sec. 2.01.20b. *Cidery*: A processing facility for the commercial production of agricultural products and other similar materials to produce cider (including cider as an alcoholic beverage) that is licensed by the State of Michigan. Processing include[s] wholesale sales, crushing, fermenting, blending, aging, storage, packaging, warehousing and administrative office areas.

Sec. 2.01.21. *Clinic*: A building or group of buildings where human patients are admitted, but not lodged overnight, for examination and treatment by more than one (1) professional, such as a physician, dentist, or the like.

Sec. 2.01.22. *Commercial use*: The use of property in connection with the purchase, sale, barter, display, or exchange of goods, ware, merchandise or personal services or the maintenance of offices or recreational or amusement enterprises, or garage, basement sales conducted on residential premises for more than six (6) calendar days during a given one-year period.

Sec. 2.01.23. *Commission*: This term, and the term "Planning Commission", shall mean the Comstock Township Planning Commission.

Sec. 2.01.24. *Convalescent or nursing home*: A convalescent home or nursing home is a home for the care of children or the aged or the infirm, or a place of rest for those suffering serious bodily disorders, wherein a person or persons are cared for. Said home shall also conform to, and qualify for license under, applicable State laws.

Sec. 2.01.25. *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.

Sec. 2.01.25a. *Distillery*: A processing facility for the commercial production of agricultural products and other similar materials to produce alcoholic beverages that is licensed by the State of Michigan. Processing include[s] wholesale sales, crushing, fermenting, blending, aging, storage, packaging, warehousing and administrative office areas.

Sec. 2.01.26. *Drive in/Drive Thru establishment*: A business establishment so developed that its principal retail or service character is dependent upon providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in, or momentarily stepped away from, their motor vehicle. See distinction below for those drive-in/drive-thru establishments that serve food, frozen desserts or beverages.

a. *Drive-in or Drive-thru restaurant*: A restaurant in which principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design, method of operation, or any portion of whose business includes one of the following characteristics:

- (1) *Drive-in*: Foods, frozen desserts, or beverages are served directly to the customer in a motor vehicle either by a car-hop or by other means which eliminates the need for the customer to exit the motor vehicle.
- (2) *Drive-thru*: Foods, frozen desserts, or beverages are served directly to the customer within a motor vehicle to be consumed off the premises.

Sec. 2.01.27. *Dump*: A lot, parcel, or tract of land maintained privately or publicly for the dumping thereon of scrap wood, metal, fabric, paper and other waste materials, refuse or noxious matter.

Sec. 2.01.28. *Dwelling*. A house or building, or portion thereof, which is occupied wholly as the home, residence or sleeping place by one or more human beings, either permanently or transiently. In case of mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for the purpose of this Ordinance and shall comply with the provisions hereof relative to dwellings. Garage space, whether in an attached or detached garage, shall not be deemed part of a dwelling for area requirement. A dwelling shall comply with the following standards:

- (1) It complies with the minimum square footage requirements of this ordinance for the zone in which it is located.
- (2) It has a core area of living space of at least 20 feet by 20 feet in size and complies in all respects with the Township Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Township Building Code, then and in that event such federal or state standard or regulation shall apply.
- (3) It is firmly attached to a permanent foundation constructed on the site in accordance with the Township Building Code and the area between the grade elevation of the lot and the structure shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be

installed pursuant to the manufacturer's setup instructions, shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission, and shall contain a perimeter wall as required in this subsection.

- (4) In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis.
- (5) The dwelling is connected to a public sewer and water supply or to such private facilities approved by the local health department.
- (6) The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.
- (7) The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches on all sides, or alternatively with window sills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in either the rear or side of the dwelling; and contains permanently attached steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same. The compatibility of design and appearance shall be determined in the first instance by the Township Zoning Inspector upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of 15 days from the receipt of notice of said Zoning Inspector's decision. Any determination of compatibility shall be based upon the standards set forth in this definition of "dwelling" as well as the character, design and appearance of one or more residential dwellings located outside of mobile home parks within 2,000 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20% of the lots situated within said area; or, where said area is not so developed, by the character, design and appearance of one or more residential dwellings located outside of mobile home parks throughout the Township. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
- (8) The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
- (9) The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and 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. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- (10) The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the ordinance of the Township pertaining to such parks.
- (11) All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable Township Building Code provisions and requirements.
  - a. *Dwelling unit:* A dwelling unit 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 recreational vehicle, automobile chassis, tent or other similar portable structures (other than mobile homes) be

considered a dwelling in single-family, two-family, or multiple-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.

- b. *Dwelling, one-family:* A detached building occupied by one (1) family and so designed and arranged as to provide living, cooking and kitchen accommodations for one (1) family only. Also known as a single-family dwelling.
- c. *Dwelling, two-family:* A detached building, designed for or occupied by two (2) families living independently of each other. Also known as a duplex dwelling.
- d. *Dwelling, multiple:* A multiple dwelling is a building used for and as a residence for three (3) or more families living independently of each other and each having their own cooking facilities therein, including apartment houses, townhouses, and apartment hotels, but not including mobile homes.
- e. *Efficiency unit:* An efficiency unit is a dwelling unit consisting of one (1) room, exclusive of bathroom, kitchen, hallway, closets, or dining alcove directly off the principal room.
- f. *Accessory dwelling unit:* An accessory dwelling unit (ADU) is an attached or detached, self-contained dwelling unit located on the same premises as an existing single-family residence.

Sec. 2.01.29. *Erected:* Includes built, constructed, reconstructed, moved upon, or any physical operations on the premises, required for the building. Excavations, fill, drainage and the like shall be considered a part of erection.

Sec. 2.01.30. *Essential services:* The term "essential services" means the erection, construction, alteration or maintenance by public utilities or Comstock Township departments or commissions, of underground or overhead gas, electrical, steam or water transmissions or distribution systems, collections, communication, supply cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, telephone exchange and/or repeater buildings, electric sub-stations and sub-station buildings, gas regulator stations and regulator buildings and other similar equipment and accessories in connection therewith (but not including any buildings except those expressly referred to herein), reasonably necessary for the furnishing of adequate service by such public utilities or Comstock Township departments or commissions or for the public health or safety or general welfare.

Sec. 2.01.30.a. *Event barn:* A barn used as a venue for gatherings such as weddings, private parties, meetings and similar events.

Sec. 2.01.31. *Family:*

- a. An individual or group of two or more persons related by blood, marriage or adoption, including those related as foster children and servants, together with not more than one additional unrelated person, who are domiciled together as a single, domestic, non-profit 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 nontransient domestic character and who are cooking and living as a single, non-profit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, 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.

Sec. 2.01.32. *Farm:* All of the contiguous neighboring or associated land operated as a single unit on which bona fide agriculture is carried on directly by the owner-operator, manager or tenant farmer, by his own labor or with the assistance of members of his household or hired employees, provided, however, that land to be considered a farm hereunder shall include a continuous parcel of five (5) acres or more in area; provided further, farms may be considered as including establishments operated as bona fide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms and apiaries. However, establishments keeping or operating fur bearing animals, riding or boarding stables, commercial dog kennels, game fish hatcheries, auction yards or stock yards, stone quarries or gravel and/or sand pits, slaughter houses, fertilizer works or operations, rendering plants or sanitary landfills shall not be considered a farm for the purposes of the Ordinance.

Sec. 2.01.33. *Farm buildings:* Any building or structure other than a dwelling, moved upon, maintained, used or built on a farm which is essential and customarily used on farms of that type for the pursuit of their agricultural activities.

Sec. 2.01.34. *Filling*: Shall mean the depositing or dumping of any matter onto or into the ground, except common household gardening and general farm care.

Sec. 2.01.35. *Filling station*: A building(s) designed or used for the retail sale of fuel, lubricants, air, water and other minor operating commodities for motor vehicles, and including the customary space and facilities for the installation of such commodities on or in such vehicles. A filling station may include convenience store, restaurant and/or automobile wash operations. A filling station shall not include an automobile service station or automobile repair facility as defined herein.

Sec. 2.01.36. *Floor area*:

- a. *Floor area, gross*: 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 center line of walls separating two (2) buildings. The "floor area" of a building which is what this normally is referred to as, shall include the basement floor area when more than one-half (½) of the basement height is above the established curb level or finished lot grade, whichever is higher (see Basement definition). Any space devoted to off-street parking or loading shall not be included in "floor area". Areas of basements, utility rooms, breezeways, unfinished attics, porches (enclosed or unenclosed) or attached garages are not included.
- b. *Floor area, usable*: The measurement of usable floor area shall include that portion of floor area, measured from the interior face of the exterior walls, used for or intended to be used for services to the public or customers, patrons, clients, or patients; including areas occupied by fixtures or equipment used for display or sale of goods or merchandise, but not including areas used or intended to be used for storage of merchandise, utility or mechanical equipment rooms, or sanitary facilities. In the case of a half story, the usable floor area shall be considered to be only that portion having a clear height above it of four (4) feet or more. In the case of residential units in a PRD (Article 22.00), the floor area includes such areas as hallways, lobbies, stairways, elevator shafts, enclosed exterior balconies, and any other areas used for residential dwelling purposes, but not including patios, garages, carports or any areas used for commercial or other non-residential purposes.
- c. *Floor area ratio (FAR)*: The ratio between the maximum amount of floor area permitted on all floors in a building or group of buildings and the total lot area or total site area. The total lot area is the gross residential site area as defined in Section 2.01.56. For example, a FAR of 2.0 would allow a maximum floor area equal to twice the lot area (a two-story building covering the entire lot or a four-story building covering half a lot). A FAR of 0.5 would allow a maximum floor area equaling one-half (½) the lot area (on a two-story building covering one-fourth (¼) of the lot).

Sec. 2.01.37. *Food*: For purposes of this Ordinance, the word "food" used in connection with restaurant facilities shall include frozen desserts and non-alcoholic beverages.

Sec. 2.01.38. *Garage*:

- a. *Garage, community*: A community garage is a space or structure or series of structures for the storage of motor vehicles having no public shop or service operated in connection therewith, for the use of two (2) or more owners or occupants of property in the vicinity.
- b. *Garage, private*: A space or structure suitable for the storage of motor vehicles having no public shop or service in connection therewith, for the use solely of the owner or occupancy of the principle building on a lot, or of his family or domestic employees, and with a maximum capacity not to exceed ART. 4 Section 4.02.11. This shall also be construed to permit the storage on any one lot, for the occupants thereof, of not more than one (1) commercial vehicle with a rated capacity of one (1) ton or less.
- c. *Garage, public*: A space or structure other than a private garage for the storage, care, repair or refinishing of motor vehicles; provided, however, that a structure or room used solely for the display and sale of such vehicles in which they are not operated under their own power, and in connection with which there is no repair, maintenance, or refinishing service or storage of vehicles other than those displayed, shall not be considered as a public garage for the purpose of this Ordinance.



Sec. 2.01.39. *Grade*: The building grade shall, in the case of fairly level ground conditions, be the level of the ground adjacent to the walls. For substantially unlevel ground conditions, the grade shall be the average elevation of the ground adjacent to the walls.

Sec. 2.01.40. *Reserved for future use*.

Sec. 2.01.40.a. *Hazardous substance*:

- (i) Any substance that the Michigan Department of Environmental Quality has demonstrated, on a case by case basis, poses an unacceptable risk to the public health, safety, or welfare, or the environment, having considered the fate of the material, dose response, toxicity, or adverse impact on natural resources.
- (ii) Hazardous substance as defined in the comprehensive environmental response, compensation, and liability act of 1980, Public Law 96-520, 94 Stat. 2767.
- (iii) Hazardous waste as defined in part III of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994 as amended; MCL 324.11101 et. seq.
- (iv) Petroleum as described in part 213 of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994 as amended; MCL 324.21301 et. seq.

Sec. 2.01.40.b. *Heavy equipment storage yard*: An area used primarily for the overnight or longer parking and/or storage of semi-tractor trucks and trailers and/or non-agricultural heavy equipment (e.g., bulldozers, cranes, backhoes, forklifts, "cherry-picker" trucks, dump trucks, graders and similar types of equipment). This term includes, but is not limited to, "heavy equipment contractor's equipment yards" and "truck terminals".

Sec. 2.01.41. *Height, building*: The vertical distance measured from the grade of the building to the highest point of the roof for flat roofs; to the deck line for mansard roofs; and to the mean height level (between eaves and ridge) for gable, hip and gambrel roofs. Where a building is located upon a terrace, the height may be measured from the average ground level of the terrace at the building wall.

Sec. 2.01.42. *Highway*: A public thoroughfare or street, except alleys, but including Federal, State and County roads and those appearing upon plats recorded in the office of the Register of Deeds for Kalamazoo County, Michigan.

Sec. 2.01.43. *Home occupation*: Any full or part-time occupation customarily conducted entirely within a dwelling by the inhabitants thereof complying with the following conditions and limitations:

- a. It is conducted entirely within the dwelling or attached garage.
- b. It does not involve employees other than persons having their principal residence in the dwelling.
- c. It is clearly incidental and secondary to the principal use of the dwelling for dwelling purposes and does not change the character thereof.
- d. It does not endanger the health, safety, and welfare of any other persons residing in that area by reasons of noise, noxious odors, unsanitary or unsightly conditions, excessive traffic, fire hazard or the like, involved in or resulting from such activity.
- e. No article or service is sold or offered for sale on the premises except as is produced on the premises by the home occupation or is clearly incidental and directly related to the principal activity constituting the home occupation.
- f. It shall not require internal or external alterations or construction features, equipment, machinery, outdoor storage, or signs not customary in residential areas.
- g. It may have one (1) non-illuminated nameplate, not more than two (2) square feet in area, which shall be attached to the building and contain only the name and occupation of the resident of the premises.
- h. The following shall not be deemed home occupations: medical clinics or offices, hospitals, nurseries, child care facilities, barber shops and beauty parlors (except barber shops and beauty parlors limited to only one operator provided there is sufficient off-street parking to accommodate peak parking demands as determined by the Planning

Commission), tea rooms, veterinarian clinics or offices, tourist homes, kennels, and millinery shops, and other occupations determined by the Planning Commission to be similar to the above.

- i. An occupation that meets all of the criteria for a home occupation set forth above (except subsection "g"), that does not have a sign, and that does not involve any physical presence at the dwelling by customers or by business associates not residing in the dwelling shall be allowed as a permitted accessory use and shall not be deemed a home occupation requiring a special exception use permit.

Sec. 2.01.44. *Hospitals*: A building, structure or institution in which sick or injured persons, primarily inpatients, are given medical or surgical treatment and operating under license by the Health Department of the State of Michigan, excepting those institutions whose primary function is the care of the feebleminded or mentally ill.

Sec. 2.01.45. *Hotel*: A building occupied as more or less temporary abiding place for individuals, who are lodged with or without meals served in rooms occupied singly for hire, in which provisions are not made for cooking on any individual plan and in which there are more than ten (10) sleeping rooms.

Sec. 2.01.46. *Industrial park*: A parcel of land to be used for those permitted uses in an industrial district and designed as a planned development or subdivision.

Sec. 2.01.47. *Junk*: For the purpose of this Ordinance, the term junk shall mean any motor vehicles, machinery, appliances, product, merchandise with parts missing, or scrap metals or other scrap materials that are damaged, deteriorated, or are in a condition which cannot be used for the purpose for which the product was manufactured.

Sec. 2.01.48. *Junk yard*: For the purpose of this Ordinance, junk yard shall mean any place where the storing, dismantling, wrecking, and disposition of junk is carried on, but does not include uses established entirely within enclosed buildings in conformance with all other provisions of the Zoning Ordinance. The term includes automobile wrecking yards and salvage areas and any area of more than two hundred (200) square feet for the storage, keeping or abandonment of junk and scrap metals.

Sec. 2.01.49. *Kennel*: Any lot or premises on which more than three dogs aged six months or older are kept. This definition shall not include any keeping of dogs that is accessory and incidental to the operation of a veterinary hospital or clinic. (See also "Boarding Kennel", Section 2.01.13.a)

Sec. 2.01.50. Repealed by Ordinance #264, March 7, 1988.

Sec. 2.01.51. *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 or unloading merchandise or materials.

Sec. 2.01.52. *Lot*: A lot is a piece or parcel of land occupied or intended to be occupied by a principal building or group of buildings and any accessory buildings or by any other use or activity permitted thereon and including the open spaces and yards required under this Ordinance, and having its frontage upon a public street or road either dedicated to the public or designated on a recorded subdivision plat. A lot may or may not be specifically designated as such on public records.

Provided that the owner of any number of contiguous lots may have as many of said contiguous lots considered as a single lot for the purpose of this Ordinance as he so elects, and in such case the outside perimeter of said group of lots shall constitute the front, rear, and side lot lines thereof. This latter parcel is then often referred to as a "zoning lot".

- a. *Lot, depth*: The depth of a lot is the mean horizontal distance from center of the front street line to the center of the rear lot line. In the case of a lakefront lot, it is from the lake frontage line to the street frontage line. In the case of an acreage parcel, it is from the front right-of-way line to the rear lot line.
- b. *Lot, double frontage*: A lot other than a corner lot having frontage on two (2) more or less parallel streets. In the case of a row of double frontage lots, one (1) street will be designated as the front street for all lots in the plat and in the request for a zoning compliance permit. If there are existing buildings in the same block fronting on one or both of the streets, the required minimum front yard setback shall be observed on those streets where buildings presently front.

- c. *Lot, interior:* An interior lot is a lot other than a corner lot with only one (1) lotline fronting on a street.
- d. *Lot, lake:* A lot having frontage directly upon a lake, natural or man-made, river, pond, or other artificial impoundment of water. The portion adjacent to the water shall be designated the lake frontage of the lot, and the opposite side shall be designated the street frontage of the lot.
- e. *Lot, width:* The mean horizontal distance between the side property lines as measured at right angles to the said side lines of the lot. Where said side lot lines are not parallel, the lot width shall be the average horizontal distance between the side lines.

Sec. 2.01.53. *Lot lines:* Any line dividing one (1) from another or from the right-of-way, and thus constitute property lines bounding a lot.

- a. *Lot line, front:* In the case of an interior lot abutting on one (1) public or private street, the front lot line shall mean the line separating the lot from such street right-of-way. In the case of a corner or double frontage lot, the front lot line shall be that line separating said lot from that street which is designated as the front street in the plat and/or in the request for a zoning compliance permit. (See Double Frontage Lot, Section 2.01.52b and Lakefront Lot, Section 2.01.52d.)
- b. *Lot line, rear:* The rear lot line is that boundary which is opposite and most distant from the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be that assumed line parallel to the front lot line not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot. In any case, when this definition does not apply, the Planning Commission shall designate the rear lot line. (See Double Frontage Lot, Section 2.01.52b and Lakefront Lot, Section 2.01.52d.)
- c. *Lot line, side:* Any lot boundary line not a front lot line or a rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

Sec. 2.01.54. *Lot of record:* A lot of record is a lot the dimension and configuration of which are shown on a map recorded in the office of the Register of Deeds for Kalamazoo County, or a lot or parcel described by metes and bounds, the accuracy of which is attested to by a Professional Engineer or Land Surveyor (so registered and licensed in the State of Michigan) and likewise so recorded and on file with the County.

Sec. 2.01.55. *Lot area:* The total horizontal area within the boundaries of a lot, not to include public street right-of-way.

Sec. 2.01.56. [Repealed by Ordinance No. 416, adopted August 16, 2004.]

Sec. 2.01.57. *Lot, corner.* A lot where the interior angle of two (2) adjacent sides at the intersection of two (2) streets is less than one hundred and thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this Ordinance if the arc is of less radius than one hundred and fifty (150) feet and the tangents to the curve, at the two (2) points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than one hundred and thirty-five (135) degrees.

Sec. 2.01.57.a. *Micro brewery.* A facility operated by a brewer duly licensed by the State of Michigan as a micro brewer which produces at that facility less than 30,000 barrels of beer per calendar year and sells at that facility the beer produced to consumers for consumption on or off the licensed brewery premises.

Sec. 2.01.57.b. *Mini-storage facility.* A facility with one or more completely self-enclosed buildings containing separate and individualized units rented or leased solely for the storage of personal property.

Sec. 2.01.58. *Mobile home.* A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. Mobile home does not include a recreational vehicle.

Sec. 2.01.59. *Mobile home park*: A parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a travel trailer park.

Sec. 2.01.60. *Mobile home site*. For the purpose of this Ordinance is a plot of ground within a mobile home park designed to accommodate and support one (1) mobile home. It is not the same as a building lot.

Sec. 2.01.61. *Motor home*. A motorized vehicular unit primarily designed for travel and/or recreational usage, which may also contain facilities for overnight lodging. This term does not apply to mobile homes.

Sec. 2.01.62. *Motor courts motels*. A building or a group of buildings in which overnight lodging is provided and offered to the public for compensation and catering primarily to the public traveling by motor vehicles.

Sec. 2.01.63. *Municipal park*. A parcel of land that is used as a park and is operated under the supervision of the Township Board.

Sec. 2.01.64. *Nonconforming use or building*. Nonconforming Use: A nonconforming use is a use which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereto, or any prior Ordinance, and that does not conform to the use regulations of the zoning district in which it is located. Nonconforming Building: A nonconforming building is a building or portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto, or any prior Ordinance, and which does not conform to the provisions (e.g., setbacks, height, lot coverage, parking) of this Ordinance in the zoning district in which it is located.

Sec. 2.01.65. *Occupancy load*: The number of individuals normally occupying the building or part thereof, or for which the existing facilities have been designed.

Sec. 2.01.66. *Occupied*: The word "occupied" includes the terms arranged, designed, built, altered, converted to, rented, leased, or intended to be inhabited; not necessarily for dwelling purposes.

Sec. 2.01.67. *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 access and egress plus on-site storage space for at least two (2) vehicles.

Sec. 2.01.68. *Open air business uses*. Open air business uses: Open air business uses shall include the following business uses (compare to temporary outdoor sales and service, Section 4.16)

- a. Retail sale of trees (other than pre-cut Christmas trees), shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.
- b. Retail sale of fruit and vegetables other than at a roadside stand or as a temporary outdoor sales and service use.
- c. Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park and/or similar recreation uses.
- d. Bicycle, utility truck or trailer, motor vehicle, boats or home equipment sale, rental or repair services.
- e. Outdoor display and sale of garages, swimming pools, motor homes, mobile homes, snowmobiles, farm implements, and similar products.

This term shall not include temporary, short-term (i.e., four weeks or less per calendar year per organization at a given site) outdoor fund-raising activities conducted by or on behalf of a non-profit tax exempt charitable, religious, fraternal or educational organization (1) at or in the vicinity of the entrance or exit to a building of a lawful business establishment or (2) in the case of a car wash fund-raising activity only, in the parking lot of a lawful business establishment. Such fund-raising activities shall be considered a permitted accessory use, provided such activity is not located in a manner that creates a traffic hazard off-site or safety concern on-site.

Sec. 2.01.69. *Parking space*: An area for each automobile or motor vehicle, such space being exclusive of necessary drives, aisles, entrances, or exits, and being fully accessible for the storage or parking of self-propelled vehicles.

Sec. 2.01.70. Repealed by Ordinance #264, March 7, 1988.

Sec. 2.01.71. *Person*: As used in this Ordinance, persons shall be individuals, partnerships, associations and corporations.

Sec. 2.01.72. *Piggery*: Any lot, parcel or tract of land on which swine are kept, raised and fed.

Sec. 2.01.73. *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.

Sec. 2.01.73.a. *Planned Unit Development (PUD)*: A tract of land developed under single ownership or control as a separate neighborhood or community unit and containing common property. The development shall be based upon an approved plan which allows flexibility of design not available under conventional zoning requirements. A PUD shall be in the form of one of the following:

A. *Planned Unit Residential Development (PURD)*: A PUD primarily containing residential uses. A PURD may also contain commercial uses as provided in this Ordinance.

B. *Planned Multi-Use Development (PMUD)*: A PUD containing a mixture of commercial and/or industrial uses.

Sec. 2.01.74. *Porch, open*: A covered entrance to a building or structure which is unenclosed except for column 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.

Sec. 2.01.75. *Private park*: A parcel of land for use as a recreation area, play area, picnic area, or nature area, without commercial trade.

Sec. 2.01.76. *Public utility*: Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under municipal or state regulation to the public; transportation, water, gas, electricity, telephone, steam, telegraph, or sewage disposal.

Sec. 2.01.77. *Quarry excavation*: Shall mean any breaking of the ground to hollow out by cutting or digging or removing any soil matter, except common household gardening and general farm care.

Sec. 2.01.77a. *Recreational vehicle*: A vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power for a vehicle mounted on or drawn by another vehicle. This term includes motor homes and travel trailers.

Sec. 2.01.78. *Retaining wall*: A permanent solid barrier of brick, stone, wood or other opaque material approved by the Building Inspector intended to enclose an area. For the purpose of this Ordinance all supporting members, posts, stringers, braces, pilasters or other construction features of a retaining wall shall be located and placed on the inside of the wall away from public view. All retaining walls, moreover, shall be constructed and/or painted, tinted or colored in one (1) color only for their exterior surface, and no sign or advertising shall be placed, affixed, painted or designed thereon.

Sec. 2.01.79. *Roadside stands*: A roadside stand is a temporary or permanent building operated for the purpose of selling only produce raised on said premises by the proprietor of the stand or his family, and its use shall not make into a commercial district land which would otherwise be an agricultural district, nor shall its use be deemed a commercial activity.

Sec. 2.01.80. *Separate ownership*: Ownership of a parcel of property wherein the owner does not own adjoining vacant property. Owner of a property may include dual or multiple ownership by a partnership, corporation, or other group. Provided, that the owner of any number of contiguous lots of record considered as a single lot of record for the purpose of this Ordinance as he so elects, and in such case the outside perimeter of said group of lots of record shall constitute the front, rear and side lot lines thereof.

Sec. 2.01.81. *Setback*: The minimum horizontal distance required to exist between the front line of the building, excluding steps, and the front street or right-of-way line. The required setback area is that area encompassed by the respective lot lines and setback lines.

Sec. 2.01.82. *Site condominium (residential)*: (See Planned unit development [PUD].)

Sec. 2.01.82a. *Site plan*: The documents and drawings required by this Ordinance pursuant to MCL 125.286e; MSA 5.2963 (16e). (See Secs. 4.02.11.d.6., 9.03.h., 9.53.a., 10.03.i., and 22.02.)

Sec. 2.01.83. *Snowmobile and all terrain vehicle*: Any motorized vehicle designed for travel primarily on sand, snow, ice, or natural terrain, steered by means of wheels, skis, or runners.

Sec. 2.01.84. *Soil removal*: Shall mean removal of any kind of soil or earth matter, including topsoil, sand, gravel, clay or similar materials, or combination thereof, except common household gardening and general farm care.

Sec. 2.01.85. *Story*. That portion of a building, other than a mezzanine, included between the surface of any floor and the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

- a. *Mezzanine*. A "Mezzanine" floor may be used in this definition of a full story when it covers more than fifty (50) percent of the area of the story underneath said mezzanine, or, of the vertical distance from the floor next below it to the floor next above it is twenty-four (24) feet or more.
- b. *Basement*. For the purpose of this Ordinance, a basement shall be counted as a story if over fifty (50) percent of its height is above the level from which the height of the building is measured, or, if it is used for business purposes, or if it is used for dwelling purposes by other than a janitor or domestic servants employed in the same building, including the family of the same.
- c. *Half*. A half story is that part of a building between a pitched roof and the uppermost full story, said part having a floor area which does not exceed one-half ( $\frac{1}{2}$ ) the floor area of said full story, provided the area contains at least two hundred (200) square feet with a clear height of at least seven (7) feet and six (6) inches.

Sec. 2.01.86. *Street*: A public thoroughfare which affords traffic circulation for motor vehicles, including avenue, place, way, drive, lane, boulevard, highway, road, and other thoroughfare, except an alley.

Sec. 2.01.87. *Swimming pool*: The term "swimming pool" shall mean any outdoor structure, either permanent or temporary, located either above or below grade, designed to hold water to a depth of greater than twenty-four (24) inches, intended for swimming or recreational bathing. This includes in-ground, above-ground, and on-ground swimming pools.

Sec. 2.01.87a. *Swimming pool platform*: Any wooden, stone, plastic or concrete decking or surface adjoining all or part of a swimming pool.

Sec. 2.01.88. *Tents*: Tents as used in this Ordinance shall mean a shelter of canvas or the like supported by poles and fastened by cords or pegs driven into the ground and shall not include those types of tents used solely for children's recreational purposes.

Sec. 2.01.89. *Township Board*: Whenever in this Ordinance appear the words "Township Board", it shall mean the Township Board of Comstock Township.

Sec. 2.01.90. *Travel trailer*: A portable vehicular unit primarily designed for travel and/or recreational usage, which may also contain facilities for overnight lodging, but which does not exceed eight (8) feet in width or twenty-eight (28) feet in length. This term also includes folding campers and truck-mounted campers but not mobile homes.

Sec. 2.01.91. *Travel trailer park*: A family recreation-oriented facility for the overnight or short-term (not to exceed fifteen (15) days consecutively) parking of travel trailers or tents. May also be known as a camp ground.

Sec. 2.01.92. *Use*: The purpose for which land or premises of a building thereon is designed, arranged, intended, or for which it is occupied, maintained, let, or leased.

- a. *Accessory*: A use naturally and normally incidental to, subordinate to, and devoted exclusively to the main use of the

premises.

- b. *Legal nonconforming*: An existing use of land and/or structures as of the effective date of this Ordinance which does not conform to the uses specified as permitted in a district, but which is not construed by this Ordinance as a nuisance, or damaging to abutting property, or hazardous to persons.
- c. *Illegal nonconforming*: 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 and which is construed by this Ordinance as a nuisance, or damaging to abutting property or hazardous to persons; such uses to be discontinued and abated.

Sec. 2.01.93. *Utility room*: A utility room is a room in a dwelling, not located in the basement, the use of which is primarily for storage or for housing a heating unit, or for laundry purposes.

Sec. 2.01.93a. *Vacant land*: A lot or parcel that has no building upon it.

Sec. 2.01.93b. *Winery*: A processing facility for the commercial production of grapes and other similar materials to produce wine or similar spirits that is licensed by the State of Michigan. Processing includes wholesale sales, crushing, fermenting, blending, aging, storage, packaging, warehousing and administrative office areas.

Sec. 2.01.94. *Yard, required side - rear - front*: An open space of prescribed width or depth, adjacent to a lot or property line, on the same land with a building or group of buildings, which open space lies in the area between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein. This regulation shall not exclude eaves, porches or other projections. (See illustration entitled "Lot Terms".)

- a. *Front*: An open space extending the full width of a lot and of a depth measured horizontally at right angles to the street right-of-way. Where a lot or combination of contiguous lots under common ownership have frontage upon two parallel streets, the frontage upon each street shall be considered the front yard regardless of where the principal structure is situated.
- b. *Rear*: An open space extending the full width of a lot and of a depth measured horizontally at right angles to the rear property line or street right-of-way line, whichever is greater, except as otherwise provided in this Ordinance.
- c. *Side*: An open space extending on each side of the lot from the required front yard to the required rear yard, and of a width measured horizontally at right angles to the respective side property line, or street right-of-way line, whichever is greater.

Sec. 2.01.95. *Yard, side - rear - front*: A general term applied to the space on a lot or parcel, which lot or parcel contains a building or group of buildings, lying between the building or group of buildings and the nearest respective lot or property line facing each building. It is more specifically defined as follows:

- a. *Front*: An open space extending across the front of a lot between the side lot lines and measured between the front line of the lot and the nearest point of the principal building(s).
- b. *Rear*: An open space extending the full width of the lot and situated between the rear line of the lot and the rear line of the principal building(s) projected to the side lines of the lot.
- c. *Side*: An open space situated between the principal building(s) and the side line of the lot and extending from the front yard to the rear yard.

(Amended: Ord. No. 204, 11-13-81; Ord. No. 212, 8-13-82; Ord. No. 216, 11-15-82; Ord. No. 218, 1-3-83; Ord. No. 233, 12-19-83; Ord. No. 243, 2-19-85; Ord. No. 253, 5-20-86; Ord. No. 264, 3-7-88; Ord. No. 271, 8-1-88; Ord. No. 281, 7-17-89; Ord. No. 283, 11-6-89; Ord. No. 287, 1-15-90; Ord. No. 290, 6-18-90; Ord. No. 291, 8-6-90; Ord. No. 293, 9-4-90; Ord. No. 344, 7-15-96; Ord. No. 345, 9-3-96; Ord. No. 354, 7-7-97; Ord. No. 357, 4-20-98; Ord. No. 359, 6-1-98; Ord. No. 388, § I, 9-4-01; Ord. No. 407, 8-18-03; Ord. No. 408, §§ II, IV, XI, XVI, XVIII, 11-17-03; Ord. No. 410, 5-3-04; Ord. No. 416, 8-16-04; Ord. No. 426, § I, 9-19-05; Ord. No. 428, §§ III, IV, 2-6-06; Ord. No. 433, § I, 8-6-07; Ord. No. 445, § I, 3-15-10; Ord. No. 459, § I, 11-19-12; Ord. No. 463, §§ II, III, VI, IX, XIII, XV, XVII, XIX, XXI, 11-18-13; Ord. No. 467, § II, 7-21-14; Ord. No. 470, § I, 4-27-15; Ord. No. 473, § I, 11-16-15; Ord. No. 484, § II, 10-24-16; Ord. No. 497, § IV, 11-19-18; Ord. No. 510, § IX, 11-18-19.)

## ARTICLE 3.00

## 300.300 - ZONING DISTRICTS

## 300.301 - Establishment of districts.

Sec. 3.01. For the purpose of this Ordinance, Comstock Township is hereby divided into the following Zoning Districts, which may be referred to either as districts or zones:

Agriculture-Residential District	(AGR)
Agriculture-Horticulture District	(A-H)
Single-Family Residential District	(R1-A/R1-B)
Cluster Housing District	(R1C)
Multiple Family Residential District	(RM)
Senior Citizens Multiple Story Residential District	(RSM)
Mobile Home Park District	(RMH)
Office District	(O-1)
Comstock Center District	(CC)
Neighborhood Business District	(B-1)
Community Business	(B-2)
General Business District	(B-3)
Light Manufacturing District	(LM)
Restricted District	(LD)
Manufacturing District	(M)
Open Wetlands District	(OW)
Open Space Preservation Overlay District	(OSP)



Sec. 3.01.1. *Zoning Map*: The boundaries of said district as shown upon the zoning map marked and designated "Zoning Map, Comstock Township, Kalamazoo County, Michigan" attached hereto and made a part of this Ordinance are hereby established; and the districts above described are hereby created. Said zoning map, together with all notations, references, distances, symbols and other information set forth and shown on such map were all fully set forth and contained herein.

Sec. 3.01.2. *Interpretation of Boundaries*: All questions concerning the exact location of boundary lines of the districts shall be determined by the Board of Appeals as hereinafter created, according to the rules and regulations which may be adopted by such Board of Appeals. The Board of Appeals may also base its determination in such matters upon the nearest established line or boundary consistent with the carrying into effect of the policies established in this Ordinance.

All street, alley, and railroad rights-of-way, if not otherwise specifically designated shall be deemed to be in the same zone as the property immediately abutting upon such street, alley, or railroad rights-of-way. Where the center line of a street or alley serves as a district boundary, the zoning of such street or alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.

Sec. 3.01.3. *Permissive Zoning Concept*: Land uses are permitted specifically in the various zoning districts of this Ordinance. Where not specifically permitted, uses are thereby specifically prohibited unless construed to be similar to a use expressly permitted by the Zoning Board of Appeals. No land contained within any zoning district with Comstock Township shall be used for any purpose other than those uses specifically permitted in the district in which the building or land is located, except as otherwise provided herein.

Sec. 3.01.4. *Zoning of Vacated Areas*: Whenever any street, alley or other public way within the Township shall have been vacated by official governmental action and when the lands within the boundaries thereof attach to and become a part of lands adjoining such street, alley or public way, such lands formerly within such vacated street, alley or public way shall automatically and without further governmental action thenceforth acquire and be subject to the same zoning regulations as are applicable to lands to which same shall attach, and the same shall be used for the same use as is permitted under this Ordinance for such adjoining lands.

Sec. 3.01.5. *Zoning of Filled Land; Use of Waters*: Whenever any fill is placed in any lake or stream, the land thus created shall automatically and without further governmental action thenceforth acquire and be subject to the same zoning regulations as are applicable for lands to which the same shall attach or be adjacent, and the same shall be used for the same purposes as are 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.

Sec. 3.01.6. *Uses Permitted as a Right*: A permitted use, as identified in Articles 9.00 through and including 20.00, are recognized as uses of land and buildings in certain districts which are harmonious with other such uses which may lawfully exist within the same district. A permitted use is subject to the schedule of regulations, permit, certificate and site plan requirements found elsewhere in this Ordinance, but otherwise is considered to be a lawful use not requiring special or extraordinary controls or conditions.

Sec. 3.01.7. Repealed. Ordinance No. 345, 9/3/96.

(Amended: Ord. No. 240, 9-4-84; Ord. No. 300, 6-3-91; Ord. No. 345, 9-3-96; Ord. No. 404, § I, 12-2-02; Ord. No. 473, § XIII, 11-16-15; Ord. No. 512, § II, 6-15-20)

## ARTICLE 4.00

### 300.400 - GENERAL PROVISIONS

#### 300.401 - General regulations.

Sec. 4.01. For the purpose of this Ordinance, except as is hereinafter specifically provided otherwise, the following general regulations and provisions shall apply. These general regulations shall be liberally interpreted for the purposes set forth in the Preamble of Article 1.00, and the limitations herein set forth shall be construed as the minimum regulation necessary to promote and protect the general safety and welfare of the community.

Sec. 4.01.1. *Conflicting Laws, Regulations and Restrictions*: It is intended that all ordinances or parts of ordinances in conflict with any provisions with this Ordinance are hereby repealed. It is not intended by this Ordinance to abrogate or annul any existing easement, covenants or other agreements between parties; provided, however, that where any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations upon the use of land or buildings, or upon the height of buildings, or requires larger yards, land areas or open space, than are imposed or required by the provisions on any other law or ordinance, then the provisions of this Ordinance shall govern. The requirements of this Ordinance are to be construed as minimum requirements and shall in no way impair or affect any covenant, easement, agreements between parties or restrictions running with the land, except where such covenant, easement, agreement between parties, or restrictions imposes lesser requirements.

Sec. 4.01.2. *Catch Words and Lines*: Catch words and catch lines shall in no way by their presence or absence limit or affect the meaning of this Ordinance.

Sec. 4.01.3. *Storage of Unlicensed Motor Vehicles*: No outdoor storage of any vehicle shall be permitted, which is in violation of any Township Ordinance regulating the same. There shall be no open air storage of auto parts, new or used, upon any residential lot. This shall not be applicable to new or used car lots and junk yards which have a Township License and/or valid permit for same.

Sec. 4.01.4. [Repealed by Ordinance No. 408, § XIII, adopted November 17, 2003.]

Sec. 4.01.5. *Voting Place*: The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a Township or other public election.

(Amended: Ord. No. 408, § XIII, 11-17-03)

### 300.402 - Building regulations.

Sec. 4.02. No building or structure, or part thereof, shall hereafter be erected, constructed, used, reconstructed, altered or maintained, and no lot or land, or part thereof, shall hereafter be used or maintained and no new use made of any building, structure or land, or part thereof, except in conformity with the provisions of this Ordinance. See also Section 4.11, Buildings upon unplatted land.

Sec. 4.02.1. *Unlawful Building*: In case any building, or part thereof, is used, erected, occupied or altered contrary to law or the provisions of this Ordinance, such building shall be deemed an unlawful structure and a nuisance and may be required to be vacated, torn down or abated by any legal means, and shall not be used or occupied until it has been made to conform to the provisions of this Ordinance. Public expenditures toward abating such nuisance shall become a lien upon the land.

Sec. 4.02.2. *Frontage*: No dwelling or building shall be erected on a lot or parcel of land which does not have continuous frontage for its full minimum required width upon a street or road either publicly dedicated and maintained unless it is a designated lot in a recorded subdivision existing on or prior to January 21, 1941, or is a lot in a site condominium. Subject to Section 5.06 [300.506] regarding contiguous non-conforming lots of record. Where lots exist on curved streets or cul-de-sacs (turn-around, dead-end streets), the required lot frontage shall not be less than two-thirds ( $\frac{2}{3}$ ) of the normal minimum lot width requirement in the subject zoning classification. Multi-family developments or Planned Unit Developments need not front each such structure upon such streets or roads provided that adequate vehicular access can be assured in the site plan submitted for approval by the Planning Commission. This section shall not apply to properties in the "O-1", "B-1", "B-2", "B-3", "LM", "LD" and "M" zoning classifications.

Any parcel of land which is to be occupied by a use or building, other than an accessory use or building, shall have frontage on and/or direct access to a public street with a roadway which has been accepted for maintenance by the Kalamazoo County Road Commission or to a street or road designated on a recorded subdivision existing on or prior to January 21, 1941.

Sec. 4.02.3. *Temporary Building*: No temporary building shall be erected in any residential district unless a building permit has been issued for a permanent building on the same site. Before a certificate of occupancy shall be issued any temporary building shall be removed from the site.

Sec. 4.02.4 *Combination Business and Dwelling Buildings*: Except as may be allowed in the CC, Comstock Center zoning district, no building, structure or part thereof, shall be erected, altered, or used or premises used, in whole or in part, for both business purposes and dwellings when the business portion of the building, structure, or part thereof conforms with uses such as one (1) or more of the following specified uses:

- a. Dry cleaning establishments, having dry cleaning equipment on the premises.
- b. Public garage.
- c. Filling station.
- d. Automobile service stations.
- e. Paint sales.
- f. Any building which stores or has incidental to its use, inflammable, hazardous, or explosive material on the premises.
- g. Poultry sales and/or storage.
- h. Meat sales.
- i. Fish and seafood sales.
- j. Produce sales and/or storage.
- k. Perishable food sales and/or storage.
- l. Commercial garage.

Provided that a dwelling which may lawfully be used in combination with a business shall also provide a minimum floor area of not less than seven hundred and twenty (720) square feet for dwelling, a usable lot area of not less than nine thousand (9,000) square feet, and also shall provide lot area, in addition to the nine thousand (9,000) square feet, for all required off-street parking. This provision shall not apply in the CC, Comstock Center zoning district.

Sec. 4.02.5. *Qualifying Space*: No building shall be erected, nor shall an existing building be altered, enlarged or rebuilt, nor shall any open spaces surrounding any building be encroached upon or reduced in any manner, except in conformity with the regulations hereby established for the district in which such building is located. No portion of a lot used in complying with the provisions of this Ordinance for yards, courts, lot area per family or percentage of lot occupancy, in connection with an existing or projected building, or structure, shall again be used to qualify or justify any other building or structure existing or intended to exist at the same time.

Sec. 4.02.6. *Occupied Spaces*: Outside stairways, fire escapes, fire towers, porches, platforms, balconies, boiler flues, and other projections shall be considered as part of the building and not as part of the yards or courts or unoccupied spaces.

Sec. 4.02.7. *Means of Ingress and Egress*: Repealed per Ordinance #300, adopted June 3, 1991.

Sec. 4.02.8. *Storm and Sanitary Sewage Disposal*. No human excreta or domestic, commercial or industrial wastes shall be deposited on the surface of the premises. Where a sewer system is available, all sanitary fixtures such as water closets, lavatories, catch and slop sinks, laundry trays and bath tubs shall be connected to such system as required by Township Ordinance or other applicable statutes or regulations. Where a sewer is not available, all facilities used in connection with the disposal of human excreta and water-carried wastes shall be connected with and the wastes therefrom discharged into a private disposal system, the operation of which creates neither a nuisance or pollutes a stream or lake or a water supply.

For all buildings and uses requiring Site Plan Review under Article 22 of this ordinance, no surface waters shall be permitted to drain on or upon adjoining or adjacent public or private property. The purpose of this requirement is to encourage the on-site retention and recharge of water resources, to diminish the potential hazards of flooding and to decrease the pollution of the lakes, ponds, streams and rivers of this state.

Sec. 4.02.9. *Outside Privies:* No outside privy shall be permitted for new construction and/or any change of occupancy; provided, however, that temporary use of outside privies shall be permitted during periods of construction pursuant to a valid Building Permit.

Sec. 4.02.10. *Grade at Building Line.* Any building requiring yard space shall be located at such an elevation that a sloping grade shall be maintained to cause the flow of surface water to run away from the walls of the building. A sloping grade shall be maintained and established from the center of the front line to the finished grade line at the front of the building, and also from the rear lot line to the front, both grades sloping to the front property line. However, this shall not prevent the grading of a yard space to provide sunken or terraced areas, provided proper means are constructed and maintained to prevent the runoff of surface water from flowing onto the adjacent properties.

When a new building is constructed on a vacant lot between two existing buildings or adjacent to an existing building, the existing established grade shall be used in determining the grade around the new building and the yard around the new building shall be graded in such a manner as to meet existing grades and not to permit runoff of surface water to flow onto the adjacent property.

Sec. 4.02.11. *Residential Accessory Buildings:*

- a. All references to accessory buildings in this Section shall apply only to residential accessory buildings, including private garages; carports; boat houses; and agriculturally used buildings on lots of five acres or less.
- b. No accessory building may be used for human habitation except as may be allowed as an accessory dwelling unit per Section 21.09 of this ordinance.
- c. Accessory buildings permitted without special exception use permit:
  - 1. The total combined floor space of the accessory building(s) shall not exceed the limits set forth in the following schedule:

Lot Size	Permitted Total Floor Space
20,000 sq. ft. or less	840 sq. ft.
20,001—one acre	1,320 sq. ft.
1.01 acres—2.99 acres	2,000 sq. ft.
3.00 acres—4.99 acres	3,000 sq. ft.
5.00 acres—9.99 acres	4,000 sq. ft.
10.00 acres or more	5,000 sq. ft.

- 2. Building Type. Packing, shipping or storage crates or containers, parts or all of a semi-trailer and similar converted structures shall not be used as accessory structures except for when used for agricultural purposes on an agricultural property. Fabric accessory structures shall only be permitted when placed in the rear yard except for when used for agricultural purposes on an agricultural property.
- 3. An accessory building which is structurally attached to the residence shall, unless expressly provided otherwise, be subject to all requirements of this section.
- 4. When an accessory building is not structurally attached to the residence, it shall be located in the side or rear yard. A corner lot shall be considered for purposes of this section as having two (2) front yards.
- 5. Accessory buildings not structurally attached to the residence shall not:
  - (a) Exceed a height of eighteen (18) feet on parcels less than an acre and a height of twenty-two (22) feet on parcels an acre or more in area measured from the building grade to the highest point of the building;

- (b) Occupy more than twenty-five (25) percent of the required rear yard; or
  - (c) Be located closer than five (5) feet from any side or rear property line for buildings 200 square feet or less in area and/or accessory buildings that are the principal detached garage serving the residence on the lot; the minimum side and rear property line setback requirement for buildings exceeding 200 square feet in area shall be the height of the building at its highest point, except as excluded herein.
6. Where two or more contiguous lots are under common ownership and are either wholly vacant or developed with one residence, all such lots shall be treated as one lot to determine the total combined floor area permitted when combined into a single tax parcel by the owner.
- d. Accessory buildings permitted with special exception use permit:
- 1. Any accessory building on a lot or site condominium unit of one acre or more in size that fails to meet the size, height or location requirements set forth above may be allowed as a special exception use, subject to the conditions in "5, 6 and 7" below.
  - 2. A boat house may be allowed as a special exception use, only for the benefit of the occupants of the subject property, subject to the four conditions below as well as the requirements in "5, 6 and 7" that follow:
    - (a) Be located adjacent to a navigable body of water, with no minimum setback.
    - (b) Be used to store one or more boats and boating accessories.
    - (c) Be established in compliance with all applicable state and local laws.
    - (d) Complies with all size, height and location requirements set forth in Section 4.02.11.c, except as otherwise expressly approved by the Planning Commission.
  - 3. A vacant parcel lot building may be allowed as a special exception use in the "AGR", "AH", "R1-A", "R1-B", "R1-C", "RM", and "OW" zoning district classifications, subject to the two conditions below as well as the requirements in "5, 6 and 7" that follow:
    - (a) The building may be utilized only for purposes accessory to residential uses allowed in the zone in which it is located.
    - (b) The building shall comply with all size, height, and location requirements set forth in Section 4.02.11.c, except as otherwise expressly approved by the Planning Commission.
  - 4. Reserved.
  - 5. Proposed accessory building(s) shall not have a material adverse impact upon the owners and occupants of surrounding properties. The Planning Commission shall have authority to impose reasonable conditions, including reduction in size, to assure compliance with this standard.
  - 6. All applications requiring a special exception use permit hereunder shall be accompanied by twelve (12) copies of a site plan of the subject property, drawn to a selected scale, containing the following information:
    - (a) A NORTH arrow and notation of the selected scale used.
    - (b) All property lines shall be shown with their dimensions.
    - (c) Location and dimensions of all existing and proposed structures (including the height of all proposed accessory buildings) on the subject property and any existing buildings on adjacent property within fifty (50) feet of the subject property.
    - (d) Location of any septic tank and/or dry well on the subject property.

Planning Commission approval of the above required site plan under the standards in Section 22.04 shall satisfy the site plan submission and approval requirements of Sections 22.01 through 22.04 of this Ordinance.

- 7. An application for a special exception use permit hereunder shall include a statement setting forth the purpose(s) for which the proposed accessory building(s) will be used. No accessory building allowed pursuant to this subsection shall be used for a purpose other than that approved by the Planning Commission.

Sec. 4.02.12. *Classification of Moved Buildings.* Any building moved within a district and placed upon a foundation, or any building moved into a district from without, shall be considered a new building and be subject to all the limitations and requirements herein set forth relating to uses, construction, permits, and certificates.

Sec. 4.02.13. *Reconstruction of Damaged Buildings and Structures.* Reconstruction or repair of buildings or structures, damaged by fire, collapse, explosion, or Acts of God shall be commenced within six (6) months of the date of said partial destruction, and shall be diligently carried on to completion within a period of one (1) year after said partial destruction. Where pending insurance claims require an extension of time, the Zoning Administrator may grant a time extension provided that the property owner submits a certification from the insurance company attesting to the delay. Until such time as the debris from the damage is fully removed, the premises shall be adequately fenced or screened from access by trespassers who may be attracted to the premises.

Sec. 4.02.14. *Reserved.*

Sec. 4.02.15. *Building Appearance:* Any case where a building or accessory building in a manufacturing district is erected or placed within two hundred (200) feet of the front lot line of any parcel of land fronting upon any public street, said buildings or accessory buildings shall not be constructed of any material prohibited by the Township Building Code.

(Amended: Ord. No. 205, 11-13-81; Ord. No. 233, 12-19-83; Ord. No. 243, 2-19-85; Ord. No. 250, 3-17-86; Ord. No. 253, 5-20-86; Ord. No. 281, 7-17-89; Ord. No. 287, 1-15-90; Ord. No. 290, 6-18-90; Ord. No. 300, 6-3-91; Ord. No. 302, 9-16-91; Ord. No. 309, 5-4-92; Ord. No. 322, 1-4-94; Ord. No. 329, 2-21-95; Ord. No. 359, 6-1-98; Ord. No. 384, § I, 3-19-01; Ord. No. 408, § XXVI, 11-17-03; Ord. No. 456, § I, 9-17-12; Ord. No. 479, § V, 3-21-16; Ord. No. 487, § VII, 3-20-17; Ord. No. 488, § I, 4-17-17; Ord. No. 510, § XIV, 11-18-19; Ord. No. 521, §§ I—IV, 9-20-21.)

300.403 - Reserved.

**Editor's note**— Sec. VI of Ord. No. 521, adopted September 20, 2021, deleted § 300.403, which pertained to dumping of materials and derived from Ord. No. 205, adopted November 13, 1981; Ord. No. 340, adopted December 4, 1995; and Ord. No. 456, adopted September 17, 2012.

300.404 - Mining and quarrying operations: removal of sand, clay, gravel or similar materials.

Sec. 4.04.

Sec. 4.04.1. The regulations contained within this Section shall apply to all operations relating to the removal of sand, clay, gravel, peat or similar natural material, and shall include any and all mining or commercial excavation operations or any quarrying or gravel processing operations. It shall be unlawful for any person, firm, corporation, partnership or other organization or entity to remove any sand, clay, gravel, peat or similar material without first submitting an application as prescribed to the Township Planning Commission and procuring a permit therefor from the Zoning Administrator.

Sec. 4.04.2. No permits will be required for excavations or filling for building construction purposes, pursuant to a duly issued building permit under the Township Building Code.

Sec. 4.04.3. *Application:* Before the Planning Commission approves and authorizes a permit, it shall conduct a public hearing concerning such application. A separate permit shall be required for each separate site. Each application for a permit shall be made in writing to the Planning Commission and shall contain the following information in six (6) copies as a condition precedent to the obligation to consider each request.

- a. Names and addresses of parties of interest in said premises setting forth their legal interest in said premises.
- b. Full legal description of the premises wherein operations are proposed.
- c. Detailed proposal as to method of operation, what type of machinery or equipment will be used, and estimated period of time that such operation will cover.
- d. Detailed statement as to exactly what type of deposit is proposed to be removed or deposited.

- e. Topographical survey map showing existing grades and final grades after, to be prepared by a registered civil engineer.
- f. Such other information as may be reasonably required by the Planning Commission to base an opinion as to whether a permit should be issued or not.

Sec. 4.04.4. *Permit Fees:* A fee shall be paid according to a fee schedule adopted by the Township Board.

Sec. 4.04.5. *Permit:* After reviewing all of the information submitted by the applicant and such other information as may be in the hands of the Planning Commission, the Commission shall, at or following the public hearing, review, approve or disapprove said application. The permit shall be issued in the event the Planning Commission shall determine that the issuance of the permit would not detrimentally effect the public health, safety, morals, and general welfare of the citizens of the Charter Township of Comstock.

Sec. 4.04.6. *Mandatory Requirements:* The following requirements shall be mandatory:

- a. Regulations for removal of any topsoil, earth, sand, clay, gravel, peat, or similar material, conducting any mining or commercial excavation operations, as herein defined, or any quarrying or gravel processing.

(1) *Location:*

- (a) All such operations shall be located on a primary road, as defined by the County of Kalamazoo, for ingress and egress thereto, or on a road which does not create traffic through an area developed primarily for residential purposes. Where necessary, the Planning Commission may require the applicant to construct and/or improve a road to accommodate the truck travel necessitated by the operations as a condition of such operation, and for the purpose of routing traffic around residential areas and preventing the breaking up of existing roads which are not "all-weather" roads. Under no circumstances shall trucks use private drives or private access routes from applicant's property which are within 150 feet of any residence.
- (b) Sufficient setback shall be provided from all property lines and public highways to assure adequate lateral support for adjacent public and private property. No such excavation business shall be permitted closer than 200 feet from interior boundary lines of property, unless commercial mining or excavation is being conducted on the adjoining property and the adjoining property owner consents in writing thereto and further providing that all setback provisions contained in this Ordinance are complied with as applied to other properties. In addition, no such excavation business shall be permitted closer than 400 feet of any properties used for residential purposes or within 400 feet of any residential districts.
- (c) No such excavation business shall be permitted within 150 feet of adjoining public rights-of-way except for the lowering of land adjoining said rights-of-way to the grade level of said rights-of-way. However, if the authority having jurisdiction over any particular road consents in writing to a reduced setback, then the Planning Commission may allow mining and commercial excavations within said setback area up to 50 feet of any road right-of-way line, if adequate screening and all other provisions of the Ordinance including other setback regulations are complied with. Such excavation business shall at no time be permitted where adequate lateral support for the maintenance of adjoining lands is not maintained.
- (d) The permanent processing plant and its accessory structure shall not be located closer than 250 feet from the interior boundary lines and public rights-of-way or less than 500 feet from residential districts, and shall where practicable, be as close to the center of the subject property as possible and at a lower level than the surrounding terrain to lessen visual and noise impact. The foregoing shall not apply to the digging or excavating apparatus nor to the stockpiling or loading and transportation equipment.
- (e) No such excavation businesses shall be located within 100 feet of the margin of any stream or waterway unless previously approved, in writing, by the Michigan Water Resources Commission, or such other State commission having jurisdiction thereof. No such mining operation shall interfere with the natural established flow of surface waters to the detriment or damage of adjoining public or private properties. The Planning Commission shall have the right to require an applicant to construct adequate sediment basins if it appears that substantial sediment may be carried into any nearby water course.

(2) *Site Barriers and Fencing:*

- (a) Site barriers shall be provided along all setback lines of the site which lack natural screening conditions through existing contours or evergreen growth. Such barriers shall consist of one or more of the following:
1. Earth berms constructed to a height of ten (10) feet above the mean elevation in the center line of the adjacent public highway or ten (10) feet above the general level of terrain along interior property lines, as the case may be. Such berms shall have slopes that are not in excess of one foot vertical to three (3) feet horizontal and shall be planted with grass and trees or shrubs.
  2. Plantings of evergreen trees not more than ten (10) feet apart or shrubbery not more than five feet apart, in three staggered rows parallel to the boundaries of the property, which shall be at least two year transplants at the time of planting and which grow to not less than ten (10) feet in height and sufficiently spaced to provide effective site barriers when ten (10) feet in height. Trees which die must be replaced.
  3. Earth berms planted with grass and evergreen trees or shrubbery as specified in (2) above, provided that the total height of the berm and the trees or the shrubbery at maturity will be at least ten (10) feet above the general level of the terrain along interior property lines or the mean elevation of the center line of the adjacent public highway, as the case may be.
- (b) The ten (10) foot requirement for screening by means of a berm and/or plantings may be reduced by the Planning Commission to not less than six (6) feet in height if the particular site and terrain, with screening of a reduced heights, will afford adequate site barriers.

(3) *Nuisance Abatement:*

- (a) Air pollution, noise, and vibrations shall be minimized and their effect upon adjacent properties by the utilization of adequate sound-proofed equipment and buildings designed to accomplish such minimization and by the proper use of berms, walls, and natural planting screens. Interior and adjoining roads used in the operation shall have their surface treated to minimize any such conditions.

(4) *Time Limits:*

- (a) Excavations and mining operations shall be conducted between the hours of 7:00 a.m. and 6:30 p.m. Monday through Saturday, but shall be prohibited on legal holidays. No operations may be conducted on Sundays or at other times. The Planning Commission may establish a termination date for the mining or excavating of any area due to its proximity or visibility from residential districts or property used for residential purposes.

(5) *Fencing:*

- (a) Any dangerous excavations, dangerous pits, dangerous pond areas, dangerous banks or dangerous slopes shall be adequately guarded or fenced and posted with signs around the perimeter thereof to prevent injury to children or other persons, and such dangerous conditions shall be eliminated as expediently as possible.

(6) *Liability Insurance:*

- (a) All applicants shall be required to carry personal injury and property damage insurance while any reclaimed or unrehabilitated area exists, in the amount of not less than \$100,000 for each person injured or damage to more than one person or more than one person's property arising out of one occurrence. Such insurance shall cover injury or damage occurring upon the site of the operations as well as upon properties adjoining thereto, as the result of conditions or activities existing upon the site. Such policies shall be filed with the Township Clerk.

(7) *Reclamation of Mined Areas:*

- (a) Reclamation or rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Where possible, such rehabilitation or reclamation shall be accomplished concurrently with the mining or excavation operations. Substantial completion of reclamation rehabilitation



shall be effected within two (2) years after termination of mining or excavation activity. Inactivity for a twelve (12) months consecutive period shall constitute, for this purpose, termination of mining activity.

(b) The following standards shall control reclamation rehabilitation:

1. All excavations shall be either to a water producing depth of not less than three (3) feet below the average summer level of water in the excavation, or shall be graded or back filled with non-toxic, non-flammable, and non-combustible solids.
2. Excavated areas shall not collect stagnant water and shall not permit the same to remain therein.
3. Surface that is not permanently submerged shall be graded and backfilled as necessary to produce a gentle rolling surface that will minimize wind and water erosion, and which will be generally compatible to the adjoining land area.
4. The banks of all excavations shall be sloped to the waterline in a water producing excavation, and to the pit floor in a dry operation, at a slope which shall not be steeper than one foot vertical to three feet horizontal. Water producing excavations shall have a reasonably level bottom, free of sharp drop-offs or holes.
5. Topsoil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches, or other planned improvements are desired, which said improvements shall be completed within two years of termination of mining or excavation operations. When used, topsoil shall be applied to a minimum depth of four (4) inches sufficient to support vegetation.
6. Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs, to establish a permanent vegetative cover on the land surface to minimize erosion. The Planning Commission may require the seeding and plantings to conform with the standards and specifications adopted by the Kalamazoo County Soil Conservation District and as may be amended hereafter.
7. Upon cessation of mining operations by abandonment or otherwise, the applicant, within a reasonable period of time not to exceed twelve (12) months thereafter, shall remove all plant structures, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan which can be lawfully used under requirements of the zoning district in which they will be located under such plan, may be retained.

(c) Financial guarantee shall be furnished the Township insuring the proper rehabilitation reclamation of mined and excavated areas prior to the commencement of any such mining or excavating operations. The amount of the guarantee shall be not less than \$3,000 per acre, proposed to be mined or excavated in the following 12 month period and which has previously been mined or excavated during any preceeding period and not reclaimed or rehabilitated in accordance with this Ordinance in the applicant's filed plan. Mined areas resulting in a water depth of three feet or more shall be deemed to be reclaimed areas to within 15 feet of any shoreline thereof and to the extent of the shoreline where the same has been sloped to a grade of not more than one vertical up to three foot horizontal, for the purpose of this financial guarantee. Such financial guarantee shall be reviewed annually, on or about the anniversary date of the excavation permit, for adjustment in compliance of the foregoing requirements by the Zoning Inspector of the Township or such other officials as may be designated by the Township Board. Such financial guarantee may be in the form of cash, certified check, an irrevocable bank letter of credit, or corporate bond of a licensed insurance company.

(8) *Submission of Operational and Reclamation Plans.*

(a) No earth removal, quarrying, gravel processing, mining and related mineral extraction businesses shall be allowed or commenced until a plan has been submitted to the Zoning Board of Appeals, disclosing compliance with all of the provisions of the within Ordinance or the manner of which compliance will be secured by the applicant. Such plans shall include, among other things, the following:

1. A contour map of the tract of land involved in the operations, including dimensions of the same, access thereto, streets, and whether or not the same are on all weather roads, additional roads, if any to be constructed and the nature of abutting improvements on adjoining property.
2. The number of acres and the location of the same proposed to be operated upon within the following 12 month period after commencement of operations.
3. Type of mining or processing proposed to be conducted and the nature of the equipment to be used.
4. Location of the principal processing plant and the distance of any proposed excavation or mining and the boundaries of the site.
5. A map or plan disclosing the approximate final grades and levels to be established following the completion of the mining operations, including the proposed uses being contemplated for the land, future lakes and roads, such other matters as may evidence the bonified nature of the reclamation rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the proposed mining activities.

(9) *Hearing:*

- (a) After receiving an application for a permit or for an extension or renewal of a permit for an earth removal, quarrying, gravel processing, mining or related mineral extraction business accompanied by the required plans and specifications and permit fee, the Planning Commission shall hold a public hearing upon such application, preceded by no less than ten days notice of the time, place and purpose of such hearing to each owner of property within 500 feet of the proposed site as shown on the last tax roll of the Township, as corrected by known transfers since the preparation of the same, by first class mail, and such other notice as may be deemed appropriate by the Board.
- (b) Following such hearing, said board shall grant or deny the application and set forth its reasons for its decision. Such decision shall be based upon the criteria set forth in the within Ordinance and shall be based, in addition, on a consideration of the following:
  1. The most advantageous use of the land, resources and property.
  2. The character of the area in question and its peculiar suitability, if any, for particular uses.
  3. Conservation of property values, as well as natural resources and the general appropriate trend and character of development in the subject area.
  4. The protection and preservation of the general health, safety and welfare of the Township.
  5. The scarcity or value of minerals sought to be mined as compared with the effect upon the adjacent community of the proposed operations.
  6. In making any decision, the Planning Commission shall have the right and authority to impose such additional conditions and safeguards as it deems necessary for the protection of the health, safety and general welfare of the neighborhood and of the adjoining residence and property owners. It may provide for a periodic review of the proposed operations to ascertain compliance with the conditions and limitations imposed upon the same. It shall be authorized to renew or extend the permit where all standards and conditions are complied with and may revoke or refuse to renew the same where non-compliance exists. The revocation or failure to renew or extend the permit shall not release the applicant from the duty of rehabilitation or reclamation of said mines or disturbed areas.

(10) *Existing Excavations and Mining Operations:*

- (a) All commercial excavations, mining operations, gravel processing operations or quarrying operations existing on the effective date of this Ordinance shall be subject to the within regulations with regard to future operations, except to the extent otherwise permitted under Section 9.3 (f) of this Ordinance. A special exception permit shall not, however, be required therefore.

- (b) Regulations for Filling Operations. All land filling operations involving garbage and refuse disposal shall be in accordance with the provisions of Act 87 of the Public Acts of 1965, as amended, and in addition, shall conform to the following:
1. The filling of land with rubbish or garbage or any other waste matter is hereby prohibited in all unincorporated areas of Comstock Township except that pursuant to the terms and conditions of a permit that may be granted by the Planning Commission, provided that in no case shall any permit be issued for filling within any district unless and until the proposer shall have obtained written consent from at least fifty-one (51) percent of all land owners and residents within one-half (½) mile area measured from the outside perimeter of the parcel to be filled, to waive this prohibition.
  2. No rubbish or garbage shall be burned, permitted to burn or smolder as a result of voluntary igniting of said material or as a result of involuntary internal combustion of said rubbish or fill material deposited at the site of the permitted operation.
  3. The Planning Commission may require a temporary fence to be erected to prevent the scattering of rubbish, garbage and other waste material.
  4. All rubbish and garbage fill when deposited must be thoroughly compacted with heavy equipment weighing not less than ten (10) tons.
  5. All rubbish or garbage fill, within twenty-four (24) hours of depositing in the place or places authorized in the permit shall be covered with a layer of soil matter eighteen (18) inches thick of a kind and texture that will be suitable for growing of turf or for other land uses permitted within the district. Provided that under certain acceptable circumstances applying the standards of public health, sanitation, and welfare of Comstock Township and Kalamazoo County, the Building Inspector may extend the above twenty-four (24) hour period to such longer period as satisfactory under the circumstances.
  6. All conveyance vehicles for rubbish or garbage shall not be open lid and while in transit shall be closed or covered so as to reduce odor and the scattering of the matter being carried. Any rubbish or garbage that is nevertheless dropped in transit shall be recovered by the carrier operator and the affected area restored to its prior condition. Further, any undue collection of soil matter deposited on the street or public highways by the tracking of the vehicles shall be removed by the carrier operator and the affected area restored to its prior condition.
  7. Any roads used for the purpose of ingress or egress to said excavation site which are located within three hundred (300) feet of occupied residences shall be kept dust free by hard topping with cement, bituminous substance or chemical treatment.

*Sec. 4.04.7. Surety Bond Requirements:*

- (a) The Planning Commission shall, to insure strict compliance with any regulation contained herein and required as a condition of the issuance of a permit either for topsoil stripping and removal or filling operations, require the permittee to furnish a surety bond executed by a reputable surety company authorized, to do business in the State of Michigan in an amount determined by the Planning Commission to be reasonably necessary to insure compliance hereunder. In fixing the amount of each surety bond, the Planning Commission shall take into account the size and scope of the proposed operation, current prevailing cost of rehabilitating the premises upon default of the operator, estimated expenses to compel the operator to comply by court decree, and such other factors and conditions as might be relevant to determining the sum reasonable in the light of all facts and circumstances surrounding each application.

*Sec. 4.04.8. Excavations or Holes:* The construction, maintenance or existence within the Township of any unprotected, unbarricaded, open or dangerous excavations, holes, pits, or wells, which constitute or are reasonably likely to constitute a danger or menace to the public health, safety or welfare, are hereby prohibited; provided, however, this section shall not prevent any excavation under a permit issued, pursuant to this Ordinance, where such excavations are properly protected and warning signs posted in such a manner as may be approved by the Zoning Administrator; and provided further, that this section shall not apply to

streams, natural bodies of water or to ditches, streams, reservoirs, or other major bodies of water created or existing by authority of the State of Michigan, the County of Kalamazoo, the Township, or other governmental agency. Farm ponds and sewage lagoons which, unless otherwise determined by the Planning Commission, shall be considered to be excavations more than two (2) feet in depth and more than one thousand (1,000) square feet in area which are used in support of agricultural pursuits, and shall be permitted as a special use in any Agriculture Residential District, subject to the issuance of a building permit, and provided they are set back at least one hundred (100) feet from all property lines and any dwellings, fences, and further subject to applicable Department of Natural Resources and County Soil Conservation District requirements.

(Amended: Ord. No. 181, 6-10-81; Ord. No. 205, 11-13-81; Ord. No. 408, § XIX, 11-17-03; Ord. No. 456, § I, 9-17-12)

#### 300.405 - Parking and storage of campers, travel trailers, boats and similar items.

Sec. 4.05. Campers, travel trailers, motorized homes, snowmobile trailers, boats, jet skis, utility trailers and similar items may be parked or stored outdoors in any zoning district on developed lots used for residential purposes, including contiguous lots under common ownership, subject to the following conditions:

- a. Such items may be parked or stored in the rear yard a minimum of five (5) feet from the property lines, or, from May 1 to October 31, in the front or side yard a minimum of five (5) feet from the side lot line of such property. Such parking or storage in the front or side yard may not obstruct the clear view of traffic for vehicles exiting from any driveway on adjoining property and must be on a paved or graveled surface.
- b. No such items may be connected to water, gas or sanitary facilities or be used for lodging or housekeeping purposes while so stored or parked for any more than a total of fifteen (15) days in a calendar year, with such calendar year running from January 1 to December 31 annually.
- c. Such items must have a current license and/or registration if applicable and be owned by an occupant or owner of the premises on which the item is stored or an immediate family member of such person.

(Amended: Ord. No. 410, 5-3-04; Ord. No. 468, § III, 10-20-14; Ord. No. 473, § II, 11-16-15)

#### 300.406 - Fences.

Sec. 4.06.

- a. Fences in other than the Agriculture/Residential District, which are not specifically required under the regulations for the individual zoning districts, shall conform to the following requirements:
  - (1) No fence shall hereafter be erected on a lot in excess of six (6) feet above the grade of the surrounding land.
  - (2) In the "R1-A", "R1-B", "R1-C", "RM", and "RSM" zoning classifications, no fence exceeding four (4) feet in height shall be permitted in the required building setback area of any side of the lot abutting a public or private street or a lake. Subject to the limitations of subsection 4.06.c, when located behind the leading edge of the house and in the side yard as established by the house's orientation to the street, a six-foot tall fence shall be permitted along the property line of the side street abutting a corner lot.
  - (3) All fences hereafter shall be of an ornamental nature. Barbed wire, spikes, nails, or any other sharp point or instrument of any kind on the top or on the side of any fence, or electric current or charge in said fences are, except as otherwise provided in this section, prohibited. Notwithstanding anything in this Ordinance to the contrary, fences protecting municipal or public utility installations may exceed the heights provided for herein and barbed wire cradles may be placed on the top of said fences enclosing municipal or public utility installations or wherever deemed necessary in the interest of public safety.
  - (4) Barbed wire cradles having no more than three (3) strands and having a height from top to bottom of the cradle of no more than one (1) foot may be placed on the top of fences serving permitted or special exception uses location in the "B-3", "LM", "LD", or "M" zoning districts. The barbed wire cradle shall not be considered as part of the fence for

purposes of determining compliance with the maximum six (6) feet fence height limitation set forth above. Barbed wire may not be utilized on fence located in the front yard.

- (5) The Zoning Board of Appeals shall have authority to waive the fence limitations in subsection (1) and/or (4), above if the Zoning Board of Appeals determines in its sole reasonable discretion that, based on the nature of the site on which the fence is to be located, the nature of the properties and streets adjoining the subject property and/or the nature of the proposed fence, such a waiver will not have a material adverse impact upon persons or property in the surrounding area and will otherwise be consistent with the purpose of this section.
- b. Fences in the Agriculture/Residential (AGR) District may be located on all property or road right-of-way lines of a parcel of land providing such fences are maintained in a good condition and do not result in an unreasonable hazard to persons who might come near them.
- c. No fence, wall, structure or planting exceeding thirty (30) inches in height shall be erected, established or maintained on any corner lot which will obstruct the view of a driver of a vehicle approaching the intersection, excepting that shade trees shall be permitted where all branches are not less than eight (8) feet above the road level. The unobstructed corner area required hereunder shall mean a triangular area formed by the street property lines and a line connecting them at points thirty (30) feet from the intersection of street lines or in the case of a rounded property corner from the intersection of the street property lines extended.

(Amended: Ord. No. 264, 3-7-88; Ord. No. 271, 8-1-88; Ord. No. 290, 6-18-90; Ord. No. 324, 5-2-94, Ord. No. 345, 9-3-96; Ord. No. 369, 6-7-99; Ord. No. 456, § V, 9-17-12; Ord. No. 484, § III, 10-24-16; Ord. No. 490, § V, 10-26-17; Ord. No. 510, § IV, 11-18-19)

#### 300.407 - Nonconforming use of mobile homes.

Sec. 4.07. It is hereby provided that as of the effective date of this Ordinance that any "Valid Nonconforming Use" mobile home shall cease to be valid and shall become illegal forthwith, and said mobile home or any other mobile home may not be thereafter moved onto or used upon the premises, in the event of any one (1) or more of the following conditions pertaining to the mobile home or premises occurs.

Sec. 4.07.1. If said mobile home is removed from the lot, parcel or tract of land on which it has been located.

Sec. 4.07.2. If said mobile home is moved from its original location to another location on the same lot, parcel or tract of land.

Sec. 4.07.3. If the wheels of said mobile home are removed, except for repair of wheels or tire.

Sec. 4.07.4. If said mobile home is not connected with fresh water supply and septic tank/drain field sewerage system prior to or on the effective date of this Ordinance.

Sec. 4.07.5. If the yards surrounding said mobile home shall be ill kept and unsightly to the extent of becoming, in the opinion of the Building Inspector, a nuisance.

(Amended: Ord. No. 264, 3-7-88)

#### 300.408 - Valid nonconforming use of mobile homes.

Sec. 4.08. The use of any mobile home placed on a lot, parcel or tract of land in Comstock Township prior to the effective date of this Ordinance, which use is prohibited by this Ordinance, shall be a "Valid Nonconforming Use" that may be continued, subject to the provisions pertaining to "Nonconforming Uses" contained in Article 5.00 and in Article 4.00, Section 4.10.

[Sec. 4.09. Reserved.]

Sec. 4.10. [Repealed by Ordinance No. 418, § I, adopted December 6, 2004.]

#### 300.411 - Buildings upon unplatted land.

Sec. 4.11. All buildings built upon unplatted land shall comply with all of the following regulations.

- a. Each building, other than accessory buildings, must be constructed upon a lot satisfying the minimum lot width and area as required under this ordinance for the zoning district in which such building is constructed. In no event shall the depth of such lot be more than four (4) times its width unless:
  - (1) The lot is larger than ten (10) acres; or
  - (2) The lot is the result of a division of a parent parcel or parent tract and is the remainder of the parent parcel or parent tract retained by the proprietor. The terms "parent parcel", "parent tract" and "proprietor" shall have the meanings set forth in Section 102 of the Michigan Land Division Act (MCL 560.102).
  - (3) The lot is the result of the combination of or reconfiguration of two or more lots.
- b. After the construction of such building and at all times thereafter, the lot shall satisfy the minimum lot width as required under this ordinance for the particular zoning district in which the building is constructed.
- c. Each unplatted lot having at least the minimum lot width, but less than twice the minimum lot width, required under this Ordinance for the zoning district in which the lot is located shall contain no more than one building, other than accessory buildings. This provision shall not apply to Multi-Family developments or Planned Unit Developments.

The Zoning Board of Appeals is hereby given the right to grant a variance from the foregoing where there are practical difficulties or unnecessary hardship in the way of carrying out the strict compliance with the foregoing, or where, in the opinion of said Board, the spirit of the foregoing provisions are still observed, public safety, health and welfare secured and substantial justice thereby accomplished.

The Zoning Board of Appeals is hereby further given the right and authority to require the conveyance or dedication to the public of a 66-foot wide right-of-way for ingress and egress to and from interior land having otherwise insufficient or inadequate public access for normal, proper and logical development as a condition to the granting of any variance as herein provided, and to further secure the public health, safety and general welfare.

The purpose of these provisions is to secure the more orderly development of property in unplatted areas through the encouragement and regulation of open spaces between buildings, the lessening of congestion, the encouragement of more efficient and conservative land use, the facilitating of transportation, sewage disposal, water supply and other public requirements, and by providing for future access to interior land which might not otherwise be adaptable to proper and advantageous development.

(Amended: Ord. No. 271, 8-1-88; Ord. No. 290, 6-18-90; Ord. No. 441, § I, 12-7-09; Ord. No. 488, § II, 4-17-17; Ord. No. 510, § II, 11-18-19  
)

### 300.411.1 - Animals.

Sec. 4.11.1.

- A. Except as allowed in Section 4.11.2, the keeping of pigs, hogs, poultry, wild fowl, livestock, or the maintaining of more than three cats is prohibited within or upon any platted properties within the Township. The grazing of livestock or the maintaining of more than three cats is also prohibited upon or within any portion of unplatted land located within 50 feet of any recorded plat or within 50 feet of any unplatted area zoned AGR, R1-A, R1-B, R1-C, RM, RMH, or OW, and developed for residential purposes. The housing of livestock and the operation of feedlots for livestock is prohibited upon or within any portion of unplatted land located within 150 feet of any recorded plat or within 150 feet of any unplatted area zoned AGR, R1-A, R1-B, R1-C, RM, RMH, or OW, and developed for residential purposes. Except as allowed in Section 4.11.2, the keeping of poultry or wild fowl is prohibited on that portion of unplatted land located within 100 feet of a recorded plat or within 100 feet of any unplatted area zoned AGR, R1-A, R1-B, R1-C, RM, RMH, or OW, and developed for residential purposes.
- B. The foregoing restrictions, however, shall not be construed to pertain to legitimate farm or agricultural operations nor to

lawful operations involving any of the foregoing animals existing on the date of the recording of any residential plat or the construction of any home adjoining the same; nor to any land, the last active use of which, during the preceding 3 years prior to such platting or development of adjacent land, was legitimate farming or agricultural operations or involved any of the foregoing animals.

- C. No such animals shall be permitted in any area of the Township where the same become obnoxious by reason of odors, noise, or sanitary conditions. The determination of the Board of Appeals, established under the statute and this Ordinance shall, in the absence of fraud, be conclusive on the question of whether the same are so obnoxious.
- D. For purposes of this Section, land within 100 feet of either side of a dwelling house, as measured along the road or street on which the same is located, and 300 feet deep as measured from the front property line, shall be considered "developed for residential purposes".
- E. Domestic animals that are normally and customarily kept for pleasure and companionship such as dogs, three or less cats, rabbits, caged birds, small domesticated rodents and non-venomous reptiles, and other similar non-exotic animals that do not conflict with or violate any other law or regulation of the state, county or Township Ordinance, including this Section, applicable to the keeping of such animal, are permitted as accessory to a residential use.

(Amended: Ord. No. 271, 8-1-88; Ord. No. 492, § I, 4-30-18)

#### 300.411.2 - Chickens as an accessory use.

Sec. 4.11.2 Chickens (hens). The purpose of this section is to provide standards and requirements for the keeping of chickens. Roosters are not permitted. It is intended to enable residents to keep up to six (6) chickens on a non-commercial basis while limiting and mitigating any potential adverse impacts on surrounding properties and neighborhood. The keeping of up to six (6) chickens that are utilized exclusively by the person(s) occupying a single family dwelling as a locally grown food source for the consumption of eggs or meat, is permitted as accessory to the residential use if all of the following are satisfied:

- a. Chickens shall be kept only in the rear yard secured within a coop and attached pen during non-daylight hours. During daylight hours, chickens may be allowed to roam outside of the coop and pen, if supervised, and only within an area completely enclosed by a fence with a minimum height of four feet.
- b. The accessory use, coop and pen shall be designed to provide safe and healthy living conditions for chickens while minimizing adverse impacts on other residents and the neighborhood. The coop and pen shall meet the following additional requirements:
  - 1) The coop and pen shall be setback a minimum of ten feet from all side and rear lot lines and a minimum of 30 feet from the nearest wall of any adjacent dwelling. Additionally, a coop and pen located on a waterfront lot shall have a 40-foot rear yard setback.
  - 2) The coop and pen shall be a maximum of seven feet in height and shall not exceed a total of 90 square feet.
  - 3) The use of corrugated metal/fiberglass, sheet metal, plastic tarps, scrap lumber or similar materials not in keeping with the appearance of other accessory buildings in the immediate area of the property as determined by the Zoning Administrator is prohibited. The coop and pen must be completely enclosed with a top and/or cover.
  - 4) The coop and pen may be movable only if the dimensional/setback restrictions contained in this section are satisfied.
- c. All feed and other items associated with the keeping of chickens that are likely to attract or to become infested with or infected by rats, mice or other rodents shall be protected so as to prevent rats, mice or other rodents from gaining access or coming into contact with them.
- d. Waste materials (feed, manure and litter) must be disposed of in an environmentally responsible manner. Piling waste materials on the property is not permitted. Litter must be kept dry.
- e. Dead chickens and waste eggs must be promptly bagged and disposed of in the garbage.
- f. The outdoor slaughter of chickens shall be screened from view from off the premises.

- g. The accessory use shall comply with all ordinances of Comstock Charter Township pertaining to noise, odors, dust, fumes, and health or other comparable nuisances to ensure the public health, safety and welfare.
- h. No person shall keep chickens without first securing a permit from the Zoning Administrator on a form provided and without paying a permit fee as established by the Township Board by resolution. The permit shall be issued by the Zoning Administrator. Such permit may be revoked by the Zoning Administrator if it is determined that any provision of this section is violated.
- i. Establishment of an accessory use and/or accessory building under this section shall not confer a vested right in the provisions contained herein or a right to continue such use. Further, a permit granted under this section is personal to the applicant occupying the dwelling and is not transferable.
- j. This section shall not regulate the keeping of chickens in those areas where farming is a permitted principal use or special land use under other sections of this ordinance.
- k. All licensing required by the State of Michigan and Kalamazoo County, as well as all other statutes, ordinances and codes, shall be satisfied.
- l. No permit shall be issued by the Zoning Administrator without the written authorization from an owner of the property (if different from the applicant) consenting to the application on a form provided. Once authorization is obtained it shall continue for as long as the applicant is in possession of the property.

(Ord. No. 492, § II, 4-30-18)

#### 300.412 - Temporary use of mobile homes.

Sec. 4.12. The Township Supervisor is hereby given the authority to grant a permit to a person or family for the temporary use of a mobile home for dwelling purposes for a period of not to exceed one month in any one year, provided that said mobile home is located upon the premises of the applicant and has running water and sewage facilities of not less than septic tank quality available for the occupants of said mobile home. Said permit shall only be issued in the event of an emergency situation where the applicant has sustained damage or injury to his or her permanent dwelling which makes it impossible to reside in said dwelling. Upon a showing of a good faith effort to complete repairs upon said dwelling and upon a showing of unnecessary hardship or practical difficulties, the Township Supervisor may grant additional extensions to said permit, provided, however, that the total period of occupancy does not exceed a total of six months. As a condition of granting said permit, the applicant shall agree to immediately remove said mobile home from said premises upon completion of repairs to his or her permanent dwelling and the Township Supervisor may require the posting of a performance bond in an amount not to exceed \$5,000.00 to assure compliance with the conditions contained herein. In addition, public utilities and municipal departments may have mobile homes upon their improved business or industrial park property regardless of zone during emergency situations as determined by the Township Supervisor when necessary to perform services for the public, provided that running water and toilet facilities are available upon the property for persons using said mobile homes.

#### 300.413 - Uses permitted under special exception.

Sec. 4.13. The uses identified as special exception uses in Articles 9.00 through and including 20.00 are recognized as possessing characteristics of such unique and special nature (relative to design, size, public utility needs, and other similar characteristics) as necessitating individual standards and conditions in order to safeguard the general health, safety, and welfare of the community.

- a) Petitions for the grant of special exceptions shall be filed with the Township Zoning Administrator on forms provided therefor. The petitioner shall submit plans and specifications or other data or exploratory material stating the methods by which he will comply with the conditions specified for each grant of special exception. At the time of filing the request for a grant of special exception, the petitioner shall pay the application fee as adopted by the Township Board by Resolution.
- b) The Planning Commission shall review and decide all applications for approval of special exception uses and shall, on its own initiative, hold a public hearing after giving notice as required under the Michigan Zoning Enabling Act (2006 PA



110). At the conclusion of the public hearing, the Planning Commission may deny, approve or approve with conditions, a request for special exception use approval. The decision on a special exception use request shall be incorporated in a statement containing the conclusions relative to the special exception use under consideration which specifies the basis for the decision and any conditions imposed.

- c) In hearing a request for any special exception, the Planning Commission shall be governed by the following principles and conditions:
- 1) The applicant for a special exception shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact which are to be determined by the Commission.
  - 2) A special exception may be granted and conditions imposed by the Planning Commission relative to the special use, pursuant to Section 27.06, when the Planning Commission finds from the evidence produced at the hearing and the imposition of conditions that:
    - a) The proposed use does not affect adversely the General Plan for physical development of the Township as embodied in this ordinance and in any Master Plan or portion thereof adopted by the Township; and
    - b) The proposed use will not affect adversely the health and safety of residents or workers in the area and will not be detrimental to the use or development of adjacent properties or the general neighborhood; and
    - c) The standards and conditions as may be set forth for a particular use for which a special exception may be granted, can and will be met by the applicant; and
    - d) The plot plan and specifications, and all conditions, limitations and requirements imposed by the Planning Commission, shall be incorporated as a part of the special exception permit and violations of any of these at any time will cause revocation of such permit and said special exception use shall cease to be a lawful use.
    - e) Any property which is the subject of a special exception permit which has not been used for a period of 18 (eighteen) months for the purposes for which such special exception was granted shall thereafter be required to be used for only permissible uses set forth in the particular zoning classification in which the property is located and the permit for such special exception use shall thereupon terminate unless extended by the Planning Commission. Said Planning Commission shall have authority to grant an extension of such special exception use permit where the applicant therefore satisfies the Planning Commission upon application for such extension filed with said Planning Commission of any of the following existing circumstances:
      - (1) The delay in commencement or completion of the project subject to the special exception use permit was beyond the control of the applicant and the applicant has in good faith attempted to meet the foregoing time schedule.
      - (2) The project is in the process of being developed for the special exception use purpose and has reasonably progressed towards completion.
      - (3) The complexity or size of the project requires additional time for either commencement or completion of construction, which commencement and completion appear feasible and probable if permitted. Under this circumstance, the Planning Commission shall have the authority to grant an initial longer period for commencement and/or completion at the time of approving the original special exception use permit.
      - (4) Successive extensions of time may be granted by the Planning Commission for such periods of time as said Planning Commission determines to be reasonable and proper under the foregoing criteria.
      - (5) Where a special exception use permit is terminated by lapse of time, any new application for a Special Exception Use Permit shall be heard and determined anew based upon circumstances then existing.
    - f) Re-application. No application for a Special Exception Use permit which has been denied by the Planning Commission shall be resubmitted within one year from the Planning Commission's denial except on the grounds of new evidence or proof of changed circumstances or conditions found.

(Amended: Ord. No. 430, § III, 6-19-06; Ord. No. 488, § III, 4-17-17; Ord. No. 521, § V, 9-20-21)

300.414 - Temporary special exception use for highway construction purposes.

Sec. 4.14.

- A. *Introduction:* With the advent of new technologies in highway construction, unique requirements for the use of land by construction personnel on a relatively temporary basis have arisen. Particularly with respect to highways constructed of concrete, technology now permits the breakup of the existing concrete roadway, the crushing of these concrete pieces and the use of the by-product thereof to produce new concrete to rebuild the roadway system. For convenience and cost effectiveness, the process frequently takes place in areas adjacent to the highway or exit ramps in the case of limited access highways. These areas are commonly referred to as "batching" plants.

The Charter Township of Comstock has a major interstate highway along with other significant state or local highways which traverse the Township. It is anticipated that periodically highway maintenance projects on these vehicular arteries will give rise to requests to use vacant land for the purposes described herein. These regulations have been developed in an effort to strike a balance between the need for such facilities and the desire to minimize adverse impacts from these land uses.

- B. *Regulations:* As a special exception use in the "AGR", "R1-A, and "R1-B" districts, a temporary land use for facilities which are used to receive and process the by-product of highway renovation and the use or mixing of the by-product for use in construction of a new highway surface, subject to the following terms and conditions:
1. The minimum lot size for such facility shall be at least 20 acres in size.
  2. In the case of limited access highways, the entire lot shall be situated within 2,000 feet of an interchange and shall have frontage on a primary road under the jurisdiction of the Kalamazoo County Road Commission. In the case of highways which are not limited access, the lot shall have frontage on a public road. No permit shall be given for longer than a one-year period. The Planning Commission shall have the discretion to issue a permit for a period of less than one year to coincide with that period of time during which the facility shall be in operation. The facility shall comply at all times with all applicable noise ordinances of the Township.
  3. All activities on the facility shall be set back at least 500 feet from any adjacent residential structure.
  4. The application for a special exception use permit shall contain specific plans detailing how the applicant proposes to eliminate dust emanating from the site.
  5. As a condition of its approval, the Planning Commission may impose reasonable limits on the hours of operation of the facility if it appears necessary to protect the health and welfare of residents living nearby.
  6. The facility shall only be used in connection with work actively being performed on the highway to which the lot has frontage upon or, in the case of limited access highways, to those roadways.
  7. Upon cessation of the activities, the applicant shall restore the lot to the condition in which it existed prior to the commencement of activities or to such other condition as may be imposed by and at the discretion of the Planning Commission at the time the special exception use permit is approved. To assure compliance with this Section, the Planning Commission shall require the posting of a surety bond, cash, an irrevocable bank letter of credit or such other security as may be acceptable to the Planning Commission and in such amounts as the Planning Commission shall, after consultation with the applicant, determine is appropriate. The application shall be accompanied by specific plans to demonstrate compliance with this Section.

(Amended: Ord. No. 246, 3-18-85)

300.415 - Reserved for future use.

Deleted by Ord. No. 484, § IV, 10-24-16.

## 300.416 - Temporary outdoor sales and service.

## Sec. 4.16.

- a. Temporary outdoor sales and service are permitted only on lots where there is an existing lawful business establishment.
- b. Temporary outdoor sales and service uses may not operate on a vacant lot, nor shall they operate on a parking lot on a property on which there is no existing lawful business establishment.
- c. Temporary outdoor sales and service shall be accessory to the principal use on the lot. If the applicant is not the owner of the lot, the applicant shall provide a signed affidavit from the owner giving permission to the applicant to proceed with the application.
- d. Temporary outdoor sales and service shall not be located in the public right-of-way or on public property unless a permit has been obtained from the appropriate public authority. Such uses shall comply with requirements to maintain clear visibility for drivers in Section 4.06.c.
- e. Permit applications for temporary outdoor sales and service shall be reviewed by Township fire, building and zoning officials. A permit may be issued by the Zoning Administrator if the proposed use is in compliance with all of the requirements of this Ordinance. The permit must be maintained on-site and visible at all times.
- f. A temporary use permit shall be effective for thirty (30) consecutive days from the date it is issued. The permit may be renewed for one additional thirty (30) consecutive-day period within a calendar year provided the use has been conducted in accordance with the requirements of this Ordinance. No property shall have temporary outdoor sales and service operating on it for more than sixty (60) days in any calendar year.
- g. A fee for review of an application for a temporary use permit or renewal thereof shall be established by resolution of the Township Board. The fee shall be submitted with the application in order to initiate review.
- h. The property on which the temporary outdoor sales and service is permitted shall be kept in a clean and sanitary condition at all times. All litter and trash shall be removed at the end of each day.
- i. The layout of the site on which a temporary outside sales and service use is located shall permit vehicles to drive into an off-street parking area, so as to not interrupt the flow of traffic on a public street.
- j. Fire Department approval and a building permit shall be required for outdoor sales and services uses proposing to use a tent or other temporary structure exceeding 200 square feet in area.
- k. The area occupied by a temporary outdoor sales and service use shall not exceed 7,500 square feet. No more than one (1) such use shall operate on a lot at a time.
- l. The area occupied by temporary outdoor sales and service activity, plus any required area for emergency vehicles, shall not occupy the required off-street parking for the permanent principal use on the lot. The applicant shall demonstrate that there will remain adequate parking and vehicle maneuvering space for the existing and proposed uses.
- m. Temporary outdoor sales and service shall be located on a paved surface, unless the applicant demonstrates to the Zoning Administrator that another surface will cause no negative consequences in terms of drainage, access, property condition, or neighborhood appearance.
- n. Temporary outdoor sales and service uses located adjacent to residential uses shall not operate after 8:00 p.m. or before 8:00 a.m.

(Added: Ord. No. 510, § VI, 11-18-19)

## 300.417 - Temporary outdoor festivals and similar events.

## Sec. 4.17.

- A. Temporary outdoor festivals, concerts, art and craft shows, patriotic, historic, cultural and similar temporary outdoor

events shall be allowed as a special exception use in the "AGR", "B-1", "B-2", "B-3", "LD", "LM", and "M" zoning districts, subject to the following conditions:

1. The event shall occur for no more than ten (10) consecutive days.
2. The events regulated hereunder shall occur on the same parcel for no more than ten (10) days within a calendar year.
3. The event shall not take place between the hours of 12:00 a.m. and 8:00 a.m. The Planning Commission shall have authority to impose a greater, but not lesser, time limit on the event if the Planning Commission determines, in its sole reasonable discretion, that, given the nature of the proposed event, the subject property and/or the surrounding properties, such a time limit is necessary to satisfy the standards of this Ordinance for the granting of the requested special exception use approval.
4. The event shall not materially interfere with traffic circulation, required off-street parking or load areas, or pedestrian safety and if located within a parking area shall be cordoned off to prevent pedestrian/vehicular conflicts.
5. Adequate parking and ingress/egress for persons in attendance at the event shall be provided on and/or off-site. At a minimum, the applicant shall provide not less than one (1) parking space for every four (4) persons (including employees and support staff) anticipated to be in attendance at the event. Parking spaces shall satisfy the minimum size requirements set forth in Section 6.03 of this Ordinance.
6. Setbacks for all temporary structures and displays shall meet all Zoning Ordinance requirements.
7. The event shall have a minimum setback of 100 feet from any residential dwelling on neighboring properties.
8. Toilet facilities, refuse containers, and security personnel shall be provided in adequate number to reasonably accommodate the amount of people anticipated at the event. Refuse containers shall be located so as to be readily accessible to persons in attendance at the event.
9. All lighting for the event shall be directed away and shielded from adjacent residential areas.
10. The event shall not generate noise of such a volume or character as to unreasonably disturb the occupants in the vicinity of the subject property. In determining whether a proposed temporary event will satisfy this standard, consideration should be given to the volume and character of noise generated from other lawful activities conducted in the vicinity of the subject property.
11. The event shall be conducted in compliance with all applicable requirements of state law and Township ordinance, including the Comstock Township Anti-Noise and Public Nuisance Ordinance.
12. All applications for a special exception use permit hereunder shall be accompanied by twelve (12) copies of a letter containing the following information:
  - a. The name and address of the applicant.
  - b. The name and address of the owner of the subject property.
  - c. The anticipated maximum number of persons in attendance at the proposed event.
  - d. The date(s) and time(s) during which the event is proposed to be held. When approval is requested for the temporary outdoor event to be conducted on a recurring basis (see subsection "17" below), the Planning Commission may waive all or part of this informational requirement for succeeding occasions to the extent that the Planning Commission deems such information unnecessary to assure that the temporary outdoor event satisfies the standards for special exception use approval.
  - e. The insurance and bonding arrangements for the event, if any, with accompanying documentation of the same.
  - f. The number and type of security persons proposed for the event.
13. All applications for a special exception use permit hereunder shall be accompanied by twelve (12) copies of a site plan of the subject property drawn to a selected scale, containing at a minimum the following information:
  - a. A north arrow and notation of the selected scale used. The scale shall be not less than 1" equals 20 feet for

property under 3 acres and at least 1" equals 100 feet for those of 3 acres or more.

- b. All property lines shall be shown with their dimensions.
  - c. Location and dimensions of all existing and proposed temporary structures on and within 100 feet of the subject property.
  - d. The size and location of all parking areas intended to serve the proposed event, as well as the total number of parking spaces provided in the parking areas.
  - e. The size and location of all rubbish receptacles to be placed on the subject property.
  - f. The location and number of all toilet facilities to be established on the subject property.
  - g. The location of all existing and proposed exterior lighting to be established on the subject property.
  - h. The name of the party(ies) preparing the site plan.
14. The Planning Commission shall have authority to require additional information if it reasonably determines that, given the nature of the proposed event, the subject property and/or the surrounding properties, such information is necessary to determine whether the requested special exception use satisfies the standards of this ordinance for the granting of the requested special exception use approval.
  15. Planning Commission approval of the above-required site plan under the standards in Section 22.04 shall satisfy the site plan submission and approval requirements of Sections 22.01 through 22.04 of this Ordinance.
  16. This section shall not be deemed to prohibit or require a permit for a temporary outdoor festival or similar temporary outdoor event conducted on school, house of worship, or public property as an accessory use to the principal permitted use conducted on the property.
  17. The Planning Commission shall have authority to approve a temporary outdoor event to be conducted on a recurring basis (e.g., a temporary outdoor event conducted annually) for such time period as the Planning Commission shall specify, provided that the Planning Commission is satisfied from the proofs that the event will continue to be conducted in compliance with all the terms of Section 4.17, the application and site plan for the event and any conditions imposed by the Planning Commission in granting special exception use approval for the event. In determining whether to give approval for a proposed temporary outdoor event to be conducted on a recurring basis, the Planning Commission shall consider the nature of the event, the nature of the surrounding area and any prior experience with the event or any similar event having been conducted on the subject property.

(Amended: Ord. No. 304, 12-7-91; Ord. No. 363, 10-19-98; Ord. No. 408, §§ XXVII, XXVIII, 11-17-03; Ord. No. 437, § IX, 3-2-09; Ord. No. 479, § IV, 3-21-16)

300.418 - Reserved.

**Editor's note**— Sec. VI of Ord. No. 521, adopted September 20, 2021, deleted § 300.418, which pertained to groundwater protection standards, and derived from Ord. No. 315, adopted April 5, 1993; and Ord. No. 344, adopted July 15, 1996.

300.419 - Wireless Communication Facilities.

Sec. 4.19.

- A. *Purpose.* The purpose of this Section is to establish uniform standards for the siting, design, permitting, maintenance and use of wireless communications facilities.

The goals of this Section are to:

1. Protect residential areas and land uses from potential adverse impacts of towers and antennas;
2. Encourage the location of towers in non-residential areas;
3. Minimize the number of new towers throughout the community;

4. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of single-
5. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
6. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
7. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
8. Consider the public health and safety; and
9. Avoid potential damage to adjacent properties from structural failure through engineering and careful siting of tower structures.

In furtherance of these goals, the Township shall give due consideration to the future land use plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

B. *Definitions.* As used in this Section, the following terms shall have the meanings indicated:

1. "Antenna" means any system of wires, rods, discs, panels, dishes, whips or similar devices mounted on a tower, building or structure and used for the transmission or reception of wireless signals.
2. "Co-location" means the mounting of two (2) or more WCFs, including antennae, on an existing Tower-Based WCF or utility or light pole.
3. "Distributed Antenna System (DAS)" means a network of spatially separated antenna sites connected to a common source that provides wireless service within a geographic area or structure.
4. "Equipment Compound" means an area surrounding or adjacent to the base of a wireless support structure and within which wireless communications equipment is located.
5. "Non-Tower Wireless Communications Facility (Non-Tower WCF)" means all non-tower wireless communications facilities, including, but not limited to, antennae and related equipment. Non-Tower WCF shall not include support structures for antenna and related equipment.
6. "Right-of-Way (ROW)" means the surface of and space above and below any real property in the Township in which the Township, Kalamazoo County or the State of Michigan have a regulatory interest, including, but not limited to, all streets, highways, sidewalks, tunnels, bridges or any other public place, area or property under the control of Comstock Township and any unrestricted public or private utility easements dedicated to Comstock Township, the City of Kalamazoo, the City of Galesburg, Consumers Energy Company, or any other utility company or entity, improved or devoted for utility purposes.
7. "Stealth Technology" means camouflaging methods applied to wireless communication towers, antennae and other facilities which render them more visually appealing or blend the facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer.
8. "Tower-Based Wireless Communications Facility (Tower-Based WCF)" means any structure that is used for the purpose of supporting one or more antennae, including, but not limited to, self-supporting lattice towers, guy towers and monopoles, utility poles and light poles. DAS hub facilities are considered to be Tower-Based WCFs.
9. "Wireless Communications Facility (WCF)" means the antennae, nodes, control boxes, towers, poles, conduits, ducts, pedestals, electronics and other equipment used for the purposes of transmitting, receiving, distributing, providing, or accommodating wireless communications services including the equipment compound.
10. "Wireless Support Structure" means a freestanding structure or any other structure that could support the placement of a WCF if approved by the Township.

C. *Applicability.*

1. *Towers and Antennas.* All towers and antennas in the Township, other than the Michigan State Police radio

communication system, shall be regulated pursuant to this Section, except as provided in subsection C.2, and they shall not be regulated or permitted as essential services, public utilities, or private utilities.

2. *Amateur Radio Station Operator and/or Receive Only Antennas.* This Section shall not govern any tower, or the installation of any antenna, that is under fifty (50) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.

D. *General Requirements for WCFs outside the ROW.*

1. *Height.* Tower-Based WCFs shall not exceed a height of one hundred twenty (120) feet. Higher towers may be permitted, however, if necessary to achieve co-location. The buildings, cabinets, and other accessory structures shall not exceed the maximum height for accessory structures in the zoning district in which the facility is located.
2. *Setbacks.* The setback of a new or modified Tower-Based WCF support structure from any residential-zoned property line or existing or proposed right-of-way or other publicly traveled road shall be no less than the total height of the structure and attachments thereto. Non-Tower WCF support structure shall satisfy the setback requirements of Article 23, Schedule of Regulations for principal buildings.

Where the proposed new or modified Tower-Based WCF support structure abuts a parcel of land zoned for a use other than residential, it shall comply with the required setbacks for principal buildings specified in the Schedule of Regulations for the zoning district in which it is located.

Buildings and facilities accessory to the WCF (other than the wireless support structure) shall comply with the required setbacks for principal buildings specified in the Schedule of Regulations for the zoning district in which the WCF is located.

3. *Equipment Location.* Equipment enclosures proposed as building or ground-mounted structures shall comply with the required setbacks and other requirements specified for principal buildings in the Schedule of Regulations for the zoning district in which the facility is located. If an equipment enclosure is proposed as a roof appliance on a building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building.
4. *Type A.* A Type A WCF is located outside the ROW and is a permitted use of property and not subject to special land use approval if all of the following requirements are met:
  - a. The WCF will be co-located on an existing wireless support structure or in an existing equipment compound.
  - b. The existing wireless support structure or existing equipment compound is in compliance with the Township Zoning Ordinance or was approved by the Township Planning Commission.
  - c. The proposed co-location will not do any of the following:
    - i. Increase the overall height of the wireless support structure by more than twenty (20) feet or ten percent (10%) of its original height, whichever is greater.
    - ii. Increase the width of wireless support structure by more than the minimum necessary to permit co-location.
    - iii. Increase the area of the existing equipment compound to greater than 2,500 square feet.
  - d. The proposed co-location complies with the terms and conditions of any previous final approval by the Planning Commission.
5. *Type B.* A Type B WCF or antenna, is located outside the ROW and is subject to special exception use approval, in accordance with Section 4.13 of the Zoning Ordinance, if it does not meet requirements 'c' and 'd' under Type A, but satisfies all of the following requirements:
  - a. The WCF or antenna will be co-located on an existing wireless support structure or in an existing equipment compound.
  - b. The existing wireless support structure or existing equipment compound is in compliance with the Township Zoning Ordinance or was approved by the Township Planning Commission.

6. *Type C.* A Type C WCF is located outside the ROW and subject to special exception use approval, in accordance with Section 4.12 of the Zoning Ordinance if the proposal does not involve co-location on an existing wireless support structure approved by the Commission (e.g., a new WCF).
- E. *General Requirements for WCFs located within the ROW.*
1. *Height.* Tower-Based WCFs may not exceed a height of 45 feet when located in the ROW of any public street and a height of one hundred twenty (120) feet when located in any non-street ROW. Non-Tower WCFs shall be co-located on existing poles, such as utility poles or light poles.
  2. *Setbacks.* Tower-Based WCFs, Non-Tower WCFs, and accessory equipment shall be located so as to not cause any physical or visual obstruction to pedestrian or vehicular traffic or to otherwise create safety hazards to pedestrians and/or motorists or to otherwise inconvenience public use of the ROW as determined by the Township. To that end, Tower-Based WCFs shall utilize existing structures whenever possible.
  3. *Equipment Location.*
    - a. Ground-mounted equipment shall be placed underground. In the event an applicant can demonstrate, to the satisfaction of the Township, that ground-mounted equipment cannot be placed underground, it shall be screened, to the fullest extent possible, through the use of landscaping or other decorative features to the satisfaction of the Township. In no case shall ground-mounted equipment, walls or landscaping be located within eighteen (18) inches of the face of the curb, or in the absence of a curb, the edge of the pavement.
    - b. Required electrical meter cabinets shall be screened to blend in with the surrounding area to the satisfaction of the Township.
    - c. Any graffiti on the tower or on any accessory equipment shall be removed at the sole expense of the owner within 10 business days of notice of the existence of the graffiti.
    - d. Any underground vaults related to Tower-based WCFs shall be reviewed and approved by the Township and the agency owning the ROW.
  4. *Design Requirements.*
    - a. Antennae and all support equipment shall be treated to match the wireless support structure. WCFs and accompanying equipment shall be painted, or otherwise coated, to be visually compatible with the wireless support structure upon which they are mounted.
    - b. WCF installations located above the surface of the ground shall consist of equipment components that are no more than six (6) feet in height and that are compatible in scale and proportion to the structures upon which they are mounted. All equipment shall be the smallest and least visibly intrusive equipment feasible.
  5. Every WCF, to be located in a ROW, must have prior consent, franchise, or lease as the case may dictate, from the Township Board and is subject to the terms and conditions placed therein.
  6. *Type D.* A Type D WCF is located in a ROW and a permitted use of property and is not subject to special exception use approval if all of the following requirements are met:
    - a. The WCF will be co-located on an existing wireless support structure.
    - b. Equipment location is entirely underground.
    - c. The proposed co-location will not do any of the following:
      - i. Increase the overall height of the support structure by more than five (5) feet or ten percent (10%) of its original height, whichever is less.
      - ii. Increase the width of wireless support structure by more than the minimum necessary to permit co-location.
  7. *Type E.* A Type E WCF or antenna is subject to special exception use approval, in accordance with Section 4.13 of the Zoning Ordinance, if it does not meet all of the requirements under Type D.
- F. *Approval Procedures for WCFs.*



The following procedures have been established to achieve approval of a proposed WCF:

1. *Type A.* Type A WCF proposals require only a Zoning Compliance Permit, pursuant to Section 27.02.
2. *Type B.* Type B WCF proposals require special land use approval. Accordingly, such proposals are subject to the procedures in Section 4.13, Subsection 4.19G, and the following special procedures.

Step	Action
1.	Applicant submits application, plan and fee per Township Fee Schedule to Zoning Administrator.
2.	Within 14 days, Zoning Administrator determines if application is complete.
3.	If application is incomplete, Zoning Administrator notifies applicant.
4.	If application is complete, Zoning Administrator initiates special exception use review and schedules special exception use review by the Planning Commission. Special exception use review must be complete (60) days after the application is considered complete.

3. *Type C.* Type C WCF proposals require special exception use approval. Accordingly, such proposals are subject to the procedures outlined for Type B, except that in Step 4 the special exception use review must be complete not more than ninety (90) days after the application is considered complete.
4. *Type D.* Type D WCF proposals require a Zoning Compliance Permit pursuant to Section 27.02, as well as the appropriate permit from the ROW owner and the appropriate regulatory agencies over the ROW.
5. *Type E.* Type E WCF proposals require special land use approval. Accordingly, such proposals are subject to the procedures in Section 4.13, Subsection 4.19G, and the following special procedures in addition to obtaining the appropriate permit from the ROW owner and the appropriate regulatory agencies over the ROW:

Step	Action
1.	Applicant submits application, plan and fee per Township Fee Schedule to Zoning Administrator.
2.	Within 14 days, Zoning Administrator determines if application is complete.
3.	If application is incomplete, Zoning Administrator notifies applicant.
4.	If application is complete, Zoning Administrator initiates special exception use review and schedules special exception use review by the Planning Commission. Special exception use review must be complete (60) days after the application is considered complete.

G. *Standards and Conditions.*

All applications for WCFs that require special exception use approval shall be reviewed in accordance with the following additional standards and conditions. If approved, such facilities shall be constructed and maintained in accordance with such standards and conditions and any additional conditions imposed by the Planning Commission.

1. *Public Health and Safety.* Facilities and/or support structures shall not be detrimental to the public health, safety and w
    2. *Compliance with Federal, State and Local Standards.* WCFs shall comply with applicable federal and state standards, including requirements promulgated by the Federal Aviation Administration (FAA), Federal Communication Commission (FCC), and Michigan Aeronautics Commission. Wireless support structures shall comply with all applicable building codes.
  3. *Maximum Height.* Applicant shall demonstrate a justification for the proposed height of the wireless support structures and an evaluation of alternative designs which might result in lower heights. The maximum height of a new or modified wireless support structure and/or antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant (and by other entities to co-locate on the structure).
  4. *Access.* When a wireless support structure is located outside the ROW, unobstructed permanent access to it shall be provided for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. The permitted type of surfacing, dimensions and location of such access route shall be subject to approval by the Planning Commission, based on evaluation of the location of adjacent roads, layout of buildings and equipment on the site, utilities needed to service the facility, proximity to residential districts, disturbance to the natural landscape, and the type of vehicles and equipment that will visit the site. When located within the ROW, access will be as required by the agency having regulatory authority over the ROW.
  5. *Division of Property.* The division of property for the purpose of locating a WCF shall be permitted only if all zoning requirements, including lot size and lot width requirements, are met.
  6. *Design Objectives.* To the extent feasible, the wireless support structure, WCF and all accessory buildings shall be designed utilizing stealth technology to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. Accordingly, wireless support structures, other than street light poles in the ROW, shall not have lights unless required otherwise by the Federal Aviation Administration (FAA). No signs or logos visible from off-site shall be permitted on a support structure.
  7. *Fencing.* When located outside the ROW, WCFs and equipment compounds shall be enclosed by an open weave, green or black vinyl-coated, chain link fence having a maximum height of six (6) feet. Barbed wire may be permitted. When located within the ROW, any fencing will be as permitted by the agency having regulatory authority over the ROW.
  8. *Structural Integrity.* WCFs and wireless support structures shall be constructed and maintained in structurally sound condition, using the best available technology, to minimize any threat to public safety.
  9. *Maintenance.* A plan for the long term, continuous maintenance of the facility shall be submitted. The plan shall identify who will be responsible for maintenance, and shall include a method of notifying the Township if maintenance responsibilities change.
- H. *Removal of Unused or Obsolete Facilities.*
1. A condition of every approval of a WCF shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one (1) or more of the following events:
    - a. When the facility has not been used for one hundred eighty (180) days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of no use.
    - b. Six (6) months after new technology is available at reasonable cost, as determined by the Township, which permits the operation of the communication system without the requirement of the support structure.
  2. The situations in which removal of a facility is required, as set forth in paragraph (1) above, may be applied and limited to portions of a facility.
  3. Upon the occurrence of one (1) or more of the events requiring removal, the property owner or persons who had used the facility shall immediately apply for any required demolition or removal permits, and immediately proceed

with and complete the demolition, removal, and site restoration.

4. If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days' written notice, the Township may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected and/or enforced from or under the performance guarantee posted at the time application was made for establishing the facility.

I. *Application Requirements.*

1. *Site Plan and Special Exception Use Review.* A site plan prepared in accordance with Section 22.02 shall be submitted, showing the location, size, screening and design of all buildings, outdoor equipment, and structures. Where the wireless communication facility is subject to special exception use approval, the procedures and standards in Section 4.13 shall be followed.
2. *Property/ROW Owner Approvals.* The application shall be accompanied by written approval from the property owner when the WCF is outside the ROW or written approval from the appropriate regulatory agencies when the WCF is within the ROW and the appropriate regulatory agencies over the ROW.
3. *Landscape Plan.* A landscaping plan shall be submitted in compliance with the requirements of Section 21.50.
4. *Structural Specifications.* Structural specifications for the wireless support structure and foundation shall be submitted for review. The structural specifications shall state the number of various types of antennae capable of being supported on the structure. For new wireless support structures, a soils report prepared by a geotechnical engineer licensed in the State of Michigan shall also be submitted confirming that the soils on the site will support the structure. Structural plans shall be subject to review and approval by the Township Engineer.
5. *Performance Guarantee.* The application shall include a description of the performance guarantee to be posted immediately upon issuance of a building permit, when one is required or following approval by the Zoning Administrator for those not requiring a building permit. Said performance guarantee shall be to ensure removal of the facility when it has been abandoned or is no longer needed, as previously noted. In this regard, the performance guarantee shall, at the election of the applicant, be in the form of (1) cash; (2) surety bond; (3) letter of credit; or, (4) an agreement in a form approved by the Township Attorney and recordable at the Kalamazoo County Register of Deeds, establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required herein, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorney's fees incurred by the Township in securing removal.
6. *Contact Person.* The application shall include the name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.

(Amended: Ord. No. 373, § I, 8-30-99; Ord. No. 375, § III, 6-5-00; Ord. No. 484, § VI, 10-24-16; Ord. No. 490, § I, 10-16-17)

300.420 - Temporary special exception use for anemometers and supporting towers.

Sec. 4.20.

- A. *Introduction:* With the intent to support the potential development of wind energy conversion systems in the Township, there is a need to provide for the temporary placement of anemometers (wind speed measurement devices) in locations proposed for possible permanent placement of wind energy conversion systems.
- B. *Regulation:* The temporary location of anemometers and supporting towers may be allowed as a special exception use in any zoning district. In granting any such special exception use permit approval, the Planning Commission shall have authority to, in its sole reasonable discretion based upon the standards set forth in Section 4.13(c), impose setback

requirements consistent with a "fall zone" of no less than 110% of the height of the supporting tower. The Planning Commission shall also have authority to exercise such discretion to impose other reasonable conditions consistent with those set forth in Section 21.27 for the permanent placement of wind energy conversion systems.

(Added: Ord. No. 439, § II, 9-21-09)

## ARTICLE 5.00

### 300.500 - NON-CONFORMING USES AND BUILDINGS

#### 300.501 - Non-conforming uses.

Sec. 5.01. Any lawful non-conforming use existing at the time of passage of this Ordinance or any prior ordinance may be continued, provided, however, that except in the case of dwellings or farm buildings, the building or the lot or land involved shall neither be structurally altered, repaired nor enlarged unless such revised structure shall conform to the provisions of this Ordinance for the district in which it is located. Provided further, that this Section shall not prohibit structural alterations required by law. This Section shall not be deemed to prevent the construction or enlargement of garages or accessory buildings serving single-family dwellings that are lawful non-conforming uses in the "0-1", "B-1", "B-2", "B-3", "LM", "LD", and Manufacturing District zoning classifications.

#### 300.502 - Non-conforming signs.

Sec. 5.02. The provisions of this Article shall not apply to signs, which shall instead be subject to the pertinent provisions contained in Article 8.00 of this Ordinance.

#### 300.503 - Forfeiture of right to continue non-conforming use.

Sec. 5.03. When non-conforming use of property is discontinued without an intention to resume same through vacancy, lack of operation, or other similar condition, for a period of twelve (12) months or more, thereafter no right shall exist to resume or maintain on said property a non-conforming use unless the Board of Appeals with approval of the Township Board grants such privilege within six (6) months after such twelve (12) month period. No non-conforming use, if changed to a use permitted in the district in which it is located, shall be resumed or changed back to a non-conforming use.

(Amended: Ord. No. 491, § I, 4-30-18)

#### 300.504 - Reconstruction of damaged non-conforming buildings and structures.

Sec. 5.04. Nothing in this Ordinance shall prevent the reconstruction, repair or restoration and the continued use of any non-conforming building or structure damaged by fire, collapse, explosion, Acts of God or acts of public enemy, subsequent to the effective date of this Ordinance, wherein the expense of such reconstruction does not exceed sixty (60) per cent of the fair valuation of the entire building or structure at the time such damage occurred; provided that such valuation shall be subject to the approval of the Zoning Administrator whose decision shall be subject to the Board of Appeals, and provided that such restoration and resumption shall take place within six (6) months of the time of such damage and that it be completed within one (1) year from time of such damage, and provided further, that said use be identical with the non-conforming use permitted and in effect directly preceding said damage. Where pending insurance claims require an extension of time, the Zoning Administrator may grant a time extension provided that the property owner submit a certification from the insurance company attesting to the delay. Until such time as the debris from the fire damage is fully removed, the premises shall be adequately fenced or screened from access by trespassers who may be attracted to the premises.

(Amended: Ord. No. 265, 6-6-88; Ord. No. 291, 8-6-90; Ord. No. 456, § I, 9-17-12)

300.505 - (Reserved for future use.)

300.506 - Non-conforming lots of record.

Sec. 5.06. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record existing at the effective date of adoption or amendment of this Ordinance, may be utilized for single residence purposes, provided the building site width is not less than forty (40) feet and the area is not less than four thousand eight hundred (4,800) square feet. The purpose of this provision is to permit utilization of recorded lots which lack adequate required width or depth as long as reasonable living standards can be provided. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall prevail 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 requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. An application for such construction shall be submitted to the Zoning Administrator except for parcels to be served by sanitary sewers, including the results of soil percolation tests in three (3) copies, performed by a registered civil engineer at the exact location of proposed subsurface sewage disposal system facilities. Such application must be approved by both the Zoning Administrator and the Kalamazoo County Health Department prior to issuance of any permit.

If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of such lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or sold in any manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance.

(Amended: Ord. No. 456, § I, 9-17-12)

300.507 - Non-conforming structures.

Sec. 5.07. Where a lawful structure exists at the effective date of adoption of this Ordinance that could not be built under their terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

Sec. 5.07.1. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.

Sec. 5.07.2. Should such structure be moved for any reason whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Sec. 5.07.3. If any such non-conforming structure ceases being used for any reason for a period of more than twelve (12) months, any subsequent use of such structure shall conform to the regulations specified by this Ordinance for the district in which such structure is located.

300.508 - Non-conforming uses of land.

Sec. 5.08. Where at the time of passage of this Ordinance, lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, and where such use involves no individual structure with an assessed value exceeding five hundred (\$500.00) dollars, the use may be continued so long as it remains otherwise lawful provided:

Sec. 5.08.1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment to this Ordinance.

Sec. 5.08.2. No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment to this Ordinance.

Sec. 5.08.3. If any such non-conforming structure ceases for any reason for a period of more than twelve (12) months, any subsequent use of such building shall conform to the regulations specified by this Ordinance for the district in which such structure is located.

Sec. 5.08.4. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such non-conforming use of land.

#### 300.509 - Non-conforming uses of structures.

Sec. 5.09. If lawful use involving individual structures with an assessed value of five hundred (\$500) dollars or more or of structure and premises in combination, exists at the effective date of adoption 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 to the following provisions:

Sec. 5.09.1. 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.

Sec. 5.09.2. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.

Sec. 5.09.3. If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use provided that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. Whenever a non-conforming use has been changed to a conforming use, or to a use permitted in a district of greater restriction, it shall not thereafter be changed to a non-conforming use.

Sec. 5.09.4. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the entire structure shall eliminate the non-conforming status of the land.

#### 300.510 - Repairs and maintenance.

Sec. 5.10. On any non-conforming structure or portion of a structure containing a 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 twenty (20) per cent of the current assessed value of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.

(Ord. No. 473, § III, 11-16-15)

#### 300.511 - Reserved.

[Repealed by Ordinance No. 391, § I, adopted November 5, 2001.]

#### 300.512 - Junk yard or used material yard in non-conforming use.

Sec. 5.12. Any junk yard or used material yard in existence on the effective date of this Ordinance, which is located in a district other than a Manufacturing District, shall be listed as a "Valid Non-Conforming Use" and may continue to operate subject to the provisions of this Ordinance governing non-conforming use; and it is further provided that continuance of operation of such yards shall depend upon the maintenance of orderly appearance, the minimizing of noise, odors, smoke and absence of material number of justified and proven complaints that such yard is a nuisance.

## 300.513 - Special regulations concerning single-family dwellings.

Sec. 5.13. The following special regulations shall govern certain types of non-conforming single-family residential dwelling units, as follows:

- A. Whenever a single family dwelling is a non-conforming structure because it does not meet the minimum floor area requirements of this Ordinance and where such single family dwelling is located upon a lot which does not meet the requirements of this Ordinance, the single family dwelling may be enlarged or replaced provided the same meets the minimum floor area requirements imposed by this Ordinance.
- B. Notwithstanding the provisions of Section 5.04, single family residential dwellings which are non-conforming by virtue of being situated in an office, business, manufacturing, or industrial district may be reconstructed, repaired or restored even though the same may be damaged in excess of 60% of the fair market value of the entire building or structure at the time such damage occurred provided the following requirements are met:
  1. The reconstruction, repair, or restoration must be completed within one year from the date of damage, the Board of Appeals being given the authority to grant reasonable extensions of time delays beyond the control of the owner, and
  2. The single family dwelling shall meet the minimum floor area requirements imposed upon single family dwellings in the "R1-A" single family residential district classification.

(Amended: Ord. No. 256, 10-20-86)

## 300.514 - Nonconformance created by governmental condemnation proceeding.

Sec. 5.14. When on a developed lot from which additional right-of-way is acquired by the Michigan Department of Transportation, the Kalamazoo County Road Commission, or other entity exercising the power of eminent domain for the purpose of street construction, street relocation, street widening, or utilities, there results a nonconformance with the minimum setback, lot width, lot area, or parking requirements of this ordinance, any existing buildings or structures rendered nonconforming thereby shall thereafter be permitted to be altered, enlarged or rebuilt provided that (1) the specific nonconformity created when the right-of-way was acquired is not increased and (2) all buildings and structures shall be setback not less than fifteen (15) feet from the public right-of-way line.

(Amended: Ord. No. 324, 5-2-94)

## ARTICLE 6.00

## 300.600 - OFF-STREET PARKING AND LOADING REQUIREMENTS (Amended: )

## 300.601 - Off-street parking requirements.

Sec. 6.01.

- A. *Scope of Off-Street Parking Requirements.* Compliance with the off-street parking regulations shall be required as follows:
  1. *General Applicability.* For all buildings and uses established after the effective date of this Ordinance, off-street parking shall be provided as required in this Article prior to issuance of a Certificate of Occupancy.
  2. *Change in Use or Intensity.* Whenever use of a building, structure, or lot is changed, parking facilities shall be provided as required by this Ordinance for the new use. If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means, additional off-street parking shall be provided for such increase in intensity of use.
  3. *Existing Parking Facilities.* Off-street parking facilities in existence on the effective date of this Ordinance shall not

thereafter be reduced below, or if already less than, shall not be further reduced below the requirements for the use being served as set forth in this Ordinance.

An area designated as required off-street parking shall not be changed to any other use unless equal facilities are provided elsewhere in accordance with the provisions of this Ordinance.

4. *Additional Off-Street Parking; Maximum Parking.* Nothing in this Ordinance shall be deemed to prevent voluntary establishment of off-street parking facilities to serve an existing use of land or buildings, or to prevent provision of additional parking facilities beyond what is required by the Ordinance, provided all such parking is in conformance with the regulations herein. Except for single-family detached residential uses, any person proposing the provision of greater than 125% of the minimum required off-street parking as specified in this Article shall demonstrate to the Planning Commission sufficient justification for the additional parking.
  5. *Review Procedures.* Compliance with the requirements in this Article shall be subject to site plan review and approval as specified in Section 22.04.
- B. *General Requirements.* In all zoning districts, off-street vehicle parking facilities shall be provided and maintained as herein prescribed.
1. *Location.*
    - a. *Proximity to Building or Use Being Served.* Off-street parking for multiple-family and non-residential uses shall be located on the same lot or parcel as the building or use being served or within three hundred (300) feet of the building it is intended to serve (measured from the nearest point of the building or use to the nearest point of the parking).
    - b. *Within Yards.* Off-street parking in commercial, office, multiple-family, and industrial districts may only be located in a side or rear yard or non-required front yard, provided that all landscaping requirements in [Article 21.50](#) are complied with, and provided further that off-street parking shall not be permitted within twenty (20) feet of a single-family residential district boundary.
  2. *Residential Parking.*
    - a. Off-street parking spaces in single-family residential districts shall consist of a parking strip, driveway, garage, or combination thereof, and shall be located on the premises they are intended to serve. No parking shall be permitted on a regular basis on lawns or other unpaved areas on residential lots, with the exception of approved gravel parking areas. Recreational vehicle parking in residential districts shall comply with the standards in Section 4.05.
    - b. In an "AGR", "A-H", "R1-A", "R1-B", "R1-C", "RM", "RSM", "RMH", or "OW" district, a commercial vehicle may not be parked or stored on residentially used property unless the vehicle (1) does not exceed 1 ton in capacity and is owned or operated by someone residing on the premises, or (2) the vehicle is owned or operated by a public utility for emergency or on-call purposes. This provision shall in no way be deemed to prohibit the parking or storage of commercial vehicles accessory to a permitted agricultural or business use conducted on property within one of the above-mentioned zoning districts.
  3. *Control of Off-Site Parking.* It shall be unlawful to park or store any motor vehicle on another's private property without the written consent of the owner, holder, occupant, lessee, agent, or trustee of said private property.
  4. *Access to Non-residential Parking.* Each off-street parking space shall open directly onto a clearly-defined aisle or driveway of sufficient width and design as to provide safe and efficient access to or from a public street or alley in a manner that will least interfere with the smooth flow of traffic. Parking designed for backing directly onto a street or road is prohibited. Access to off-street parking which serves a non-residential use shall not be permitted across land that is zoned for residential purposes.
  5. *Collective Use of Off-Street Parking.* Off-street parking for separate buildings or uses may be provided collectively subject to the following:



- a. The total number of spaces provided collectively shall not be less than the sum of spaces calculated according to the
  - (i) Multiply the minimum parking required for each use, as set forth in Section 6.01.D, by the appropriate percentage indicated in the Shared Parking Factors table for each of the six designated time periods.
  - (ii) Add together the resulting figures for each of the six columns. The minimum collective parking requirement shall be the sum among the six columns.
  - (iii) If a particular land use proposing to make use of collective parking facilities (e.g., house of worship, municipal use) does not conform to the general classifications in the Shared Parking Factors table (as determined by the Township Planning and Zoning Administrator), the applicant shall submit sufficient data to indicate the principal operating hours of the proposed use. Based upon this documentation, the Planning and Zoning Administrator shall determine the appropriate collective parking requirement (if any) for the proposed use.

Shared Parking Factors

Land Use	Weekdays			Weekends		
	1 a.m. - 7 a.m.	7 a.m. - 7 p.m.	7 p.m. - 1 a.m.	1 a.m. - 7 a.m.	7 a.m. - 7 p.m.	7 p.m. - 1 a.m.
Residential	95%	25%	95%	95%	75%	95%
Commercial/Retail	0%	95%	75%	0%	90%	75%
Office/Service	5%	95%	5%	0%	10%	0%

- b. Each use served by collective off-street parking shall have direct access to the parking without crossing streets.
- c. The collective off-street parking shall not be located farther than three hundred (300) feet from the building or use being served, measured at the property line.
- d. Written easements which provide for continued use and maintenance of the collective off-street parking shall be submitted to the Township for approval before filing with the Kalamazoo County Register of Deeds.

Example of Collective Parking Calculation (see Section 6.01.B.5)

Uses on a shared site	Required Parking
30 townhomes	60 spaces
15,000 square feet of retail space	48 spaces
5,000 square feet of office space	20 spaces

	Weekdays	Weekends
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	1 a.m. - 7 a.m.	7 a.m. - 7 p.m.	7 p.m. - 1 a.m.	1 a.m. - 7 a.m.	7 a.m. - 7 p.m.	7 p.m. - 1 a.m.
<i>Residential</i>	95% of 60 = 57	25% = 15	95% = 57	95% = 57	75% = 45	95% = 57
<i>Retail</i>	0% of 48 = 0	95% = 46	75% = 36	0% = 0	90% = 43	75% = 36
<i>Office</i>	5% of 20 = 1	95% = 19	5% = 1	0% = 0	10% = 2	0% = 0
<i>Total</i>	58 spaces	80 spaces	94 spaces	57 spaces	90 spaces	93 spaces

*The shared parking factors table predicts the parking demand to be highest during weekday evenings, with a total demand of 94 spaces across the three uses. A total of 94 parking spaces would be required in a shared arrangement, provided all of the other requirements for collective off-street parking are met.*

*If the parking were not to be provided collectively, the three proposed uses would have to construct a total of 128 parking spaces.*

6. *Cross Access.* Common, shared parking facilities are encouraged in the Township. Wherever feasible, cross-access connections between adjacent parking lots (or a reserved connection when no adjacent parking lot exists but can reasonably be expected to be constructed at a future date) are required. Blanket cross-access easements across the entire parking lot area shall be provided for connected lots under separate ownership or management. The cross-access easements shall be without limitation and shall be recorded with the Kalamazoo County Register of Deeds.
  7. *Storage and Repair Prohibited.* The storage of merchandise, sale of motor vehicles, storage of inoperable vehicles, or vehicles awaiting repair are prohibited in required off-street parking lots or areas.
  8. *Duration.* Except when land is used as permitted storage space in direct connection with a legitimate business, a twenty-four (24) hour time limit for parking in non-residential off-street parking areas shall prevail provided that it shall be unlawful to permit the storage of wrecked, inoperable, or junked vehicles in any parking area in any district for any period of time. See also Section 21.11.
- C. *Off-Street Parking Standards.* The following standards shall be used in determining the required number and characteristics of off-street parking spaces:
1. *Units of Measurement.*
    - a. *Floor Area.* For the purposes of determining required number of parking spaces, floor area shall be measured in accordance with the definitions in Section 2.01.36. If the usable floor area of a building is not known at the time of review, 80 percent of the gross floor area shall be used as the basis for parking calculations.
    - b. *Fractional Spaces.* When calculations for determining the required number of parking spaces results in a fractional space, any fraction of less than one-half (½) may be disregarded, while a fraction of one-half (½) or more shall be counted as one space.
    - c. *Employee Parking.* Parking spaces required for employees shall be based on the maximum number of employees on the premises at any one time during the largest typical daily work shift. However, the number of required parking spaces may be reduced if an employer provides documentation of participation in an organized rideshare program or provides Metro bus passes to employees.
    - d. *Places of Assembly.* For houses of worship, sports arenas, or similar places of assembly in which those in attendance occupy benches, pews, or similar seating, each 24 inches of such seating shall be counted as one (1)

seat.

- e. *Persons.* Any parking standard calculated on the basis of "persons", "students", "employees", or a similar group shall be based upon the maximum permitted occupancy of the structure or facility.
- 2. *Use of Loading Space.* Required loading space shall not be counted or used for required parking.
- 3. *Banked Parking.* If the minimum number of required parking spaces exceeds the amount necessary to serve a proposed use, the Planning Commission may approve the construction of a lesser number of parking spaces, subject to the following:
  - a. The banked parking shall be shown on the site plan and set aside as landscaped open space.
  - b. Banked parking shall be located in areas suitable for future parking and that meet Ordinance requirements.
  - c. The Township may require construction of the banked parking area upon finding that vehicles are regularly parked on unpaved surfaces, on the road, or off-site.

**D. Schedule of Required Parking.**

- 1. *Parking Spaces Required.* The amount of required off-street parking (including stacking spaces for certain uses) shall be determined in accordance with the schedules that follow. Applicants are encouraged to minimize the amount of parking provided in order to minimize excessive areas of pavement, which negatively impact aesthetics and contribute to high volumes of storm water runoff. Required parking spaces may be designated for use by ridesharing, online order pick-up and similar customers. The Planning Commission may modify the numerical requirements for off-street parking, based on evidence that another standard would be more reasonable because of the level of current or future employment and/or level of current or future customer traffic based upon documentation provided by the applicant.
- 2. *Uses Not Listed.* For those uses not specifically mentioned, the requirements for off-street parking for a similar use shall apply, subject to review by the Planning Commission and/or Planning and Zoning Administrator.

**Section 6.01.D.3 - Schedule of Off-Street Parking: Residential Uses**

Land Use	Minimum Parking Required
Single-Family Detached and Two-Family/Duplex	2 spaces per dwelling unit
Single-Family Attached and Multiple Family	2 spaces per dwelling unit
Senior Apartments‡	1 space per dwelling unit
Senior Congregate Housing, Assisted Living Facility, Adult Foster Care Facility‡	0.5 spaces per bedroom
Mobile Home Park	Parking shall be provided in accordance with State law

**Section 6.01.D.4 - Schedule of Off-Street Parking: Institutional Uses**

*Parking requirements based on persons or students shall be based upon maximum facility occupancy.*

Land Use	Minimum Parking Required
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Default standard if use is not specified	0.33 spaces per person
Childcare center‡	1 space per 6 children, based on licensed capacity
Hospital‡	1 space per 5 beds
Nursing Home, Home for the Aged	0.33 spaces per bed
Municipal Building or Facility‡ (post office, township hall, library, etc.)	1 space per 300 sq. ft. UFA <sup>a</sup>
Place of Assembly‡ (Theatre, auditorium, religious institution, etc.)	0.33 spaces per seat (6 ft. of pew or bench = 3 seats)
Public Utility Uses	1 space for each employee on the largest daily work shift
School, elementary or middle <sup>b</sup>	1 spaces per classroom and administrative office
School, senior high <sup>b</sup>	1 space per classroom and administrative office, plus 0.25 spaces per student
Vocational and Technical Schools, Post-Secondary Educational Facilities	1 space per 3 occupants, based on the maximum occupancy load
<p><sup>a</sup> UFA = usable floor area, as defined in Section 2.01.36.</p> <p><sup>b</sup> All schools shall additionally provide one (1) space for every three (3) seats in each public assembly space (e.g., gymnasium, theater, auditorium, stadium).</p> <p>‡ In addition to the parking requirement specified above, one parking space shall be required for each employee on the largest typical daily work shift.</p>	

#### Section 6.01.D.5 - Schedule of Off-Street Parking: Commercial Uses

*Parking requirements based on persons shall be based upon maximum facility occupancy.*

Land Use	Minimum Parking Required
Automobile Body Shop‡	1 space per 400 sq. ft. of UFA <sup>a</sup>
Automobile Service and Repair‡	2 spaces per service bay
Automobile Sales or Rental—Indoor Showroom‡	1 space per 200 sq. ft. UFA <sup>a</sup> (exclusive of spaces for dealer stock)

Automobile Sales or Rental—Outdoor Display	1 space per 1,000 sq. ft. of outdoor display area
Gas Station/Filling Station‡	1 space at each fueling location
Car Wash‡	<i>Stacking spaces only; see Section 6.01.D.8</i>
<i>The above uses shall additionally provide one space per 150 sq. ft. UFA<sup>a</sup> of any associated retail sales area.</i>	
General Retail Sales	1 space per 200 sq. ft. UFA <sup>a</sup>
Banks & Financial Institutions	1 space per 200 sq. ft. UFA <sup>a</sup>
Beauty and/or Barber Shops and Nail Salons‡	3.0 spaces per chair
Convenience Stores	1 space per 150 sq. ft. UFA <sup>a</sup>
Exhibition & Assembly Halls‡	0.5 spaces per occupant, based on the maximum occupancy load
Home Improvement Stores‡ Lumber Yards‡ Machinery/Equipment Sales‡ Construction Showroom‡	1 space per 500 sq. ft. UFA <sup>a</sup>
Hotel, Motel, or Other Lodging‡	1 space per room/suite <sup>c</sup>
Laundromats and coin-operated dry cleaners	0.5 spaces per machine
Mortuaries, Funeral Homes	1 space per 75 sq. ft. UFA <sup>a</sup> in parlor areas, viewing rooms, chapels, or other assembly areas
Mini-warehouse; Self-storage	5 spaces at site office
Open Air Business <sup>b</sup>	1 space per 800 square feet sales area
Radio or Television Studio or Station‡	Required spaces for an auditorium or studio assembly seating
Restaurants Standard, Carry-out‡ <sup>d</sup>	1 space per 3 seats 1 space per 50 sq. ft. UFA <sup>a</sup> in waiting area
Bar/Lounge Fast Food ‡ <sup>d</sup> Drive-in‡ <sup>d</sup>	1 space per 50 sq. ft. UFA <sup>a</sup> 1 space per 50 sq. ft. of dining and service area 1 space per stall

Shopping Centers	1 space per 250 sq. ft. of gross leasable area
Supermarkets	1 space per 200 sq. ft. of UFA <sup>a</sup>
Wholesale Sales Stores, Furniture Sales, Showroom of a Plumber, Electrician or Similar Trade‡	1 space per 500 sq. ft. of UFA <sup>a</sup>
Service establishments not otherwise specified, including household equipment repair shops‡	1 space per 300 sq. ft. of UFA <sup>a</sup>
Uses not otherwise specified and not deemed similar to above uses‡	1 space per 200 sq. ft. UFA <sup>a</sup>

<sup>a</sup> UFA = usable non-residential floor area, as defined in Section 2.01.36.

<sup>b</sup> Any indoor retail sales area associated with an open-air business shall additionally provide parking at the rate of 1 space for every 200 square feet of usable non-residential floor area.

<sup>c</sup> Any use(s) accessory to a hotel, motel, or other lodging (e.g., restaurant/bar, assembly room) shall provide additional parking according to the type of accessory use, as provided for in this Section. The total parking provided for such multi-use establishments shall not be less than 90% of the sum of the minimum requirements for each use individually. Swimming pools reserved for the exclusive use of overnight guests shall not require additional parking.

<sup>d</sup> Restaurants providing drive-thru facilities shall provide stacking spaces as specified in Section 6.01.D.8.

‡ In addition to the parking requirement specified above, one parking space shall be required for each employee on the largest typical daily work shift.

#### Section 6.01.D.6 - Schedule of Off-Street Parking: Office & Industrial Uses

Land Use	Minimum Parking Required
Business & Professional Offices, except as otherwise specified	1 space per 250 sq. ft. UFA <sup>a</sup>
Medical, Dental	1 space per 200 sq. ft. UFA <sup>a</sup>
Real Estate Offices	1 space per 250 sq. ft. UFA <sup>a</sup>
Veterinary Clinic‡	1 space per 250 sq. ft. UFA <sup>a</sup>
Contractor or Construction Uses <sup>b</sup>	1 space per employee, based on largest working shift
General Industrial or Manufacturing Uses <sup>c</sup>	1 space per 750 sq. ft. gross floor area

Wholesale Sales <sup>c</sup> Warehousing Establishments <sup>c</sup>	1 space per 1,500 sq. ft. gross floor area
<p><sup>a</sup> UFA = usable non-residential floor area, as defined in Section 2.01.36.</p> <p><sup>b</sup> Equipment storage shall be provided separately from any required parking area.</p> <p><sup>c</sup> Any accessory retail or office use shall provide additional parking at the rates specified in this Section for general retail or business office uses.</p> <p>‡ In addition to the parking requirement specified above, one parking space shall be required for each employee on the largest typical daily work shift.</p>	

#### Section 6.01.D.7 - Schedule of Off-Street Parking: Recreation Uses<sup>5</sup>

*Parking requirements based on persons shall be based upon maximum facility occupancy.*

Land Use	Minimum Parking Required
Archery Facilities	1.5 spaces per target
BMX Course	50 spaces per course
Bowling	4 spaces per lane
Field Sports (e.g., baseball, football)	35 spaces per field
Tennis Clubs Other Court-based Recreation	4 spaces per court
Arcade‡	0.5 spaces per machine
Clubs and Lodges‡	0.5 spaces per person
Indoor Recreation‡ (fitness centers, athletic clubs, health clubs, pool or billiard halls, skating rinks, etc.)	0.5 spaces per occupant, based on the maximum occupancy load
Golf Course (private or public) ‡	6 spaces per hole
Golf Course (miniature and par 3) ‡	3 per hole
Golf Driving Range‡	1 space per tee
Swimming Pools or Swim Clubs‡	0.25 spaces per occupant, based on the maximum occupancy load
Stadium or Sports Arena‡	0.33 spaces per seat (6 ft. of bench = 3 seats)

§ Any use(s) accessory to a recreation use (e.g., pro shop, game room, restaurant/bar) shall provide additional parking according to the type of accessory use and as provided for in this Section. The total parking provided for such multi-use establishments shall not be less than 90% of the sum of the minimum requirements for each use individually.

‡ In addition to the parking requirement specified above, one automobile parking space shall be required for each employee on the largest typical daily work shift.

**Section 6.01.D.8 - Schedule of Off-Street Parking: Stacking Spaces**

Land Use	Minimum Parking Required
Banks and Financial Institutions	6 spaces per service lane
Car Wash, automatic	8 spaces before wash lane, plus 2 spaces after
Car Wash, self-service	3 spaces before each wash bay, plus 2 spaces after
Drive-Through Restaurants	10 spaces per service lane
Other Drive-Through Uses	6 spaces per service lane

Stacking spaces shall have a minimum width of 8 feet and a minimum length of 20 feet.

E. *Layout, Construction and Design.* Off-street parking facilities containing four (4) or more spaces shall be designed, constructed, and maintained in accordance with the following requirements:

1. *Review and Approval Requirements.* Plans for the construction of any parking lot in conjunction with a new development shall be submitted for review and approval according to the normal site plan review procedures. Plans for expansion of an existing parking lot that is not associated with other new development shall be submitted to the Planning and Zoning Administrator for review and approval prior to the start of construction.

Plans shall be prepared at a scale of not less than fifty (50) feet equal to one (1) inch. Plans shall indicate existing and proposed grades, drainage, water mains and sewers, surfacing and base materials, and the proposed parking layout. The plans shall conform to the construction and design standards established by the Township Engineer. In the event that required parking cannot be completed because of cold or inclement weather, a temporary Certificate of Occupancy may be issued by the Building Official provided the applicant first deposits a performance guarantee in accordance with Section 27.04.

2. *Dimensions.*

a. Off-street parking shall be designed in conformance with the following standards:

Parking Pattern	Maneuvering Lane Width	Parking Space Width	Parking Space Length	Total Width of Two Tier of Spaces Plus Maneuvering Lane



	One Way	Two Way			One Way	Two Way
0 degree (parallel parking)	11 feet	18 feet	8.5 feet	25 feet	28 feet	35 feet
30 degree to 53 degree	12 feet	20 feet	9 feet	21 feet	54 feet	62 feet
54 degree to 90 degree	14 feet	24 feet	9.5 feet	20 feet	55 feet	64 feet

### 3. *Layout.*

- a. *Ingress and Egress.* All spaces shall be provided with adequate access by means of clearly defined maneuvering lanes and driveways. Spaces backing directly onto a street shall be prohibited for other than one- and two-family residential uses. Entrances and exits from off-street parking lots shall be located at least twenty-five (25) feet from the nearest point of any adjacent property zoned for single-family residential use.
- b. *Parking Rows.* Continuous rows of parking shall be limited to not more than 20 contiguous spaces. Longer rows shall provide landscaped breaks (e.g., islands or bioswales) with shade trees, see [Section 21.50](#).
- c. *Consolidated Landscaping.* Parking spaces and rows shall be organized to provide consolidated landscape areas and opportunities for on-site storm water management. The use of bioswales and/or rain gardens is encouraged.
- d. *Pedestrian Circulation.* The parking lot layout shall accommodate direct and continuous pedestrian circulation, clearly distinguished from vehicular areas. Pedestrian crosswalks shall be provided, distinguished by textured paving or pavement striping and integrated into the sidewalk network.

### 4. *Surfacing and Drainage.*

- a. All off-street parking areas, access lanes, driveways and other vehicle maneuvering areas shall be hard-surfaced with concrete or plant-mixed bituminous material. Porous paving materials may be permitted at the discretion of the Planning Commission, provided that installation and maintenance plans are in accordance with the manufacturer's guidelines; a written maintenance plan must be submitted for the Planning Commission or Planning and Zoning Administrator review.
    - (i) The Planning and Zoning Administrator and/or Planning Commission may permit a gravel surface or millings for heavy equipment and machinery storage areas, provided the applicant or property owner provides sufficient evidence that a paved surface could not support the heavy machinery without being damaged and dust control is provided to the satisfaction of the Township.
  - b. Off-street parking areas, access lanes, and driveways shall be graded and drained so as to dispose of surface waters. Surface water shall not be permitted to drain onto adjoining property, unless in accordance with an approved drainage plan.
  - c. Grading, surfacing and drainage plans shall be subject to review and approval by the Planning and Zoning Administrator and/or Township Engineer.
5. *Curbs, Wheel Chocks.* A curb of at least six (6) inches in height shall be installed to prevent motor vehicles from being driven or parked so that any part of the vehicle extends within two (2) feet of abutting landscaped areas, sidewalks, streets, buildings, or adjoining property. Curbs shall be continuous except as part of an overall storm water

management design incorporating bioswales and/or rain gardens. In lieu of a curb, wheel chocks may be provided to prevent vehicles from extending over grass areas, sidewalks, setback lines, or lot lines.

6. *Lighting.* All parking areas, driveways, and walkways shall be illuminated to ensure the security of property and the safety of persons using such areas, in accordance with the requirements in Section 8.50.
7. *Signs.* Accessory directional signs shall be permitted in parking areas in accordance with Article 8.00.
8. *Screening and Landscaping.* All off-street parking areas, except those serving single and two-family residences, shall be screened and landscaped in accordance with the provisions set forth in Article 21.50. For business or manufacturing district uses, whenever the parking lot abuts a residence or residential street, a masonry wall five feet (5') in height shall be erected and maintained. The Planning Commission may waive the requirement for a masonry wall when it finds that because of a site feature or characteristic, landscaping will be more effective at screening the parking lot.
9. *Maintenance.* All parking areas shall be maintained free of dust, trash, and debris. Surfacing, curbing, lighting fixtures, signage, and related appurtenances shall be maintained in good condition.
10. *Electric Vehicle Charging Stations.* If and when appropriate, charging stations shall be provided for electric-powered vehicles. The placement of charging stations shall be subject to review by the Planning Commission.
11. *Bicycle Parking.* Parking facilities for short-and long-term bicycle parking shall be provided to meet the needs of the business and/or residential use. Bicycle parking facilities shall allow a cyclist to safely secure a bicycle from incidental damage or theft, while not hindering access for pedestrians or other vehicles. Bicycle parking facilities shall be located in highly visible and accessible areas.
  - a. Bicycle parking facilities shall be located at least 3 feet from adjacent walls, poles, landscaping, street furniture, drive aisles and primary pedestrian routes and at least 6 feet from vehicle parking spaces.

300.602 - Loading space requirements.

Sec. 6.02.

- A. *Scope of Loading Space Requirements.* Compliance with the loading space regulations set forth herein shall be required in order to avoid interference with the public use of streets, alleys, parking areas, driveways, sidewalks, and other public areas.
  1. *General Applicability.* On the same premises with every building, or part thereof, erected and occupied for manufacturing, storage, warehousing, display and sale of goods, including department stores, wholesale stores, markets, hotels, hospitals, mortuaries, laundries, dry cleaning establishments, and other uses involving the receipt or distribution of materials, merchandise, or vehicles, there shall be provided and maintained adequate space for loading and unloading as required in this section.
  2. *Change in Use or Intensity.* Whenever use of a building, structure, or lot is changed, loading space shall be provided as required by this Ordinance for the new use, regardless of any variance which may have been in effect prior to change of use.
- B. *General Requirements.*
  1. *Location.* Required loading space shall be located to the rear or side of the building being served such that it is screened from view from adjoining roads. Loading/unloading operations shall not interfere with traffic on public streets or off-street parking.
  2. *Size.* Unless otherwise specified, each required loading space shall be a minimum of ten (10) feet in width and fifty (50) feet in length, with a vertical clearance of fifteen (15) feet.
  3. *Surfacing and Drainage.* Loading areas shall be hard-surfaced with concrete or plant-mixed bituminous material, not millings. Loading areas shall be graded and drained so as to dispose of surface waters. Surface water shall not be permitted to drain onto adjoining property, unless in accordance with an approved drainage plan. Grading,

surfacing, and drainage plans shall be subject to review and approval by the Planning & Zoning Administrator and/or Township Engineer.

4. *Storage and Repair Prohibited.* The storage of merchandise, sale of motor vehicles, storage of inoperable vehicles, or repair of vehicles is prohibited in required loading space.
5. *Use of Loading Space.* Required loading space shall not be counted or used for required parking.
6. *Central Loading.* Central loading facilities may be substituted for individual loading spaces serving businesses on separate lots provided that all of the following conditions are fulfilled:
  - a. Each business served shall have direct access to the central loading area without crossing streets or alleys.
  - b. Total loading space provided shall meet the minimum requirements specified herein, in consideration of total floor area of all businesses served by the central loading space.
  - c. No building served shall be more than three hundred (300) feet from the central loading area.
7. *Minimum Loading Space.* The amount of required loading space shall be determined in accordance with the schedule that follows. The Planning Commission may modify these requirements upon making the determination that another standard would be more appropriate because of the number or type of deliveries experienced by a particular business or use.

**Schedule of Loading Space Requirements**

Gross Floor Area	Number of Loading Spaces
0—4,999 sq. ft.	See note below
5,000—19,999 sq. ft.	1 space
20,000—99,999 sq. ft.	1 space, plus 1 space for each 20,000 sq. ft. in excess of 20,000 sq. ft.
100,000—499,999 sq. ft.	5 spaces, plus 1 space for each 50,000 sq. ft. in excess of 100,000 sq. ft.
500,000 sq. ft. and over	13 spaces, plus 1 space for each 80,000 sq. ft. in excess of 500,000 sq. ft.
<p>Establishments containing less than 5,000 square feet of gross floor area shall be provided with adequate off-street loading space that is accessible by motor vehicle, but which does not interfere with pedestrian or vehicular traffic. The size of any such loading space shall be based on the types of delivery vehicles typically utilized by the establishment, provided that in industrial districts sufficient land area must be available to provide a 10-foot by 50-foot space if the use of the property changes.</p>	

Deleted by Section X of Ordinance No. 511

## ARTICLE 8.00

### 300.800 - SIGNS

#### 300.801 - Intent.

Sec. 8.01. The purpose of this Article is to balance public and private interests by permitting signs and other displays that are needed for the purposes of identification or advertising, subject to the following objectives:

*Public Safety.* By reason of their size, location, spacing, construction or manner of display, signs shall not endanger life or limb, confuse or mislead motorized or non-motorized traffic, obstruct vision necessary for traffic safety, or otherwise endanger the public health or safety.

*Community Aesthetics.* Signs should enhance the aesthetic appeal of the Township, including the preservation of scenic areas, view sheds and the dark night sky. Therefore, these regulations are intended to regulate oversized signs that are out-of-scale with surrounding buildings and structures, prevent an excessive accumulation of signs which cause visual clutter, and prevent blight.

*Community Character and Property Values.* The placement and design of signs should further the land use planning objectives of the Township. Signs should be compatible with neighborhood character and protect the value of surrounding properties.

*Free Speech.* These regulations are intended to ensure that the constitutionally guaranteed right of free speech is protected and allow signs as a means of communication.

*Effective Communication.* These regulations are intended to encourage the appropriate design, scale and placement of signs in a manner that communicates effectively to the intended reader.

(Amended: Ord. No. 463, § I, 11-18-13; Ord. No. 511, § I, 8-17-20)

#### 300.802 - Definitions and specific regulations.

Sec. 8.02. As used in this Article, the following words shall have the meanings set forth below. Signs shall comply with the applicable provisions set forth below and elsewhere in this Article.

Sec. 8.02.1. *Balloon or Inflatable Sign.* An air or gas filled sign, including a sign that is inflated or supported by the passage of air through it.

Sec. 8.02.1.A. *Banner.* A temporary sign composed of lightweight, flexible material on which letters, symbols or pictures are painted or printed.

Sec. 8.02.2. *Billboard.* An outdoor, freestanding sign of more than 185 square feet oriented toward motorists on an interstate or arterial road (as defined on the National Functional Classification).

Sec. 8.02.2.A *Blade Sign.* A sign that is affixed to the face of a building or structure that projects in a perpendicular manner from the wall surface of a building.

Sec. 8.02.2.B *Building identification Sign.* A permanent sign that identifies the name of the building. It shall be considered a wall sign and subject to those size restrictions.

Sec. 8.02.3. *Business Development Entry Sign*. A permanent sign located at an entrance to a plat or site condominium development limited to office, commercial and/or industrial businesses.

Sec. 8.02.3.A *Community Special Event*. A non-commercial event that has community-wide interest and typically is for educational, cultural, religious or social consciousness purposes.

Sec. 8.02.3.B *Community Special Event Sign*. Temporary signs and banners, including but not limited to displays celebrating a traditionally recognized patriotic or religious holiday, or special municipal, religious, school or noncommercial activities.

Sec. 8.02.3.C *Directional Sign*. An on-premise sign which is located and sized in a manner to safely and efficiently direct the flow of vehicular and non-motorized traffic to, from and within the site.

Sec. 8.02.4. *Directory Sign*. A sign that displays the names and locations of occupants or use of a building. A directory sign placed upon the wall of a building shall be considered a wall sign for the purposes of this Ordinance if larger than twelve (12) square feet and legible from off the lot. A directory sign that is on a frame that is freestanding shall be considered a freestanding sign for the purposes of this Ordinance if legible from off the lot.

Sec. 8.02.6. *Electronic Changeable Message Sign*. A sign capable of changing messages electronically by remote or automatic means.

Sec. 8.02.6.A *Flag*. Not to be considered a sign and exempt from regulation and references, by adopted symbol or logo, a national, state or local governmental recognition. Support poles shall not exceed a height of 100 feet in the commercial and industrial districts and the height requirements for principal buildings within the underlying zoning district in the residential and agricultural districts.

Sec. 8.02.7. *Freestanding Sign*. A sign that is supported by a frame and is not attached to a building.

Sec. 8.02.7.A *Hanging Sign*. A sign that is suspended beneath a marquee, awning or canopy.

Sec. 8.02.8. *High-Rise Sign*. A freestanding sign exceeding 35' in height, directed primarily to traffic along U.S. Interstate I-94. The sign may be allowed in specified zoning districts as a special exception use.

Sec. 8.02.8.A. *Human Sign*. A temporary sign, supported by holding the sign or wearing in sandwich board style that is utilized for promotional purposes.

Sec. 8.02.8.B. *Institutional Uses*. Human care, education, worship or social institutions, and governmental buildings.

Sec. 8.02.9. *Marquee (Canopy or Awning or Projecting) Sign*. An identification or business sign attached to or part of a marquee, canopy or awning and/or projecting from the building. One marquee sign shall be considered a wall sign, subject to the following regulations:

Sec. 8.02.9a. No marquee sign may overhang any public right-of-way. Sidewalks on private property shall not be deemed to be in the public right-of-way.

Sec. 8.02.9b. There must be a minimum unobstructed distance of nine (9) feet from the sidewalk or grade to the bottom of the sign.

Sec. 8.02.9c. Marquee signs may not have a surface display area exceeding that which would have been permitted for the wall sign that could have been erected in its place.

Sec. 8.02.9d. The maximum height of the marquee sign shall be thirty-five (35) feet above the grade of the abutting street or highway, or three (3) feet above the roof line of the building to which it is attached, whichever is less.

Sec. 8.02.9e. A marquee sign may be illuminated if the wall sign it is being erected in place of could have been illuminated under the terms of this Ordinance.

Sec. 8.02.10. *Mechanical Changeable Message Sign*. A sign capable of changing messages by rotation of panels or slats.

Sec. 8.02.10.A *Multi-business structure*. A building with two or more individual businesses located therein regardless if each business has a direct entrance from the exterior of the building or not.

Sec. 8.02.11. *Newly Established Subdivision or Development Sign*. A temporary sign advertising a newly established recorded subdivision or development and the sale or rental of lots or premises therein.

Sec. 8.02.11.A *Noncommercial Message Sign*. A temporary sign that is not related to or connected with trade and traffic or commerce in general and includes, but is not limited to, the following:

- A. *Ideological Sign*: A sign expressing an opinion or other noncommercial point-of-view.
- B. *Noncommercial Event Sign*: See definition of "Community Special Event Sign."
- C. *Political Sign*: See definition of "Political Sign."

Sec. 8.02.11.B *Obsolete Sign*. A sign on a lot with an unoccupied building; a wall sign on a vacant unoccupied building; or, a deteriorated or hazardous sign; or, a sign that is not adequately maintained, repaired, or removed within the time specified in this Section.

Sec. 8.02.12. *Pennant*. Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind. Such use shall only be permitted in conjunction with grand opening signage.

Sec. 8.02.12.A *Political Sign*. A temporary non-commercial message sign relating to matters to be voted on in a local, state or national election or referendum.

Sec. 8.02.13. *Projecting Sign*. A projecting wall sign which is affixed perpendicularly to the face of a building and which projects more than 12 inches from the wall surface. See Marquee Sign for conditions.

Sec. 8.02.14. *Residential Development Entry Sign*. A permanent sign located at an entrance to a residential development, including a subdivision, apartment building or complex, or mobile home park.

Sec. 8.02.14.A. *Sandwich Board Sign*. An A-frame shaped sign that consists of two sign boards that are hinged together at the top or a single board on a stand and on which the message has been factory-imprinted, handwritten, or displayed using manual changeable copy display.

Sec. 8.02.15. *Sign*. A device for visual communication that is used to bring a subject to the attention of the public. A sign includes any device, structure, fixture, or placard which uses words, numbers, figures, graphic designs, logos or trademarks for the purpose of informing or attracting the attention of persons. Unless otherwise indicated, the definition of "sign" includes interior and exterior signs which are visible and legible from any public street, sidewalk, alley, park, or public property, but not signs that are primarily directed at persons inside a building.

Sec. 8.02.15.A *Temporary Sign*. A sign not constructed to or intended for long-term use which is placed for a temporary duration (with or without permit as stipulated).

Sec. 8.02.16. *Vehicle Sign*. A sign painted on, incorporated in, carried upon or attached directly to any mode of transportation or conveyance, including but not limited to automobiles, trucks, boats, busses, airplanes and trailers.

Sec. 8.02.17. *Wall Sign*. A sign which is attached directly to or painted upon a building wall. Except in the case of a marquee sign, such sign shall be in a plane parallel to the building wall to which it is attached. In no event may a wall sign extend above the height of the building wall.

Sec. 8.02.18. *Window Sign*. A sign placed inside or upon a window facing the outside which is intended to be seen from the right-of-way or the outdoors. Such signage shall be calculated as a wall sign when it exceeds 50% of the window area.

(Amended: Ord. No. 199, 6-15-81; Ord. No. 209, 8-13-82; Ord. No. 291, 8-6-90; Ord. No. 330, 3-20-95; Ord. No. 356, 12-1-97; Ord. No. 437, § I, 3-2-90; Ord. No. 463, § I, 11-18-13; Ord. No. 510, § I, 11-18-19; Ord. No. 511, § II, 8-17-20; Ord. No. 514, § II, 8-13-20)

## 300.803 - General regulations.

## Sec. 8.03.

Sec. 8.03.1. *Measurement of Surface Display Area.* In this Article, whenever a maximum surface display area (sign area) of a sign is specified, such surface display area shall be computed as follows:

Sec. 8.03.1a. If a sign has only one exterior face, the surface display area of that face shall not exceed the specified maximum.

Sec. 8.03.1b. If a sign is double-faced (i.e. has back-to-back exterior faces), the surface display area shall not exceed the specified maximum. However, if a sign is V-shaped, then the total surface display area of the entire sign shall not exceed the specified maximum.

Sec. 8.03.1c. If a sign has more than two exterior faces, the sum of the surface area of all of the faces shall not exceed twice the specified maximum.

Sec. 8.03.1d. The surface display area of a sign shall be measured by means of the smallest square, circle, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing representation, emblem, lighting or other display, together with any frame or other material or other color forming an integral part of the display or used to differentiate it from the background against which it is placed. Where a sign consists solely of individual letters painted or mounted on a wall, any blank area which is more than ten percent of the area of the sign as otherwise computed shall be disregarded.

Pole covers and other embellishments shall not be included in the area of measurement if they do not bear advertising copy or colors, patterns, logos that are a trademark or reasonably recognizable identification for the establishment and/or sign owner subject to the above provisions.

The necessary supports or uprights on which the sign is placed may not exceed 30 percent of the permitted square footage of the sign, excluding those portions of the support structure below street grade.

Sec. 8.03.2. *Parking of Vehicles with Vehicle Signs in the "O-1", "CC", "B-1", "B-2" and "B-3" Zoning Districts.* In the "O-1", "B-1", "B-2" and "B-3" zoning districts, a vehicle with a vehicle sign may only be parked outdoors on the premises to which the vehicle sign pertains if the vehicle is: (1) regularly used during the normal course of business; and (2) parked upon a parking space.

Sec. 8.03.3. *Illumination.* All permitted illuminated signs shall be subject to the following regulations:

- a. Such illumination shall be concentrated on the surface of the sign and shall be so located and arranged as to avoid glare or reflection onto any portion of an adjacent street, the path of oncoming vehicles, or any adjacent premises.
- b. In no event shall any sign have flashing or intermittent lights nor shall the lights be permitted to rotate or oscillate. This restriction shall not be deemed to prohibit a time and temperature sign.
- c. A sign shall not be illuminated in a manner which causes it to obscure, or interfere with the effectiveness, of an official traffic sign, device, or signal. Nor shall any sign be illuminated in a manner which could be confusing to motorists or which, due to color of light or otherwise, could be misinterpreted for a traffic or danger signal.
- d. Neon or neon-type lighting which is configured in such a manner as to form letters or a symbol shall be considered a sign and regulated as such. Neon or neon-type lighting which forms a border for a symbol or letters advertising a business, product or service shall be considered part of a sign, the area of which shall be computed on the basis of the area within the perimeter of the border. Neon-type lighting consisting of an uninterrupted strand or double strand of lighting along and parallel to the uninterrupted strands or double strand of lighting along and parallel to the uninterrupted eave line of the roof of not more than three sides of the building to which the lighting is attached shall also be allowed and shall not be regulated as a sign.
- e. Electronic Changeable Message Signs and Mechanical Changeable Message Signs shall be permissible in the "O-1", "B-1", "B-2", "B-3", "LM", "LD" and "M" zoning districts or for institutional uses in any zoning district provided:

- (1) The display contains only stationary text and graphics; and
  - (2) No portion of the display is flashing or scrolling; and
  - (3) The display changes no more frequently than once every three seconds and each change of message occurs in one second or less; and
  - (4) In the case of an Electronic Changeable Message Sign, the sign shall possess and utilize automatic dimming capabilities so that the maximum luminance level is not more than 0.3 footcandles over ambient light levels measured at a distance of 150 ft. for those sign faces less than 300 sq. ft., 200 ft. for those sign faces measuring greater than 300 sq. ft. and less than 378 sq. ft., and 250 ft. for those sign faces measuring greater than 378 sq. ft.
  - (5) No more than 50% of the sign area shall be electronic changeable message or mechanical changeable message; this limitation shall not apply to billboard signs.
- f. The provisions of this section shall apply not only to exterior signs, but also to interior signs which are designed or placed to show through windows or doors of buildings.

Sec. 8.03.4. *Repealed.* Repealed by Ordinance No. 437, § IV, adopted March, 2, 2009.

Sec. 8.03.5. *Setback.* Except where expressly provided otherwise in this Ordinance, all freestanding signs with a surface display area exceeding twelve (12) square feet shall be located no closer than one-half (½) of the required building setback from the front, rear, and side yard property lines. No sign shall be located in a street right-of-way. In no event may a sign be erected or placed so as to create a traffic hazard or as to adversely affect the safety of vehicular or pedestrian traffic traveling or entering upon adjacent public streets.

Sec. 8.03.6. *Permit Requirement.* Except as exempted herein, no sign with a surface display area exceeding three (3) square feet shall be erected or structurally altered within any zoning district within Comstock Charter Township until a permit therefore has been obtained from the Township Zoning Administrator. Any application for the permit required hereunder shall be on an application form prescribed by the Township Zoning Administrator and shall be accompanied by such fee as may from time to time be determined by resolution of the Comstock Charter Township Board. No sign permit shall be issued until the Township Zoning Administrator is satisfied that the sign to be constructed or altered complies with the provisions of this Ordinance. No permit shall be required for Noncommercial Message, Directional or Real Estate (for sale or lease) Signs.

Sec. 8.03.06.A *Temporary Signs.* The following temporary signs may be displayed:

1. Properties with a principal single-family or two-family residential use are allowed temporary signs of not more than 6 square feet in area each, provided the signs are maintained in good condition. No permit is required for this signage.
2. On properties with a principal use other than a single- or two-family residence, one temporary sign with a sign area no larger than 12 square feet, for up to four (4) display periods combined not to exceed 30 days in any calendar year, is permitted per entity on the property. The sign shall: a) be setback a minimum of 5 feet from the property line; and b) not exceed a height of five (5) feet.
3. On all properties, temporary noncommercial signs with no more than 48 square feet of total sign area are allowed. No permit is required for this signage.
4. One temporary sign with a sign face no larger than 6 square feet in area for properties with a principal single-family or two-family residence and one temporary sign with a sign area of no larger than 48 square feet for properties with a principal use other than single family or two-family residential and shall be removed 15 days following the date on which a contract of sale or a lease has been executed by a person purchasing or leasing a property, and when the following conditions are met:
  - a. The property owner consents and that the property is being offered for sale or lease through a licensed real estate agent;



- b. If not offered for sale or lease through a licensed real estate agent, when the sign is owned by the property owner offered for sale or lease by the owner through advertising of general circulation electronic or print.
  - c. No permit is required for this signage.
5. Pedestrian oriented sign. In addition to the temporary signs above, each non-residential use is permitted one pedestrian oriented temporary sign of not more than 6 square feet in area. Such sign shall be located within 5 feet of the main customer entrance for the business it serves, and may be displayed only when the use is open for business. In addition, the sign shall be located in a manner that does not obstruct or create a hazard for pedestrian or vehicular circulation on the property. No permit is required.

Sec. 8.03.7. *Repealed.* Repealed by Ordinance No. 437, § IV, adopted March 2, 2009.

Sec. 8.03.8. *Construction and Maintenance.* The construction of any sign shall be such that it will withstand all wind and vibration forces which can be normally expected to occur in the vicinity. All signs shall be properly maintained. Such maintenance shall include proper alignment of structure, continued structural soundness, continued readability of message, and preservation of structure with paint or other surface material.

Sec. 8.03.9. *Existing Nonconforming Signs.* It is the intent of this Ordinance to recognize the eventual elimination, as expeditiously as reasonable, of existing signs that are not in conformity with the provisions of this Ordinance. This is as much a subject of public health, safety, and welfare as is the prohibition of new signs that would violate the provisions contained herein. It is also the intent of this Ordinance that the elimination of lawful nonconforming signs shall be affected so as to avoid any unreasonable extended invasion of established private property rights. To this end, the following restrictions are imposed:

Sec. 8.03.9a. No lawful nonconforming sign shall be enlarged or altered in a way which increases its nonconformity.

Sec. 8.03.9b. No lawful nonconforming sign shall be replaced by another nonconforming sign unless approved by the Zoning Board of Appeals. The Zoning Board of Appeals shall not grant such approval unless it finds that the proposed replacement sign would be less nonconforming than the existing sign. A replacement sign established pursuant to this provision shall be removed within 7 years from the date of the removal of the original nonconforming sign replaced pursuant to this provision.

Sec. 8.03.9c. No lawful nonconforming sign shall be altered so as to prolong the life of the sign. Changes may be made in the words or symbols used in the message displayed on a lawful nonconforming sign so long as the sign is not enlarged or altered in a way which increases its nonconformance.

Sec. 8.03.9d. If the cost of repair or replacement of a lawful nonconforming sign which has been damaged by reason of windstorm, fire, any act of God or the public enemy, exceeds fifty percent of the total replacement cost of the sign as reasonably estimated by the Township Zoning Administrator, the sign shall not be continued or rebuilt except in conformance with the provisions of this Ordinance.

Sec. 8.03.9e. Whenever the activity, business, or usage of a primary premises to which a sign is attached or related has been discontinued for a period of one year or longer, such discontinuance shall be considered conclusive evidence of an intention to abandon legally the lawful nonconforming sign attached or related thereto. At the end of this period of abandonment, the nonconforming sign shall either be removed or altered to conform with the provisions of this Ordinance.

Sec. 8.03.9f. In the case of any conflict between the provisions of this Section and the more general provisions pertaining to nonconforming uses and structures contained in Article 5.00 of this Ordinance, the provisions of this Section shall control.

Sec. 8.03.10. *Substitution.* The owner of any sign which is allowed by this chapter may substitute noncommercial content in lieu of commercial content. No permit is necessary. The purpose of this provision is to prevent any inadvertent favoring of commercial speech or message or noncommercial speech or message over any other noncommercial message. This provision prevails over any more specific provisions to the contrary in this section. This clause shall be not be construed to allow content which is profane, obscene, threatening or discriminatory or otherwise not protected under the First Amendment to the United States Constitution or Art 1, Section 5 of the Michigan Constitution.

Sec. 8.03.11. *Removal of Obsolete Signs.* An obsolete sign shall be removed by the owner, agent, or person having use of the building, structure or property. Upon vacating a commercial or industrial property, the proprietor shall be responsible for removal of all signs used in conjunction with the business within thirty (30) days of vacating the property. Where a conforming sign structure and frame can be re-used by a current or future occupant of the building, the owner may leave the sign structure and frame in the interim period when the building is not occupied, provided that the sign structure and frame are maintained in good condition at all times.

(Amended: Ord. No. 199, 6-15-81; Ord. No. 209, 8-13-82; Ord. No. 291, 8-6-90; Ord. No. 329, 2-21-95; Ord. No. 330, 3-20-95; Ord. No. 354, 7-7-97; Ord. No. 410, 5-3-04; Ord. No. 437, §§ II—V, 3-2-09; Ord. No. 456, § I, 9-17-12; Ord. No. 463, § I, 11-18-13; Ord. No. 467, § III, 7-21-14; Ord. No. 473, § V, 11-16-15; Ord. No. 487, § IX, 3-20-17; Ord. No. 511, § III, 8-17-20)

300.804 - Prohibited Signs.

Sec. 8.04. The following types of signs are prohibited in all zoning districts:

- a. Signs with any visible movable part. This provision shall not be deemed to prohibit a Mechanical Changeable Message Sign complying with Section 8.03.3.e of this Ordinance.
- b. Balloon or inflatable signs, except as expressly permitted by this Section.
- c. Pennants except in conjunction with a Grand Opening Sign (see Section 8.05.3)
- d. Any sign placed in a location where it causes a hazard to vehicular or pedestrian traffic by depriving the driver or pedestrian of a clear and unobstructed view of approaching, intersecting or merging traffic.
- e. Any other sign not expressly permitted by this Ordinance.
- f. Obsolete signs except as may be allowed in Section 8.03.11

(Amended: Ord. No. 473, § VI, 3-2-09; Ord. No. 463, § I, 11-18-13; Ord. No. 473, § V, 11-16-15; Ord. No. 511, § IV, 8-17-20)

**Editor's note**— Ord. No. 437, § VI, adopted March 2, 2009, amended § 8.04, which pertained to signs permitted and derived from Ord. No. 291, adopted Aug. 6, 1990; Ord. No. 297, adopted Dec. 17, 1990; Ord. No. 326, adopted Sept. 6, 1994; Ord. No. 330, adopted Mar. 20, 1995; Ord. No. 350, adopted Jan. 6, 1997; Ord. No. 356, adopted Dec. 1, 1997; Ord. No. 408, §§ V, VI, adopted Nov. 17, 2003; and Ord. No. 431, adopted Feb. 5, 2007. See Section 8.05 for similar provisions.

300.805 - Signs Permitted.

Sec. 8.05. Signs are permitted according to the district in which they are located. Certain types of signs are permitted in certain districts according to the following regulations:

Sec. 8.05.1. *Reserved.* Deleted by Section V of Ordinance No. 511.

Sec. 8.05.2. *AGR, A-H, R1-A, R1-B, R1-C, RMH, RM, RSM and OW Districts.* The following types of signs are permitted:

Use/Sign Purpose	Sign Type	Maximum Surface Display Area	Maximum Height Above Grade of Abutting Road	Maximum No. of Signs	May Sign be Illuminated?
Home Occupation	Wall	2 s.f.	N/A	1	No

Subdivision or Development Real Estate Sign <sup>1</sup>	Freestanding	32 s.f.	8'	1	No
Residential Development Sign <sup>2</sup>	Freestanding	32 s.f.	8'	1 per entrance	Yes
Non-residential Use (Other than Home Occupation or Institutional)	Wall or Freestanding	36 s.f.	30'	1	Yes
Institutional	Wall	Combined area of 60 s.f., no single sign may exceed 1 s.f. per 2 s.f. of linear face of the wall to which it is attached, whichever is less.	20'	3	Yes
	Freestanding	48 s.f.	20'	1	Yes
Sign for Seasonal Sale of Agricultural Produce (AGR, AH only) <sup>3</sup>	Wall or Freestanding	36 s.f.	8'	1	Yes
Group Day Care Home	Wall	2 s.f.	N/A	1	No
Crop Identification Sign	Wall or Freestanding	1 s.f.	N/A	Unlimited	No

Notes:

<sup>1</sup> Must be removed after two (2) years or within 10 days of the final Certificate of Occupancy being issued within the development, whichever occurs first.

<sup>2</sup> Permitted for any residential subdivision or development, including a mobile home park or an apartment building or complex.

<sup>3</sup> A sign of this type may be displayed on a premises for no more than two (2) periods of not more than forty-five (45) days each per calendar year.

Sec. 8.05.3. *O-1, B-1, B-2, B-3, LM, LD and M Districts.* The following types of signs are permitted:

Use/Sign Purpose	Sign Type	Maximum Surface Display Area	Maximum Height Above Grade of Abutting Road	Maximum No. of Signs	May Sign be Illuminated?
Individual Businesses not Located in a Multi-Business Structure	Wall	Combined area of 96 s.f.; no single sign may exceed 1 s.f. for each 1 ft. of linear face of the wall to which it is attached, whichever is less. (160 s.f. for LM, LD and M Districts) <sup>1</sup>	N/A	3	Yes
	Freestanding	100 s.f. plus 1 s.f. for each 125 s.f. of building gross floor area above 10,000 s.f. to a maximum of 185 s.f. (unless high-rise sign) <sup>2</sup>	30' (unless high-rise sign) <sup>2</sup>	1 (2 if on property abutting I-94) <sup>3</sup>	Yes

Individual Businesses Located in a Multi-Business Structure with a direct entrance from the exterior of the building to the suite occupied by the business.	Wall	Combined area for individual business of 96 s.f.; no single sign may exceed 1.5 s.f. for each 1 ft. of linear face of the wall to which it is attached, whichever is less	N/A	3	Yes
	Freestanding	100 s.f. plus 1 s.f. for each 125 s.f. of building gross floor area above 10,000 s.f. to a maximum of 185 s.f. <sup>9</sup>	30' (unless high-rise sign) <sup>4</sup>	Collectively 1 (2 if on property abutting I-94) <sup>5</sup>	Yes
Individual Businesses Located in a Multi-Business Structure without a direct entrance from the exterior of the building to the suite occupied by the business.	Wall	20 s.f.	N/A	1	Yes
Business Development Entry Sign	Freestanding	100 s.f.	8'	1 per entrance to business, plat or condominium development (2 maximum)	Yes

Institutional	Wall	Combined area of 60 s.f., no single sign may exceed 1 s.f. per 2 s.f. of linear face of the wall to which it is attached, whichever is less.	20'	3	Yes
	Freestanding	48 s.f.	20'	1	Yes
Subdivision or Development Real Estate Sign <sup>10</sup>	Freestanding	32 s.f.	8'	1	No
Window Sign	Window	Total may not exceed either (1) 50% of surface area of window to which attached or (2) 10% of the building face of which the window is a part, whichever is less	N/A	No Limit	Yes
Time and Temperature Sign	Wall, Freestanding or Projecting	36 s.f. per sign <sup>6</sup>	30'	1 per business	Yes
Directional/Private Traffic Control <sup>7</sup>	Wall, Freestanding or Marquee	6 s.f. per sign	5'	No Limit	Yes
Automobile Service Stations and Filling Stations <sup>8</sup>	Single or Double-faced sign on gas pump	2 s.f. on each gas pump	N/A	1 per gas pump	Yes

Restaurants and Other Establishments Selling Food and/or Beverages Through a Drive-Through Window	Freestanding or Wall Menu Board Sign	60 s.f. total	8'	2	Yes
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Notes:

<sup>1</sup> See Section 8.02.9 if a marquee sign is substituted for a wall sign.

<sup>2</sup> Individual businesses may be allowed one high-rise sign (see Section 8.02.8) as a special exception use in the "B-1", "B-2", "B-3", "LM", "LD" and "M" zoning districts, subject to the following conditions:

- (a) The sign shall be primarily directed to traffic on US Interstate I-94.
- (b) The sign shall be located within the following defined areas of land along US Interstate I-94 interchanges:

*35<sup>th</sup> Street Interchange:*

Beginning in north and south ¼ line Section 24 at the intersection of the I-94 northerly right-of-way line and the north and south ¼ line, thence north along said ¼ line 750', thence running westerly parallel to and 750' north of said north right-of-way to the west line of Section 24 thence south along said west line Section 24 and continuing south along west line Section 25 to a point 750' south of I-94 southerly right-of-way line thence running easterly parallel to and 750' south of said south I-94 right-of-way line to north and south ¼ line Section 25 thence north to point of beginning.

*BL94 Interchange:*

Beginning at the intersection of the east and west ¼ line Section 30 and the southerly I-94 right-of-way line thence south 750' running easterly parallel to and 750' south of said I-94 south right-of-way to a point on the east line said Section 30 which is 750' south of the southerly I-94 right-of-way thence north 750' to said right-of-way thence westerly along said right-of-way to point of beginning. Also the west ½ of the southwest ¼ of the northwest ¼ of Section 29. Also that portion of the south ½ of the northeast ¼ Section 30 south of the I-94 business loop and north of the I-94 northerly right-of-way line and east of an imaginary line running north and south from the intersection of the east and west ¼ line Section 30 and the southerly I-94 right-of-way line.

*Sprinkle Road Interchange:*

Beginning at intersection of Sprinkle Road and northerly I-94 right-of-way line thence north 750' thence easterly parallel to and 750' north of said north right-of-way to ¼ line Section 30 thence south 750' to north I-94 right-of-way thence west along said right-of-way to point of beginning. Beginning at intersection of Sprinkle Road easterly right-of-way line and the southerly I-94 right-of-way line, thence northeasterly along said I-94 right-of-way line to the intersection of said line with the north-south ¼ line of Section 30, thence southeasterly 750' perpendicular to said right-of-way line, thence along an imaginary line extending southwesterly parallel to and 750' from said I-94 right-of-way line to the intersection with an imaginary line extending from the point of beginning perpendicular to the southerly I-94 right-of-way line, thence to point of beginning.

- (d) The sign shall not be located within 200' of another high-rise sign.
- (e) The sign shall be located in compliance with the setback requirements of Section 8.03.5.
- (f) The maximum display area of the sign may upon Planning Commission approval be increased beyond that otherwise allowed for freestanding signs under this Ordinance, except that in no event may the display area exceed two hundred sixty (260) square feet. Planning Commission approval shall be based upon a consideration of the height of the sign above US Interstate I-94, the distance of the sign from US Interstate I-94 and the size of the display area of any other high-rise sign(s) in the vicinity of the subject sign, as well as the standards set forth in this Section and in Section 4.13 of this Ordinance.
- (g) The sign shall not have a substantial adverse impact (such as obstruction of light, air, and/or vision) upon the owners or occupants of adjacent properties.
- (h) The sign shall not be likely to interfere, confuse, mislead, or obstruct the vision of vehicular and/or pedestrian traffic.

<sup>3</sup> Individual businesses located upon property abutting US Interstate I-94 shall be permitted one additional freestanding sign which shall be directed to traffic upon I-94. The sign shall, unless special exception use approval is granted allowing the sign as a high-rise sign (see footnote 2 above) be subject to the same height and other restrictions that are applicable to the other freestanding sign permitted on the premises.

<sup>4</sup> Individual businesses located in a multi-business structure may collectively be allowed one high-rise sign (see Section 8.02.8) as a special exception use in the "B-1", "B-2", "B-3", "LM", "LD" and "M" zoning districts, subject to the conditions set forth in footnote 2 above.

<sup>5</sup> Individual businesses in a multi-business structure located upon property abutting US Interstate I-94 shall be collectively permitted one additional freestanding sign which shall be directed to traffic upon I-94. The sign shall, unless special exception use approval is granted allowing the sign as a high-rise sign (see footnote 4 above) be subject to the same height and other restrictions that are applicable to the other freestanding sign permitted on the premises.

<sup>6</sup> The surface area of a time and temperature sign may not be debited against the total surface display area allowed for other signs on the site.

<sup>7</sup> Private traffic control signs (signs such as in, out, drive-in window, entrance, exit, etc.) may not contain any advertising for the business or use.

<sup>8</sup> Due to their customary needs, automobile service stations and filling stations shall also be allowed custom lettering or other insignia on a gasoline pump without size limitation.

<sup>9</sup> For multi business locations with frontage exceeding 500 feet and two entrances, two freestanding signs shall be permitted, with location near each entrance and separation between such signs at not less than 300 feet.

<sup>10</sup> Must be removed after two (2) years or within 10 days of the final Certificate of Occupancy being issued within the development, whichever occurs first.

Sec. 8.05.4. *CC District.* The following sign regulations are applicable within the Comstock Center District. The regulations are intended to ensure that exterior signs reinforce the intended character of the Comstock Center zoning district, are integrated into the architectural scheme of buildings and are compatible with their surroundings while effectively communicating their message.

Sec. 8.05.4.A *Design and Materials.*

1. Exterior materials, finishes and colors should be the same or similar to those used on the principal building.
2. Signs should be professionally constructed using high-quality materials such as metal, stone, hardwood, or similar quality materials.
3. Internally lit plastic letters and plastic box signs are prohibited.



4. To minimize irreversible damage to masonry, all mounting and supports should be inserted into mortar joints and not into the masonry.

Sec. 8.05.4.B *Sign lighting.* Sign lighting greatly contributes to the overall character and perceived quality of a sign. Signs shall comply with the following lighting requirements:

1. Internal sign illumination. Except for marquee signs, internally illuminated signs are prohibited
2. Externally illuminated signs. Projecting light fixtures used for externally illuminated signs, such as gooseneck fixtures for wall or projecting signs, should be simple and unobtrusive in appearance. Any external sign light source must be designed so that the light source is directed against the sign and away from pedestrian or vehicle travel ways and may not shine onto adjacent properties or cause glare for motorists or pedestrians.
3. Back-lit, halo-lit, or reverse channel letter illumination. The use of back-lit, halo-lit, or reverse channel-lit lighting is permitted.
4. Prohibited signs. Any sign incorporating flashing or blinking lights, animated display screens, or electronic changeable message (other than an automotive fueling station sign electronically displaying fuel prices) is prohibited.

Sec. 8.05.4.C *Multiple story buildings.* The following regulations are applicable to multiple story buildings:

1. Ground floor tenant signs shall be placed at the storefront level, below the expression line separating the ground floor from upper floors.
2. Upper story tenants may not have projecting signs. If utilized, wall signs must be placed upon the exterior wall of the suite occupied by the upper story tenant.
3. A tenant wall directory sign shall be permitted at ground level entrances that provide address and access information for upper story tenants.

Sec. 8.05.4.D. *Permitted signs.* The following types of signs are permitted in the CC, Comstock Center District:

Type of Sign	Number Permitted	Regulations	
Wall Sign	One sign per business. In a multi-business structure, one wall sign shall be permitted for each tenant having an individual means of public access. One additional wall sign shall be permitted for identification of a multi-tenant building.	a.	Wall signs should be located on the upper portion of the storefront, and should not exceed the width of the storefront bay.
		b.	Wall signs shall not exceed 1.5 square feet per lineal foot of building frontage, provided that no such sign shall exceed 48 square feet.
		c.	Wall signs shall be placed in a clear signable area which is an architecturally continuous area uninterrupted by doors, windows, or architectural details such as grillwork, piers, pilasters, or other ornamental features.
Awning Sign and/or Canopy Sign	One sign per business that occupies space with building frontage.	a.	Sign lettering or logos shall comprise no more than 30% of the total exterior surface of an awning or canopy.

		<p>b. Awnings or canopies with back-lit graphics or other kinds of interior illumination are prohibited.</p> <p>c. UV-resistant architectural fabric, in matte finish, suitable for outdoor use must be used and shall cover the front of the awning frame.</p> <p>d. The awning frame shall be constructed of steel or aluminum.</p> <p>e. Manufacturer's wind and snow load capacities from shall be provided to the Township as part of the permit process.</p> <p>f. Torn, frayed, ripped, faded, stained, soiled, or dirty awnings shall be replaced immediately.</p>
<p>Marquee Sign</p>	<p>One sign per building.</p>	<p>a. A marquee sign is only permitted in conjunction with a theater, cinema, or performing arts facility.</p> <p>b. The permanent text of the sign may indicate the facility name and the changeable copy portion of the sign may highlight current and future attractions.</p> <p>c. One marquee sign shall be permitted per street frontage.</p> <p>d. A minimum vertical clearance of 9 feet shall be provided beneath any marquee.</p> <p>e. The surface display area on a marquee sign may not exceed that which would have been permitted for a wall sign that could have been erected in its place. The area of permanent lettering shall be counted in determining compliance with the standards for total area of wall signs permitted.</p>
<p>Blade Sign or Hanging Sign</p>	<p>One sign per business.</p>	<p><i>Blade sign</i></p> <p>a. Blade signs shall be small in scale and provide a minimum vertical clearance of 10 feet between the lowest point of the sign and the sidewalk.</p>

		<p>b. A blade sign shall have a maximum area of 12 square feet.</p> <p>c. Mounting hardware shall be an integral part of the sign design.</p> <p>d. Businesses that have a blade sign may not have a hanging sign.</p> <p><i>Hanging sign</i></p> <p>e. Hanging signs shall have a maximum area of six square feet (excluding supporting rods, chains, or similar hangers).</p> <p>f. Hanging signs shall maintain a minimum vertical clearance of 10 feet between the lowest point of the sign and the sidewalk.</p> <p>g. Businesses that have a hanging sign may not have a blade sign.</p>
Window Sign	Number of signs is based on window coverage; maximum of 33 %	<p>a. Window signs shall not exceed 1/3 of the first floor window area so that visibility into and out of the window is not obscured.</p> <p>b. Sign copy shall not exceed eight inches in height.</p> <p>c. Window signs should be applied directly to the interior face of the glazing or hung inside the window to conceal all mounting hardware and equipment.</p> <p>d. Businesses on upper floors may also have window signs, provided that such signs do not exceed one third of the upper floor window area.</p>
Plaque Sign	One sign per business entrance.	Maximum 2 square feet per sign.
Tenant Directory Sign	One sign per building entrance.	<p>a. The maximum area for a tenant directory sign is 12 square feet.</p>

		<p>b. Tenant directory signs shall be mounted flat against a solid wall proximate to a common building entrance serving tenants listed on the directory sign, or on a freestanding sign located on the property on which the tenants are located.</p>
		<p>c. The maximum height for a freestanding tenant directory sign shall be 6 feet; a wall-mounted directory sign shall not exceed a height of 8 feet.</p>
<p>Ground Mounted Sign</p>	<p>One sign per property. A ground mounted sign shall not be permitted on the same site as a pole sign.</p>	<p>a. Only one ground sign shall be permitted per parcel.</p> <p>b. A ground sign shall not be permitted on the same site as a projecting sign or pole sign.</p> <p>c. The maximum area of any such sign shall be 40 square feet.</p> <p>d. The maximum height of any such sign shall be 5 feet.</p> <p>e. No part of the sign or sign support shall be closer than five feet to a street right-of-way line.</p> <p>f. No part of the sign or sign support shall be closer than five feet to any property line, except where an adjoining parcel is occupied by a ground floor residence, in which case the setback shall be 20 feet.</p> <p>g. Ground signs shall be permitted on lots in the CC-Core Zone only where there is an existing building that is set back at least 15 feet from the front property line.</p> <p>h. A ground sign shall not be permitted where it would obstruct parking or traffic maneuvering aisles, or obstruct the vision of drivers.</p> <p>i. Ground signs may not be internally illuminated.</p>
<p>Pole Sign</p>	<p>One sign per property, subject to restrictions. A pole sign shall not be permitted on the same site as a ground mounted sign.</p>	<p>One pole sign shall be permitted per lot for businesses in buildings in existence at the time of adoption of this provision in the CC-Core Zone and CC-South Zone and are also permitted on lots in the CC-East Zone and CC-North Zone, subject to compliance with the following criteria:</p>

		<p>a. The maximum area of any such sign shall be 32 square feet.</p> <p>b. The maximum height of any such sign shall be 20 feet.</p> <p>c. No part of the sign or sign support shall be closer than five feet to a street right-of-way or property line.</p> <p>d. Pole signs shall be permitted only in the following two situations:</p> <p>i. Because of the size of the site, configuration of the building relative to other site features, or design of the building, there is no possible way to place a conforming wall sign on the building; or</p> <p>ii. Because of the size of the site, configuration of the building relative to other site features, or design of the building, there is no possible way to place a conforming ground mounted sign on the premises.</p>
<p>Projecting Sign</p>	<p>One sign per building. A projecting sign shall not be permitted on the same site as a blade sign.</p>	<p>a. The sign's vertical dimension shall be greater than its horizontal dimension.</p> <p>b. Projecting signs shall maintain a minimum vertical clearance of 10-feet between the lowest point of the sign and the sidewalk.</p> <p>c. Mounting hardware shall be an integral part of the sign design.</p> <p>d. Businesses that have a projecting sign may not have a blade sign.</p> <p>e. A vertical projecting sign shall have a maximum area of 32 square feet.</p> <p>f. Vertical projecting signs shall project no more than 3 feet from the face of the building.</p> <p>g. On multistory buildings, vertical projecting signs are permitted on the first or second stories only.</p>

		h.	Projecting signs shall not extend above the top of the roof or parapet line.
Sandwich Board Sign	One sign per business.	a.	May not exceed six (6) square feet per side.
		b.	May not exceed three feet (3') in height.
		c.	May not be illuminated.
		d.	Must be brought indoors when the business is closed.

(Amended: Ord. No. 437, § VII, 3-2-09; Ord. No. 463, § I, 11-18-13; Ord. No. 479, § IV, 3-21-16; Ord. No. 511, § XIII, 8-17-20)

300.806 - Billboards.

Sec. 8.06. Billboards shall be allowed in the "B-3", "LM" and "M" zoning districts subject to the following conditions:

1. Not more than three (3) billboards may be located per linear mile of street or highway. The linear mile measurement shall not be limited to the boundaries of the Charter Township of Comstock where the particular street or highway extends beyond such boundaries. V-type structures shall be considered as two billboards and double-faced (back-to-back) structures as one (1) billboard.
2. The maximum surface display area of any side of a billboard may not exceed five hundred (500) square feet.
3. No billboard shall be located within five hundred (500) feet of a residential zone.
4. No billboards shall be located closer than the required building setback from the front, rear and side yard property lines.
5. Billboards may be illuminated.
6. The maximum height shall not exceed 30 feet above (1) the grade of the ground on which the billboard sits or (2) the grade of the abutting roadway, to which the billboard is directed, whichever is higher.

(Amended: Ord. No. 437, § VIII, 3-2-09; Ord. No. 452, § I, 8-1-11; Ord. No. 463, § I, 11-18-13; Ord. No. 514, § III, 8-13-20)

300.807 - Reserved.

Non-commercial temporary event signs was deleted by Section IX of Ordinance No. 511.

ARTICLE 8.50

300.850 - EXTERIOR LIGHTING

300.851 - Statement of purpose.

Sec. 8.51. The regulations are intended to accomplish the following:

- Protect the public health, safety and general welfare;
- Provide for the fair and consistent enforcement of these regulations;
- Control light spillover and glare;

- Minimize the detrimental effect of exterior lighting on astronomical observations by the general public;
- Encourage lighting arrangements which conserve energy;
- Preserve community character;
- Provide for nighttime safety, utility, security and productivity.

(Amended: Ord. No. 487, § I, 3-20-17)

#### 300.852 - Scope.

Sec. 8.52. The purpose of this section is to regulate the placement and arrangement of lighting on properties and uses within the township.

(Amended: Ord. No. 487, § I, 3-20-17)

#### 300.853 - Objectives.

Sec. 8.53. The standards of this division are intended to accomplish the following objectives:

- A. Avoid light spillover onto any adjacent premises.
- B. Shade, shield and/or or direct the sources of illumination so that the light intensity or brightness will not be objectionable to surrounding areas.
- C. Control illumination of vertical architectural surfaces and facades.

#### 300.854 - Standards.

Sec. 8.54.

- A. Sufficient lighting shall be required for parking areas, walkways, driveways, building entrances, loading areas and public areas to ensure the security of property and safety of persons. The above shall apply to other than one- and two-family residential properties.
- B. Site and area lighting. Site and area lighting shall be designed such that light levels do not exceed 0.5 footcandles at any point along the perimeter of the property adjacent to residential zones or residential uses. Light levels of up to 2.0 footcandles are permitted along the perimeter of property adjacent to commercial or industrial zones or uses where the Planning Commission determines during site plan review that the higher light levels are consistent with the purpose and intent of this division.

Site and area lighting shall be designed so that light levels do not exceed 10.0 footcandles within the site, except as explicitly permitted for illumination of task areas as approved by the Planning Commission; see Section 8.54.G.

- C. Pole-mounted fixtures. Pole-mounted light fixtures used for site and area lighting shall be subject to the following design guidelines:
  - i. Pole-mounted lighting with a mounted height of 12 feet or less above grade shall be so shaded, shielded or directed that the light intensity or brightness will not be objectionable to surrounding areas.
  - ii. Pole-mounted lighting with a mounted height of greater than 12 feet and not exceeding 30 feet above grade shall be full cut-off mounted horizontally and angled perpendicular to the ground (Illuminating Engineering Society of North America full cut-off).
- D. To provide for uniformity of illuminance within a site, fixtures shall provide an overlapping pattern of light. The ratio of minimum to maximum light levels within illuminated areas of nonresidential properties shall not exceed 3:1 except those areas along the perimeter of the property where compliance with the perimeter footcandle limitations in 8.54.B. Site and area lighting, is satisfied.
- E. Building mounted fixtures. Building mounted light fixtures shall be full cut-off and not exceed a 20-foot mounting height.

The Planning Commission may approve mounting heights exceeding 20 feet during the site plan review process. The use of architectural features on the building, such as a canopy, which prevent the projection of light beyond the architectural feature may satisfy the intent of this section and allow the use of fixtures that are not full cut-off, subject to the approval of the Planning Commission.

Typical residential light fixtures on one- and two-family residential buildings and associated accessory buildings, not to include flood lights or security lights, are exempt from the full cut-off requirement when mounted at a height of eight feet or less.

- F. Architectural lighting and wall signs. The illumination of building facades and wall signs shall be limited to fully shielded fixtures directed toward the façade or wall sign. All light from such fixtures shall be concentrated on the surface being illuminated and shall not exceed the footcandle levels set forth by the Illuminating Engineering Society of North America, not to exceed 16 footcandles.
1. Gas station canopy fascia. The fascia of a gas station canopy may not be backlit. However, an illuminated accent band, typically used as part of identifying the brand, with a height not more than 33% of the height of the canopy fascia is permitted.
- G. Task Areas. For those outdoor task areas that warrant or require increased illuminance, such as gas stations and athletic fields, the Planning Commission may approve task area lighting within a site at levels exceeding 10 footcandles where it finds that all of the following standards are met:
- i. Where normal performance or function of permitted outdoor tasks requires light levels greater than 10 footcandles, the light levels on the task area can be increased in accordance with the levels recommended for that task by the Illuminating Engineering Society of North America.
  - ii. Task areas where the Planning Commission authorizes such increased light levels, and the lighting within such task areas, must satisfy the other requirements of the zoning ordinance and all conditions imposed by the Planning Commission.
  - iii. Light fixtures beneath gas station canopies shall have fully recessed light fixtures and the total initial lamp output shall be limited to 32 footcandles.
  - iv. The applicant for approval of special lighting levels for task areas shall have the burden of demonstrating that that the higher light levels requested will not create light spillover or glare inconsistent with the objectives of this section.
- H. Landscape light fixtures. Landscape light fixtures, including ground lighting for signs, flag poles and statues shall be equipped with shields or shutters to help eliminate glare. The light shall be so shaded, shielded or directed that the light intensity or brightness will not be objectionable to surrounding areas. All light from such fixtures shall be concentrated on the surface being illuminated as much as possible.
- I. Blinking, flashing and temporary lighting. There shall be no lighting of a blinking, flashing, rotating or fluttering nature, including changes in light intensity, brightness or color except for public safety purposes. Temporary seasonal (holiday) lighting is not prohibited by this subsection.
- J. Site lighting plan. Whenever any change to exterior lighting is proposed and for uses requiring site plan review, a lighting plan shall be submitted and shall provide the following information:
- i. Proposed location on premises of all exterior light fixtures.
  - ii. Fixture cut-sheets with description of illumination devices, lamps, supports, reflectors and other devices (e.g., fixture type, mounting height, wattage).
  - iii. Photometric data of illumination cast on horizontal surfaces. Vertical photometric data may be required.
  - iv. Illumination level for all building, vertical architectural and landscaping lighting proposed.
  - v. Isofoot candle plan must be submitted.
- K. Reduced lighting. Lighting shall be significantly reduced during nonoperational building hours, allowing only lighting



necessary for security purposes. The lighting plan submitted for review shall note where this distinction applies.

(Amended: Ord. No. 487, § I, 3-20-17; Ord. No. 510, §§ XV, XVI, 11-18-19.)

#### 300.855 - Existing uses.

Sec. 8.55. Lighting established prior to and existing on April 1, 2017, regardless of the zoning district, shall at a minimum be arranged so as to avoid glare or direct illumination onto any portion of any adjacent highway or onto any adjacent premises. As light fixtures are replaced, replacement fixtures shall comply with the requirements of this section.

(Amended: Ord. No. 487, § I, 3-20-17)

#### 300.856 - Permit.

Sec. 8.56. The provisions of Section 27.02, Zoning Compliance Permits, shall apply.

(Amended: Ord. No. 487, § I, 3-20-17)

### ARTICLE 9.00

#### 300.900 - AGR AGRICULTURE-RESIDENTIAL DISTRICT

##### 300.901 - Intent.

Sec. 9.01. The intent here is to provide a district wherein agriculture, farming residential, and low-density dispersed single-family residential uses, along with compatible uses often occupying large areas and accessory uses may occur. The main uses are to be agriculture and farming residential.

##### 300.902 - Uses permitted.

Sec. 9.02. In all Agriculture-Residential Districts, no building or land, except as otherwise specifically provided for in this Ordinance, shall be erected or used for other than the following specified uses.

- a. All uses permitted in the Single-Family Residential Districts.
- b. Farms, including livestock and poultry raising, dairying, horticulture, sod, farm forestry, truck gardening and nurseries, and similar bona fide agricultural enterprises or use of land and structures, except not including: (i) farms operated wholly or in part for the disposal of garbage, sewage, rubbish, offal or wastes from rendering plants or slaughter houses, and (ii) farms regulated under Section 9.02(f).
- c. Roadside stands for the display and sale of produce raised on the same premises. Maximum of one (1) stand per premises.
- d. Accessory buildings and uses.
- e. Private stables, pursuant to Section 21.20.
- f. Concentrated animal feeding operations <sup>1</sup>, subject to the following conditions:
  1. Manure tanks, animal confinement structures or pads, holding areas and feed areas (excluding grazing areas) shall be setback a minimum of 750 feet from a concentrated residentially developed area. <sup>2</sup>
  2. No manure generated from the concentrated animal feeding operation shall be spread within the above referenced setback area unless it is injected or incorporated into the soil.
  3. *Sketch Plan Approval.*
    - (i) A sketch plan of the concentrated animal feeding operation shall be submitted to and approved by the Planning

Commission before the operation is commenced. The sketch plan shall contain sufficient information as to enable the Planning Commission to determine whether the proposed concentrated animal feeding operation will have a 750-foot minimum setback from a concentrated residentially developed area. The sketch plan shall be drawn to approximate scale and shall include, at a minimum, the following information:

- (A) The North arrow and approximate scale used.
  - (B) All property lines of the subject property shall be shown with their dimensions.
  - (C) The location of all manure tanks, animal confinement structures or pads, holding areas, and feeding areas (excluding grazing areas) to be used or established in connection with the concentrated animal feeding operation.
  - (D) The size and location of all residentially developed parcels within 750 feet of the subject property and the location of each dwelling unit located on those parcels.
- (ii) The Planning Commission shall approve the sketch plan if it is determined that it satisfies the standards set forth in Section 9.02(f).
  - (iii) A concentrated animal feeding operation shall be developed in conformance with the sketch plan or amended sketch plan approved by the Planning Commission.

4. Notwithstanding the above, a concentrated animal feeding operation in existence on a parcel prior to the existence of any concentrated residentially developed area within 750 feet of the parcel shall not be subject to the above mentioned setback and sketch plan requirements provided: That if the concentrated animal feed operation falls below the animal number specified in the definition of concentrated animal feeding operation for a continuous period of five years or more, then any resumption of activity above those animal number levels after the establishment of a concentrated residentially developed area within 750 feet of the parcel shall be permitted only after meeting the conditions specified in Section 9.02(f) (1), (2), and (3) above.

- g. Family child care homes licensed or registered under Act No. 116 of the Public Acts of 1973 (See Article 21.00, Section 21.06).
- h. Adult foster care family home (See Section 2.01.1d).
- i. Adult day care family home (See Section 2.01.1b).

(Amended: Ord. No. 256, 10-20-86; Ord. No. 271, 8-1-88; Ord. No. 283, 11-6-89; Ord. No. 284, 12-4-89; Ord. No. 288, 2-20-90; Ord. No. 291, 8-6-90; Ord. No. 359, 6-1-98; Ord. No. 463, §§ V, XIV, XVIII, 11-18-13; Ord. No. 488, § IV, 4-17-17)

<sup>1</sup> A "concentrated animal feeding operation" is defined as an agricultural operation which has animals stabled or confined other than in grazing areas and fed for a total of 45 days or more in any 12-month period and which contains more than the following numbers and types of confined animals:

-	300 slaughter or feeder cattle, or
-	200 mature dairy cattle (milked or dry), or
-	750 swine each weighing more than 25 kilograms (approximately 55 pounds),
-	150 horses, or
-	3,000 sheep or lambs, or
-	16,500 turkeys, or

-	30,000 laying hens and/or broilers (if the facility has overflow watering), or
-	9,000 laying hens or broilers (if the facility has a liquid manure handling system), or
-	1,500 ducks, or
-	300 animal units. "Animal Unit" shall be defined as a unit of measurement of any animal feed operation calculated by adding the following number; the number of slaughter and feeder cattle multiplied by 1.0 plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 25 kilograms multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0, plus the number of turkeys multiplied by 0.-18, plus the number of laying hens and broilers (if the facility has overflow watering) multiplied by 0.01, plus the number of laying hens and broilers (if the facility has a liquid manure handling system) multiplied by 0.033, plus the number of ducks multiplied by 0.2.

<sup>2</sup> A "concentrated residentially developed area" shall be defined as 1) those lands consisting of two or more contiguous residentially developed parcels having a combined residential density equaling or exceeding 1.5 dwelling units per acre; 2) any residentially platted area; and 3) any individual parcel having more than one dwelling unit upon it and having a residential density equaling or exceeding 1.5 dwelling units per acre.

300.903 - Uses permitted only by special exception.

Sec. 9.03. (See also [Article 22.00](#) for site plan review requirements.)

- a. Office of veterinarian and animal clinics.
- b. Public stables and riding academies, pursuant to Section 21.25.
- c. Public utility buildings, such as electrical substations, telephone exchange buildings, gas regulator stations, without service or storage yards, when operating requirements necessitate locating within the District to serve the immediate vicinity, and not injurious to the surrounding District.
- d. Dog parks, kennels and/or boarding kennels.
- e. Private schools.
- f. Airports, heliports, landing fields and platforms, helipads, hangars, masts and other facilities for the operation of aircraft (see [Article 21.00](#), Section 21.16).
- g. Wineries, including tasting rooms and sales.
- h. Home occupations, other than agriculture and only as an incidental use to the primary residential use. All applications for a home occupation special exception use permit shall be accompanied by twelve (12) copies of a site plan of the subject property drawn to a selected scale, containing the following information:
  - a. A NORTH arrow and notation of the selected scale use.
  - b. All property lines shall be shown with their dimensions.
  - c. Size and location within the dwelling within which the home occupation will be conducted.
  - d. Size and location of off-street parking areas for the dwelling.
  - e. Location and dimensions of all existing structures on the subject property and any existing buildings on adjacent properties within fifty (50) feet of the subject property.

f. Location of any septic tank and/or dry well on the subject property.

Planning Commission approval of the above required site plan under the standards in Section 22.04 shall satisfy the site plan submission and approval requirements of Sections 22.01 through 22.04 of this Ordinance.

- i. Public and private cemeteries, when occupying a site of ten (10) acres or more in area.
- j. Hospitals, convalescent homes, adult day care centers, and nursing homes, but not including institutions whose primary function is for the care of mentally ill persons.
- k. Golf courses and country clubs.
- l. Radio or television station.
- m. Private recreational facilities whether operated for profit or not.
- n. Temporary buildings or trailer offices incidental to construction.
- o. Commercial quarry excavation.
- p. Farm ponds subject to requirements of Section 4.04.B.
- q. Essential services which are compatible in appearance and design with the development of the area and with the zoning classification in which the essential service is located. Buildings for essential services shall not be materially larger than other buildings in the area in which they are located.
- r. Campgrounds.
- s. Attached two-family dwellings (duplexes) under the following conditions:
  - A. Each dwelling unit shall contain a minimum of 840 square feet for two bedrooms or less and a minimum of 960 square feet for three bedrooms or more.
  - B. Only one two-family dwelling or duplex shall be allowed or permitted on any one lot.
  - C. At least two off-street parking spaces shall be provided per dwelling unit with at least one space in an enclosed garage per dwelling unit.
  - D. The main floor of and the primary entrance to each dwelling unit shall be built following Universal Design principles including the provision of at least one full bathroom and bedroom on the main floor of the dwelling. The Township shall maintain a list of Universal Design features to be incorporated.
- t. Sanitary landfill and solid waste disposal facilities, subject, however, to all conditions imposed by this Zoning Ordinance including those contained in Section 21.26.
- u. Planned Unit Developments.
- v. Child care centers. (See Article 21.00, Section 21.06).
- w. Telecommunication towers (see Section 4.19).
- x. Telecommunication antennas located on structures other than telecommunication towers (see Section 4.19).
- y. Group child care homes licensed or registered under Act No. 116 of the Public Acts of 1973. (See Article 21.00, Section 2.06).
- z. Adult foster care small group home (See Section 2.01.1e).
- aa. Adult day care group home (See Section 2.01.1c).
- bb. Detached Accessory Dwelling Unit, subject to Section 21.09.
- cc. Event barn, pursuant to Section 21.24.

(Amended: Ord. No. 201, 6-17-81; Ord. No. 214, 8-13-82; Ord. No. 234, 1-17-84; Ord. No. 235, 3-5-84; Ord. No. 237, 3-19-84; Ord. No. 239, 4-16-84; Ord. No. 280, 6-5-89; Ord. No. 283, 11-6-89; Ord. No. 290, 6-18-90; Ord. No. 359, 6-1-98; Ord. No. 373, §§ II, III, V, 8-30-99; Ord. No. 432, § I, 5-7-07; Ord. No. 463, §§ VIII, XI, XVI, XX, XXII, 11-18-13; Ord. No. 467, § I, 7-21-14; Ord. No. 479, § I, 3-21-16; Ord. No. 487, § X, 3-20-17; Ord. No. 488, § IV, 4-17-17; Ord. No. 491, § II, 4-30-18; Ord. No. 497, §§ II, VIII, 11-19-18; Ord. No. 510, § XII, 11-18-19; Ord. No. 511, § XV, 8-17-20.)

300.904 - Dimension and setback requirements for buildings and lots.

Sec. 9.04. (In accordance with the attached Schedule of Regulations, Article 23.00.)

(Amended: Ord. No. 408, § VIII, 11-17-03)

#### ARTICLE 9.50

300.950 - A-H AGRICULTURE-HORTICULTURE DISTRICT

300.951 - Intent.

Sec. 9.51. The intent of this District is to provide a compatible environment for older greenhouse operations and residential development plus suitable accessory uses. This district recognizes smaller setbacks and lot sizes for both existing greenhouses and residential development as well as the appropriate environmental and soil conditions for greenhouse and horticultural operations.

300.952 - Uses permitted.

Sec. 9.52. No dwelling or building or part thereof shall be erected, altered or used, or land or premises used in whole or in part, within the Agriculture-Horticulture District for other than the following uses specified, except as specifically provided for otherwise in this Ordinance:

- a. Single-family dwellings.
- b. Publicly owned and operated parks and recreational facilities.
- c. Public educational institutions under the jurisdiction of a public school district board of education or similar publicly elected board authorized by the state of Michigan.
- d. Greenhouses.
- e. Horticultural activities and facilities and related uses.
- f. Accessory buildings and uses, including the incidental retail sale of plant materials and produce raised on premises.
- g. General agricultural farming activities and facilities, and related uses except not including concentrated animal feeding operations as defined in Section 9.02(f).
- h. Family child care homes licensed or registered under Act No. 116 of the Public Acts of 1973 (See Article 21.00, Section 21.06).
- i. Adult foster care family home (See Section 2.01.1d).
- j. Adult day care family home (See Section 2.01.1b).
- k. Accessory Dwelling Unit, subject to Section 21.09.

(Amended: Ord. No. 271, 8-1-88; Ord. No. 283, 11-6-89; Ord. No. 284, 12-4-89; Ord. No. 290, 6-18-90; Ord. No. 359, 6-1-98; Ord. No. 445, § II, 3-15-10; Ord. No. 463, §§ V, XIV, XVIII, 11-18-13; Ord. No. 497, § VI, 11-19-18)

300.953 - Uses permitted only by special exception.

Sec. 9.53.

- a. Home occupations, other than agriculture and only as an incidental use to the primary residential use. All applications for a home occupation special exception use permit shall be accompanied by twelve (12) copies of a site plan of the subject property drawn to a selected scale, containing the following information:
  - a. A NORTH arrow and notation of the selected scale used.

- b. All property lines shall be shown with their dimensions.
- c. Size and location within the dwelling within which the home occupation will be conducted.
- d. Size and location of off-street parking areas for the dwelling.
- e. Location and dimensions of all existing structures on the subject property and any existing buildings on adjacent properties within fifty (50) feet of the subject property.
- f. Location of any septic tank and/or dry well on the subject property.

Planning Commission approval of the above required site plan under the standards in Section 22.04 shall satisfy the site plan submission and approval requirements of Sections 22.01 through 22.04 of this Ordinance.

- b. Retail sales of lawn and garden materials in conjunction with retail sales of plant materials and produce raised on premises, provided that:
  - 1. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.
  - 2. No more than 25% of the lot, exclusive of parking, setbacks, and landscaping shall be devoted to the sale of manufactured items.
  - 3. The storage or display of materials shall meet all the yard setback requirements applicable to any nonresidential building in the district.
  - 4. All loading activities and parking areas shall be provided on the same premises. All parking areas provided for retail customers shall be paved.
  - 5. Lighting shall be installed in such a manner which will not create a traffic hazard on abutting streets or which will cause a glare or cause direct illumination to be cast onto adjacent properties, residential or otherwise.
  - 6. Christmas tree sales shall be in accordance with Section 21.08(h).
- c. Kennels and/or boarding kennels.
- d. Group child care homes licensed or registered under Act No. 116 of the Public Acts of 1973. (See Article 21.00, Section 2.06).
- e. Telecommunication antennas located on structures other than telecommunication towers (See Section 4.19).
- f. Non-horticultural related uses limited to the following:
  - 1. Office buildings and uses.
  - 2. Business and private schools.
  - 3. Photographic studios.
  - 4. Insurance offices, brokerage houses and real estate offices.
  - 5. Child care centers. (See Article 21.00, Section 21.06).
  - 6. Public buildings and uses not specifically permitted under Section 9.52.

These uses shall be further subject to the following conditions:

- A. The use is located on a parcel with no less than 100 feet of frontage upon a fully accessible county primary or all-weather road.
  - B. Screening shall be required where such use is contiguous to any residential use, with such screening to adhere to the standards under Section [Article 21.50].
  - C. The building housing the use shall be a lawfully existing building originally constructed and lawfully utilized for a use other than those set forth in this Subsection "f". Some adaptive redesign or additions may be permitted to enhance both the appearance and functional use of the site for such business.
- g. Adult foster care small group home (See Section 2.01.1e).

- h. Adult day care group home (See Section 2.01.1c).
- i. Detached Accessory Dwelling Unit, subject to Section 21.09.
- j. Adult day centers.

(Amended: Ord. No. 271, 8-1-88; Ord. No. 359, 6-1-98; Ord. No. 373, § III, 8-30-99; Ord. No. 431, 2-5-07; Ord. No. 463, § VIII, XI, XVI, XX, 11-18-13; Ord. No. 467, § I, 7-21-14; Ord. No. 484, § VII, 10-24-16; Ord. No. 497, § IX, 11-19-18; Ord. No. 511, § XIV, 8-17-20)

300.954 - Dimension and setback requirements for buildings and lots.

Sec. 9.54. (In accordance with the attached Schedule of Regulations, Article 23.00).

(Amended: Ord. No. 408, § VIII, 11-17-03)

## ARTICLE 9.75

### 300.975 - AGRICULTURAL LABOR HOUSING OVERLAY DISTRICT

#### 300.975.1. - Statement of purpose.

The numerous greenhouses and farms throughout the Township are an important part of the Comstock community. The agriculture industry employs a substantial number of migrant workers in planting, cultivating, harvesting, and packaging the many labor-intensive products grown in Comstock Township. Good housing is an essential element in securing an adequate supply of seasonal agricultural workers and the success of the industry in the Township. It is the intent of the following provisions to allow for the establishment of dwellings for migrant laborers serving the agriculture industry in the Township while protecting the short-term and long-term interests of the community by limiting establishment of this housing to properties or parts thereof in this overlay zoning district with underlying zoning of AGR, Agriculture-Residential District or A-H, Agriculture-Horticulture District. It is likewise the intent of the following that agricultural labor housing is available to and can serve any or all types of agricultural laborers.

##### Sec. 975.1.1. *Application Procedure.*

- A. An application for establishment of the Agricultural Labor Housing Overlay District on a property shall be filed by the farmer desiring to build agricultural labor housing.
- B. A conceptual site plan and a legal description shall be submitted for the area of the property desired to be used for agricultural labor housing.

(Ord. No. 497, § I, 11-19-18; Amended: Ord. No. 505, § I, 4-29-19)

#### 300.975.2. - Uses Permitted.

- A. All permitted uses in the underlying zoning district are permitted in the ALH, Agriculture Labor Housing District.

(Ord. No. 497, § I, 11-19-18)

#### 300.975.3. - Uses permitted only by special exception.

- A. *Agricultural Labor Housing.* For purposes of this section, Agricultural Labor Housing (ALH) means one or more dwellings proposed for use by itinerant or migrant labor and may be allowed through the special exception use process of Section 4.13 of this Ordinance provided the requirements of the Michigan Department of Public Health, Agricultural Labor Camp Rules and the following standards are met:

1. ALH dwellings shall not be located on a parcel of less than one (1) acre in area per dwelling unit. Overall density shall not exceed one (1) ALH dwelling unit per acre. Dwellings may be clustered within that area of the property in the

overlay zone.

2. When ALH dwellings are located on a non-farm property, maximum lot coverage of all buildings on the parcel may not exceed 10%.
3. A site plan adhering to the requirements of Section 22.00 shall be submitted.
4. New buildings built for the purpose of being ALH dwellings shall be setback at least 200 feet from adjacent right-of-way lines and at least 50 feet from side and rear lot lines. The Planning Commission may waive the setback requirements when it determines in its sole reasonable discretion that, based on the nature of the site on which the dwelling(s) is to be located, the nature of the street and properties adjoining the subject property including the setback of the residences thereon and/or the nature of the proposed dwelling(s), such a waiver will not have a material adverse impact upon persons or property in the surrounding area and will otherwise be consistent with the purpose of this section. The Planning Commission may require a berm or landscape plantings to screen the dwellings.
5. When visible from off-site, ALH dwellings should be compatible in appearance with the area in which they are located. Elevation drawings of the proposed ALH dwellings shall be provided for Planning Commission review. Any new building constructed to be an ALH dwelling shall not exceed one story when single story homes are found on a majority of the properties within 500 feet of the ALH dwelling including homes on the opposite side of the street. In no event shall ALH dwellings be more than two stories in height.
6. The minimum distance between ALH dwellings shall be 30 feet. A building located within 30 feet of an ALH dwelling shall be exclusively used by the occupants of the ALH dwelling.
7. Any new ALH dwelling shall be located at least 30 feet from a drive or private road serving more than one ALH building.
8. No outdoor activity may occur between the hours of 12:00 a.m. and 7:00 a.m. other than entering or exiting the property.
9. When public water and sewer are not available to service the dwellings, confirmation from the Kalamazoo County Health and Community Services Department of the adequacy of existing or proposed well and septic systems shall be provided.
10. A statement addressing the planned duration of occupancy of the dwellings and number of occupants shall be included with the application. Except as provided in subsection 11 below, ALH dwellings shall be occupied only by itinerant or migrant farm laborers and shall not be used for any other residential purpose. ALH dwellings shall be secured and checked at least monthly when not occupied to prevent entry by any person but the property owner.
11. If an ALH dwelling is not occupied by an itinerant or migrant worker during two consecutive years, within six months following the end of the second year, the Township may rezone the property thereby removing the overlay zone in part or whole causing the special exception use approval to terminate in part or whole. The property owner shall then remove the building or with Planning Commission approval convert it to another use allowed in the underlying zoning district when said structure satisfies the State Construction Code requirements for the proposed use or can be altered to achieve compliance.

For new buildings built as an ALH dwelling, a performance guarantee, shall be provided by the applicant to ensure removal or conversion of the ALH dwelling(s), as noted above. The performance guarantee shall be valued at 150% of the cost of removal of ALH dwelling(s). In this regard, the performance guarantee shall, at the election of the applicant, be in the form of cash, surety bond, irrevocable letter of credit or other financial guarantee approved by the Township Attorney and recordable at the Kalamazoo County Register of Deeds, establishing a promise of the applicant and owner of the property to remove or convert the ALH dwellings as required herein, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorney's fees incurred by the Township in securing compliance with this section. Said performance guarantee shall be maintained until such time as the ALH dwellings are



removed or converted to another use approved by the Planning Commission. Evidence that the performance guarantee is being maintained shall be provided by the applicant or property owner to the Township annually on or before January 31.

12. The Planning Commission may determine that special conditions of approval may be necessary to insure desirable living conditions for workers and to protect the value and desirability of adjacent properties.
13. All ALH dwelling units shall comply with the Agricultural Labor Camp Rules of the State of Michigan Public Health Code (Part 124 of Act 368 of 1978); notwithstanding that said Act applies to living quarters for five or more migratory workers. Evidence of such compliance shall be provided to the Township each year that an ALH dwelling will be occupied by migratory workers. Failure to maintain compliance with such standards shall be grounds for revocation of special exception use approval and overlay zoning for Agricultural Labor Housing by the Planning Commission and Township Board.

All ALH dwelling units shall be designed to accommodate all types of agricultural labor. The construction and use of ALH dwelling units shall not have the effect of preferring one type of agricultural labor or serving only one type of agricultural labor. All ALH dwelling units shall be capable of conversion in order to be able to serve any type of agricultural labor.

14. Any changes to the site plan or building layout due to the Agricultural Labor Camp Rules of the State of Michigan shall be presented to the Planning Commission for review and approval.

(Ord. No. 497, § I, 11-19-18; Amended: Ord. No. 505, §§ II, III, 4-29-19)

#### ARTICLE 10.00

#### 300.1000 - R1-A, R1-B SINGLE-FAMILY RESIDENTIAL DISTRICTS

##### 300.1001 - Intent.

Sec. 10.01. The intent here is to provide two (2) districts of different lot sizes and/or density wherein single family residential uses, incorporating a reasonable range of lot sizes, plus compatible and/or accessory uses, may develop while at the same time promoting a predominantly semi-urban character within the community.

##### 300.1002 - Uses permitted.

Sec. 10.02. No dwelling or building or part thereof shall be erected, altered or used, or land or premises used, in whole or in part, within a Single Family Residential District for other than the following uses specified, except as specifically provided for otherwise in this Ordinance:

- a. Single-family dwellings.
- b. Publicly owned and operated parks, parkways and recreational facilities.
- c. Public educational institutions under the jurisdiction of a public school district board of education or similarly publicly elected board authorized by the State of Michigan, not including any accessory dormitory or living facilities.
- d. Cemeteries lawfully occupying land at the time of adoption of this Ordinance.
- e. Private swimming pools.
- f. Houses of worship. See Article 21.00, Section 21.02.
- g. Accessory buildings and uses, which include, for the purposes of this Article only, the incidental raising and retail sale of horticultural products grown on the premises.
- h. Family child care homes licensed or registered under Act No. 116 of the Public Acts of 1973 (See Article 21.00, Section 21.06).

- i. Temporary sales office within a model home/attached garage incidental to the sale of real property within a new housing development, subject to the following conditions:
  - 1. Sales office activities shall pertain only to sales of properties within the housing development within which the model home is located.
  - 2. The temporary sales office shall cease upon the happening of any of the following events:
    - (i) The sale by the Developer or its successor in interest of all lots or units within the housing development.
    - (ii) The sale of the model home in which the temporary sales office is located.
    - (iii) The passage of five years from the issuance of a building permit for the model home.
- j. Adult foster care family home (See Section 2.01.1d).
- k. Adult day care family home (See Section 2.01.1b).
- l. Accessory Dwelling Unit, subject to Section 21.09.

(Amended: Ord. No. 218, 1-3-83; Ord. No. 283, 11-6-89; Ord. No. 290, 6-18-90; Ord. No. 297, 12-17-90; Ord. No. 368, § I, 5-3-99; Ord. No. 425, § I, 8-10-05; Ord. No. 445, § III, 3-15-10; Ord. No. 463, §§ V, XIV, XVIII, 11-18-13; Ord. No. 468, § I, 10-20-14; Ord. No. 479, § II, 3-21-16; Ord. No. 497, § IX, 11-19-18)

300.1003 - Uses permitted only by special exception.

Sec. 10.03. (See also Section 22.00 for site plan review requirements.)

- a. Detached Accessory Dwelling Unit, subject to Section 21.09.
- b. [Repealed by Ordinance No. 368, § II, adopted May 3, 1999.]
- c. Publicly owned and operated museums, libraries, and post offices.
- [d. Reserved.]
- e. Municipal buildings and uses not requiring outdoor storage of material or vehicles.
- f. Kindergartens or nursery schools for children of preschool age, child care centers, and institutions of an educational, philanthropic, or eleemosynary nature, not including any accessory dormitory or living facilities.
- g. Golf courses and country clubs.
- h. Private recreational facilities not operated for profit.
- i. Home occupation, other than agriculture and only as an incidental use to the primary residential use. All applications for a home occupation special exception use permit shall be accompanied by twelve (12) copies of a site plan of the subject property drawn to a selected scale, containing the following information:
  - a. A NORTH arrow and notation of the selected scale used.
  - b. All property lines shall be shown with their dimensions.
  - c. Size and location within the dwelling within which the home occupation will be conducted.
  - d. Size and location of off-street parking areas for the dwelling.
  - e. Location and dimensions of all existing structures on the subject property and any existing buildings on adjacent properties within fifty (50) feet of the subject property.
  - f. Location of any septic tank and/or dry well on the subject property.

Planning Commission approval of the above required site plan under the standards in Section 22.04 shall satisfy the site plan submission and approval requirements of Sections 22.01 through 22.04 of this Ordinance.

- j. Radio stations.
- k. Temporary buildings or trailer offices incidental to construction.
- l. Essential services, subject to the conditions and limitations contained in Section 9.03(q).

- m. Private and public stables and riding academies, pursuant to Section 21.20 and Section 21.25 as appropriate.
- n. Public buildings or portions thereof no longer used for public purposes. In order to conserve public assets, to prevent loss of public tax revenues and to encourage maximum use of publicly owned facilities, the Planning Commission is hereby given the authority to approve and to permit, under the conditions contained herein, the conversion, alteration, renovation, or use of buildings or portions thereof as may be owned by the United States of America, the state of Michigan, or any political subdivision, public corporation or public authority thereof in the event that said buildings or portions thereof are no longer being used for the purpose for which said buildings were erected.
  - 1) *Application.* An application for the special exception use permit shall be filed with the Township Clerk on a form provided by the Township and the Township Clerk shall then forward said application to the Township Planning Commission for its consideration.
  - 2) *Procedure.* Upon receipt of the application, the Township Planning Commission shall then schedule a public hearing to be held in accordance with its rules and regulations and in accordance with the provisions of this zoning ordinance. Before proceeding upon consideration of any of the specific uses permitted by this section, the Planning Commission shall first make the following determinations and findings.
    - 1) That the building or portion thereof covered by said application is owned by one or more of the foregoing public entities.
    - 2) That said building or portion thereof is no longer being used for the purposes for which it was erected and used, and
    - 3) That the nonuse of said building or portion thereof is resulting in or will likely result in substantial depreciation of said asset or a financial loss or burden to said public entity that cannot otherwise be avoided.

In the event the Planning Commission is unable to make the foregoing findings and determinations, the application shall be dismissed. In the event the Planning Commission makes the foregoing findings and determinations, then and in that event it shall proceed to consider the granting of a special exception use permit for one or more of the following uses.

The procedures and requirements contained herein are in addition to any other requirements imposed by this ordinance concerning consideration and review of special exception use permits.

- 3) *Uses.* The Planning Commission, after first making its findings and determinations, shall then proceed to consider approval of one or more of the following uses:
  - a) All uses permitted by special exception in the "R1-A" and "R1-B" Single-Family Residential District classification.
  - b) Any use resulting in social services to children, indigents and/or the elderly.
  - c) Medical or dental clinics.
  - d) Office buildings and uses where goods or wares are not commercially created, exchanged, or sold.
  - e) Such uses wherein works of art or other crafts are created, produced, or assembled for display or sale off of said premises.
  - f) Such other uses as may be similar to the above and as may be approved by the Planning Commission provided that said uses are no more injurious to abutting residential uses than the uses permitted herein.
- 4) *Standards.* In passing upon said application, the Planning Commission shall consider whether the proposed use will adversely affect neighboring property and whether the proposed use is inconsistent with the intent and purpose of this ordinance which is to promote the public health, safety, morals, and general welfare. In approving such use, the Planning Commission may impose such restrictions as, in its discretion, may be necessary relating to building size, design, noise, traffic, screening, parking, lighting, landscaping, and so forth as may be required when necessary to protect the health, safety, and general welfare of adjoining residents and neighborhoods; to encourage the use of

lands in accordance with their character and adaptability and to limit the improper use of land; to protect the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend in the character of land, building, and population development.

- 5) *Termination of Special Exception Use Permit.* Any special exception use permit granted by the Planning Commission under this section shall terminate upon the happening of any of the following conditions:
- A. Where, after a hearing afforded to such public entity, the Planning Commission finds that there has been a violation of any of the conditions, restrictions, or uses permitted or imposed by it in the granting of such special exception use permit.
  - B. When the building or portion thereof covered by said application is once again used for the purpose for which said building or portion thereof was erected.
  - C. When the building or portion thereof covered by said application is no longer being used for special exception use for a period of at least one year.
  - D. When the building or portion thereof covered by said application is no longer owned by any public entity.
- o. Planned Unit Developments.
  - p. Attached two-family dwellings (duplexes) under the following conditions:
    - A. Each dwelling unit shall contain a minimum of 840 square feet for two bedrooms or less and a minimum of 960 square feet for three bedrooms or more.
    - B. Only one two-family dwelling or duplex shall be allowed or permitted on any one lot.
    - C. At least two off-street parking spaces shall be provided per dwelling unit with at least one space in an enclosed garage per dwelling unit.
    - D. The main floor of and the primary entrance to each dwelling unit shall be built following Universal Design principles including the provision of at least one full bathroom and bedroom on the main floor of the dwelling. The Township shall maintain a list of Universal Design features to be incorporated.
  - q. Subject to the provisions of Section 4.11.1, the raising and keeping of animals which either are or whose products are customarily used for human consumption. Such use shall be subject to the following restrictions.
    - 1. This provision shall apply only to poultry, swine, goats, sheep, rabbits, and cattle.
    - 2. The raising and keeping of such animals shall not be conducted on a lot of less than five acres in size.
    - 3. That the raising and keeping of such livestock shall be used primarily for the use or consumption by the occupants of such premises and shall not be raised primarily for profit.
  - r. Kennels and/or boarding kennels.
  - s. Group child care homes licensed or registered under Act No. 116 of the Public Acts of 1973. (See Article 21.00, Section 2.06).
  - t. [Repealed by § XII of Ord. No. 463, adopted Nov. 18, 2013.]
  - u. Telecommunication antennas located on structures other than telecommunication towers (see Section 4.19).
  - v. Adult foster care small group home (See Section 2.01.1e).
  - w. Adult day care group home (See Section 2.01.1c).

(Amended: Ord. No. 201, 6-17-81; Ord. No. 212, 8-13-82; Ord. No. 214, 8-13-82; Ord. No. 218, 1-3-83; Ord. No. 235, 3-5-84; Ord. No. 237, 3-19-84; Ord. No. 239, 4-16-84; Ord. No. 271; 8-1-88; Ord. No. 283, 11-6-89; Ord. No. 291, 8-6-90; Ord. No. 359, 6-1-98; Ord. No. 373, § III, 8-30-99; Ord. No. 463, §§ VIII, XII, XVI, XX, 11-18-13; Ord. No. 467, § I, 7-21-14; Ord. No. 479, § I, 3-21-16; Ord. No. 488, § V, 4-17-17; Ord. No. 497, §§ III, X, 11-19-18)

Sec. 10.04. (In accordance with the attached Schedule of Regulations, Article 23.00.)

(Amended: Ord. No. 408, § VIII, 11-17-03)

## ARTICLE 11.00

### 300.1100 - R1-C CLUSTER HOUSING DISTRICTS

#### 300.1101 - Intent.

Sec. 11.01. The intent of the Cluster Housing District is to provide at medium residential densities a variety of housing types consistent with single-family housing. Permitted uses include uses normally found in single-family districts and additional uses such as two-family dwellings and multiple family dwellings of limited size and of construction more similar to single and two-family dwellings. An objective of this district is to encourage a clustering of housing on the land to allow development to preserve open space, retain scenic features, and prevent encroachment or filling of land that desirably can be left in a natural state.

#### 300.1102 - Uses permitted.

Sec. 11.02. (See also Article 22.00 for site plan review requirements.) In these Districts, no building or land, except as otherwise provided for in this Ordinance, shall be erected or used for other than the following specified uses:

- a. All uses permitted in the R1-A & R1-B Single Family District.
- b. Two-family dwellings.
- c. Multiple-family dwellings containing not more than four dwelling units on a single lot or parcel. Each dwelling unit shall be constructed so that it enters and exits directly onto the ground level of the exterior of the multiple family dwelling building.

#### 300.1103 - Uses permitted by special exception.

Sec. 11.03.

- a. All uses permitted by special exception in the R1-A and R1-B Single Family Districts.
- b. Multiple family dwellings containing in excess of four but not exceeding ten dwelling units on a single lot or parcel. Each dwelling unit shall be constructed so that it enters and exits directly onto the ground level of the exterior of the multiple family dwelling building.
- c. Planned Unit Developments
- d. Convalescent homes, adult day care centers, and homes for the elderly.
- e. Telecommunication antennas located on structures other than telecommunication towers (see Section 4.19).

(Amended: Ord. No. 212, 8-13-82; Ord. No. 239, 4-16-84; Ord. No. 267, 6-6-88; Ord. No. 290, 6-18-90; Ord. No. 373, § III, 8-30-99; Ord. No. 463, § XXIII, 11-18-13)

#### 300.1104 - Dimension and setback requirements for buildings and lots.

Sec. 11.04. (In accordance with the attached Schedule of Regulations, Article 23.00)

(Amended: Ord. No. 408, § VIII, 11-17-03)

## ARTICLE 12.00

## 300.1200 - RM MULTIPLE-FAMILY RESIDENTIAL DISTRICTS

## 300.1201 - Intent.

Sec. 12.01. The intent here is to provide a district wherein higher density residential development may occur under controlled circumstances, along with other compatible and/or accessory uses. These districts may act as a buffer area between single-family residential and nonresidential uses, especially along major thoroughfares. Because of the more extensive public service needs of this type of use, it is situated near urban concentrations where such public services exist or can be feasibly and readily furnished.

## 300.1202 - Uses permitted.

Sec. 12.02. (See also Article 22.00 for site plan review requirements.) In these districts, no building or land, except as otherwise provided for in this Ordinance, shall be erected or used for other than the following specified uses:

- a. All uses permitted in the "R1-A" and "R1-B" Single-Family Districts and "R1-C" Cluster Housing District.
- b. Multiple-family dwellings (garden-type apartment).
- c. Accessory buildings and uses.

## 300.1203 - Uses permitted by special exception.

Sec. 12.03. (See also Article 22.00 for site plan review requirements.)

- a. All uses permitted by special exception in the "R1-A" and "R1-B" Single Family Districts except home occupations in a multiple-family dwelling.
- b. Housing for the elderly, adult day care centers, and convalescent homes.
- c. Hospitals.
- d. Planned Unit Developments.
- e. Institutions of an educational, philanthropic or eleemosynary nature, including any accessory dormitory or living facilities.
- f. Telecommunication antennas located on structures other than telecommunication towers (see Section 4.19).

(Amended: Ord. No. 212, 8-13-82; Ord. No. 239, 4-16-84; Ord. No. 360, 9-21-98; Ord. No. 368, §§ IV, V, 5-3-99; Ord. No. 373, § III, 8-30-99; Ord. No. 463, § XXIV, 11-18-13)

## 300.1204 - Dimension and setback requirements for buildings and lots.

Sec. 12.04. (In accordance with the attached Schedule of Regulations, Article 23.00.)

(Amended: Ord. No. 408, § VIII, 11-17-03)

## ARTICLE 12.50

## 300.1250 - RSM SENIOR CITIZENS MULTIPLE STORY RESIDENTIAL DISTRICT

## 300.1251 - Intent.

Sec. 12.51. The intent here is to provide a district to provide for the development of integrated communities for a select group of the population, the elderly, whose special needs require the close physical proximity of accessory uses and support facilities. Because of the more extensive public service and support facility needs of this type of use, it is situated near urban concentrations where such

services exist or can be feasibly and readily furnished. These districts may act as a buffer area between single family residential and non-residential uses but are located adjacent to at least primary roads and in the vicinity of major thoroughfares and are designed to discourage influx of vehicular traffic through single family residential areas. Because of the unique characteristics of senior citizen multiple story housing, a separate district for such uses is hereby established.

#### 300.1252 - Uses permitted.

Sec. 12.52. In these districts, no building or land, except as otherwise provided for in this ordinance, shall be erected or used for other than the following specified use, subject to the conditions and limitations contained hereinafter:

- a. Senior Citizens multiple story residential dwellings.
- b. Family child care homes licensed or registered under Act No. 116 of the Public Acts of 1973 (See [Article 21.00](#), Section 21.06).
- c. Telecommunication antennas located on structures other than telecommunication towers may be allowed as a special exception use (see Section 4.19).
- d. Adult foster care family home (See Section 2.01.1d).
- e. Adult day care family home (See Section 2.01.1b).
- f. Adult day care centers.

(Amended: Ord. No. 283, 11-6-89; Ord. No. 373, § IV, 8-30-99; Ord. No. 445, § IV, 3-15-10; Ord. No. 463, §§ V, XIV, XVIII, XXV, 11-18-13)

#### 300.1253 - Conditions and limitations.

Sec. 12.53. All uses permitted in this district shall comply with the following conditions and limitations:

- a. *Compliance with Ordinance.* All such uses shall comply fully with all of the provisions of this Zoning Ordinance, except as the same may be modified herein.
- b. *Compliance with Site Plan Review Procedures.* Prior to the creation of a use or erection of a building permitted herein, a site plan shall be submitted in accordance with the provisions of Article 22 of this Ordinance, for review and decision by the Planning Commission.
- c. *Minimum and Maximum Stories.* All buildings erected in accordance with the provisions of this article shall be not less than three nor more than seven stories in height.
- d. *Maximum Height.* No building constructed in accordance with the provisions of this Article shall exceed 70 feet in height, excluding elevator and air conditioning structures and other appurtenances, radio, and television antennae, towers or other equipment used in connection therewith.
- e. *Minimum Lot Size.* The minimum lot size for any lot upon which buildings are constructed pursuant to the provisions of this Article shall be five acres.
- f. *Minimum setback provisions.* For all buildings constructed pursuant to the provisions of this Article, a minimum front yard setback of 75 feet, a minimum side yard setback of 50 feet and minimum rear yard setback of 50 feet shall be observed from the appropriate property lines to the structure.
- g. *Minimum Lot Width and Access Points.* The proposed site shall have at least 400 feet in length abutting a county primary road or major thoroughfare and all ingress and egress shall be directly onto or from said thoroughfare or road. A secondary means of access may be required by the Planning Commission when the same is necessary in the opinion of the Commission, to facilitate traffic flow or to provide additional access for emergency vehicles. When an additional access is necessary for emergency vehicles, the Planning Commission may, in its discretion, require a gate to be installed and to be securely locked at all times with keys to be provided for distribution to appropriate police and fire officials. In no event shall any access point open to the general public be permitted from a street located within and as a part of a recorded plat or subdivision where the same consists principally of single family residential dwellings.

- h. *Construction Standards.* No building shall be constructed pursuant to the provisions of this Article unless the same shall not exceed the construction standards and requirements of the United States Department of Housing and Urban Development
- i. *Area Requirements.* The minimum square footage per living unit in any building constructed pursuant to the provisions of this Article shall be 475 square feet for one bedroom units and 600 square feet for two bedroom units. All dwelling units shall consist of at least a living room, bedroom, kitchen (or in lieu thereof central dining and kitchen facilities), and private bath and toilet.
- j. *Parking Requirements.* For each building constructed pursuant to the provisions of this Article, there shall be provided at least one parking space for each dwelling unit.
- k. *Land-to-Building Ratio.* The site upon which buildings are to be erected pursuant to the provisions of this Article shall be so developed as to create a ratio of 1,000 square feet of land area for each dwelling unit.
- l. *Minimum Distance Between Buildings.* The minimum distance between any two buildings constructed pursuant to the provisions of the Article shall be regulated according to the length and height of such buildings and the following formula shall control:

S	=	$\frac{LA + LB + 2(HA + HB)}{6}$
		6
Where:		
S	=	Required minimum horizontal distance between any wall of building A and any wall of building B or the vertical prolongation of either.
LA	=	Total length of building A.
LB	=	Total length of building B.
HA	=	Height of building A as measured from grade level.
HB	=	Height of building B as measured from grade level.

m. *Reserved for future use.* Deleted by Ord. No. 484.

(Amended: Ord. No. 309, 5-4-92; Ord. No. 484, § X, 10-24-16)

300.1254 - Dimension and setback requirements for buildings and lots.

Sec. 12.54. In accordance with the attached Schedule of Regulations, Article 23.00.

(Amended: Ord. No. 408, § IX, 11-17-03)

ARTICLE 13.00

300.1300 - RMH MOBILE HOME PARK DISTRICT



## 300.1301 - Intent.

Sec. 13.01. The intent here is to provide a district specifying such size and location as will encourage good mobile home residential developments adjacent to necessary community services, and otherwise capable of protecting the health, safety and welfare of the residents.

## 300.1302 - Uses permitted.

Sec. 13.02. (See also Article 22.00 for site plan review requirements, and Article 24.00 Mobile Home Park Regulations.) In the RMH District, no building or land, except as otherwise provided for specifically in this Ordinance, shall be erected or used for other than the following specified uses:

- a. Mobile homes located in a mobile home park.
- b. Mobile home parks.
- c. Publicly owned and operated parks, parkways and recreational facilities.
- d. Public educational institutions under the jurisdiction of a public school district board of education or similar publicly elected board authorized by the State of Michigan.
- e. Accessory buildings and uses, which include, for the purposes of this Article only, the incidental raising and retail sale of horticultural products grown on the premises.
- f. Family child care homes licensed or registered under Act No. 116 of the Public Acts of 1973 (See Article 21.00, Section 21.06).
- g. Adult foster care family home (See Section 2.01.1d).
- h. Adult day care family home (See Section 2.01.1b).

(Amended: Ord. No. 445, § V, 3-15-10; Ord. No. 463, §§ V, XIV, XVIII, 11-18-13)

## 300.1303 - Uses permitted by special exception only.

Sec. 13.03. (See also Article 22.00 for site plan review requirements.)

- a. Reserved.
- b. Municipal buildings and uses not requiring outdoor storage of materials and vehicles.
- c. Child care centers. (See Article 21.00, Section 21.06).
- d. Golf courses or country clubs.
- e. Temporary buildings or trailer offices incidental to construction.
- f. Kennels and/or Boarding Kennels.
- g. Group child care homes licensed or registered under Act No. 116 of the Public Acts of 1973. (See Article 21.00, Section 2.06.)
- h. Telecommunication antennas located on structures other than telecommunication towers (see Section 4.19).
- i. Adult foster care small group home (See Section 2.01.1e).
- j. Adult day care group home (See Section 2.01.1c).
- k. Houses of worship. See Article 21.00, Section 21.02.

(Amended: Ord. No. 239, 4-16-84; Ord. No. 271, 8-1-88; Ord. No. 283, 11-6-89; Ord. No. 297, 12-17-90; Ord. No. 373, § III, 8-30-99; Ord. No. 463, §§ VIII, XVI, XI, XX, 11-18-13; Ord. No. 467, § I, 7-21-14; Ord. No. 479, §§ I, II, 3-21-16)

## 300.1304 - Dimension and setback requirements for buildings and lots.

Sec. 13.04. (In accordance with the attached schedule of regulations, Article 23.00).

(Amended: Ord. No. 408, § VIII, 11-17-03)

## ARTICLE 14.00

### 300.1400 - O-1 OFFICE DISTRICT

#### 300.1401 - Statement of purpose.

Sec. 14.01. The O-1 Office District is intended to permit those office and personal service uses which will provide modern office buildings in landscaped settings, adjacent to residential areas, and establish an appropriate district for uses which do not generate large volumes of traffic, traffic congestion, and parking problems, and which will promote the most desirable use of land in accordance with the Land Use Development Plan.

#### 300.1402 - Uses permitted.

##### Sec. 14.02.

- a. Office buildings and uses when goods or wares are not commercially created, exchanged or sold.
- b. Medical or dental clinics.
- c. Financial establishments such as banks, credit unions, savings and loan associations.
- d. Public buildings and uses; public utility buildings but not including storage yards.
- e. Business and private schools operated for a profit completely within an enclosed building.
- f. Photographic studios
- g. Funeral homes
- h. Insurance offices, brokerage houses and real estate offices.
- i. Child care centers. (See Article 21.00, Section 21.06.)
- j. Barber shops and/or beauty shops.
- k. Accessory buildings and uses.
- l. Houses of worship. See Article 21.00, Section 21.02.

(Amended: Ord. No. 463, § XI, 11-18-13; Ord. No. 479, § II, 3-21-16)

#### 300.1403 - Uses permitted by special exception only.

##### Sec. 14.03. (See also Article 22.00 for site plan review requirements.)

- a. Pharmacy or apothecary shops; stores limited to corrective garments or bandages, optical company or restaurant may be permitted; provided it is within the building to which it is accessory and does not have a direct outside entrance for customer use.
- b. Private service clubs, fraternal organizations and lodge halls (See Article 21, Section 21.19.)
- c. Essential Services, subject to the conditions and limitations contained in Section 9.03 (q).
- d. Telecommunication antennas located on structures other than telecommunication towers (see Section 4.19).

(Amended: Ord. No. 309, 5-4-92; Ord. No. 373, § III, 8-30-99)

#### 300.1404 - Dimension and setback requirements for buildings and lots.

##### Sec. 14.04. (In accordance with the attached Schedule of Regulations, Article 23.)

(Amended: Ord. No. 408, § VIII, 11-17-03)

## ARTICLE 14.50

### 300.1450 - COMSTOCK CENTER DISTRICT

#### 300.1451 - Intent.

Sec. 14.50.01. The zoning ordinance regulates the intensity and use of development, which is appropriate in most areas of the Township. There are also areas within the Township in which the master plan and other planning documents place greater emphasis on regulating form and character of development as well as use and intensity of use. The Comstock Center District (CC) zones use form-based provisions to accomplish this, with a special sensitivity to the contextual relevance of four unique Comstock Center zones within the overall district. This unique zoning district allows the Township more flexibility to regulate land use for this important area to encourage a viable, dynamic mix of uses.

Physically, the Comstock Center District is focused on increased and sustained land use intensity and improved public amenities that are oriented as much to the needs of the pedestrian as to those of the automobile. The flexibility in use inherent in the overall CC provisions, paired with the prescriptive physical development regulations will result in a compact, walkable environment that creates new opportunities for investment while protecting positive attributes of the existing area.

Specifically, the CC will do the following:

- A. Promote economic development opportunities by allowing a wider range of potential uses and creative redevelopment techniques that will expand the variety of businesses in the area and the value of land.
- B. Promote mixed-use development in both a horizontal and vertical form.
- C. Ensure that development is of human scale, primarily pedestrian-oriented and designed to create attractive streetscapes and pedestrian spaces.
- D. Provide a simple, predictable, efficient way to allow innovative development that would otherwise require special planning procedures.
- E. Encourage the expansion of the residential element within Comstock Center to build upon the mixed use environment.
- F. Allow for a development pattern in which new buildings and building modifications enhance and improve upon the character of the built environment and work toward implementing the Vision 2025 Master Plan and Comstock Center Place Plan for Redevelopment and Prosperity.
- G. Orient building entrances and storefronts to the street to add visual interest, increase pedestrian traffic, create outdoor spaces and for place-making.
- H. Enhance a sense of place and contribute to the sustainability of Comstock Center and the Township.

(Added: Ord. No. 512, § I, 6-15-20)

#### 300.1452 - Applicability and organization.

Sec. 14.50.02. Any new use, building, or expansion of an existing use or building, unless otherwise noted herein, shall comply with the requirements of this article and other applicable requirements of this ordinance. Uses, buildings and structures that are nonconforming to the requirements of this article are subject to the regulations of Article 5, Non-conforming uses and buildings except as may be exempted herein.

- A. The CC is divided into four Zones. These four Zones are identified as the Comstock Center Core (CC-C), Comstock Center East (CC-E), Comstock Center South (CC-S) and Comstock Center North (CC-N). These Zones are identified on the zoning map as separate and distinct Zones within the overall CC zoning classification.

- B. The standards of subsection 14.50.04.B Landscape and streetscape elements, and subsection 14.50.05, Design standards, s apply to:
  - 1. Continuation of an existing permitted use within an existing building provided the use is permitted in the Zone of the CC where the site is located.
  - 2. Reoccupation of an existing building with a use provided the new use is permitted in the Zone of the CC where the site is located.
  - 3. The expansion of an existing building, whether conforming or legally nonconforming, by less than 500 square feet or five percent, whichever is less, when the building will be occupied or reoccupied by a use permitted in the Zone of the CC where the site is located.
  - 4. Change of use within existing buildings provided the new use is permitted in the Zone of the CC where the site is located.
  - 5. Normal repair and maintenance of existing buildings that do not increase their size.
  - 6. Continuation of a legal non-conforming use, building, and/or structure.
- C. This article contains a set of regulations unique to the CC. Specifically, these include:
  - 1. General standards that apply to all CC properties and special provisions for parking, landscape and streetscape elements.
  - 2. Uses Allowed table that provides for a dynamic mix of uses throughout the Zones.
  - 3. Design standards applicable to all CC properties.
  - 4. Form-based dimensional requirements for the Zones. These include special provisions not found in other zoning districts, including the following:
    - a. Minimum and maximum height.
    - b. Required building lines and setback lines.
    - c. Exemptions and modifications from form-based provisions for streetscape elements.
    - d. Parking placement.
    - e. Lot coverage and open space.

(Added: Ord. No. 512, § 1, 6-15-20)

300.1453 - Uses allowed.

Sec. 14.50.03. Allowed uses are identified in Table 14.50.03.A. If a use is not listed but is similar to other uses within a category, the Zoning Administrator may make the interpretation that the use is similar to other uses and is permitted to the same extent and under the same conditions as the similar use.

Table 14.50.03A Uses Allowed

Uses are permitted by right (P), as a use subject to special exception use approval (S), not permitted (NP), or permitted on upper floors only (UP).

USE	ZONES			
	CC-C	CC-S	CC-E	CC-N
Single-family detached dwellings	P <sup>1</sup>	P	P	P
Two-family dwellings, subject to Section 9.03s	P <sup>1</sup>	P	P	P

Multiple-family dwellings architecturally designed as townhomes/row houses <sup>2</sup>	P	P	P	P
Multiple-family dwellings and loft apartments <sup>2</sup>	UP	P	P	P
Houses of worship	P	P	P	P
Publicly owned buildings including libraries, post office and community centers	P	P	P	P
Bed and breakfast	P <sup>1</sup>	P	P	P
Professional office buildings including medical and dental clinics and laboratories	S	P	P	P
Retail establishments for the sale of alcoholic beverages, baked goods, bicycles, books, confection, drugs, flowers, groceries, hardware, hobby equipment, jewelry, music, notions, paint, periodicals, sundry small household articles, and tobacco	P	P	NP	NP
Financial institutions without a drive-thru window	P	P	P	P
Eating and drinking establishments, including brewpubs, without a drive-up service window	P	P	NP	NP
Sidewalk café service or outdoor dining, operated by a restaurant or other food establishment which sells food or drinks for immediate consumption	P	P	NP	NP
Business service establishments	P	P	P	P
Personal service establishments	P	P	P	NP
Laundry and drycleaning customer outlets without drive-up service, provided dry cleaning or laundry plants serving more than one customer outlet shall be prohibited	S	S	S	NP
Laundromat	P	P	P	NP
Drive-in or drive-up facilities such as drive-up windows for banks, drive-in cleaners and similar facilities.	NP	NP	S	NP

Studios for musical, dance, or artistic instruction	P	P	P	P
Private service clubs, fraternal organizations, and lodges	P	P	P	P
Funeral homes	P	P	P	S
Business and/or technical schools	NP	NP	NP	P
Low impact research and development	NP	NP	NP	P
Microbreweries, distilleries, wineries and cideries	S	S	NP	P
Veterinary offices and hospitals	S	S	S	S
Any service establishment of an office, showroom, or workshop nature, of an electrician, plumber, decorator, carpenter or upholsterer	S	S	S	S
Recreation and amusement services, including theaters, bowling alleys, roller and ice skating rinks,	NP	NP	NP	S
Health clubs or gymnasiums	S	S	S	S
Automobile service station, subject to Section 21.11	S	S	S	NP
Automobile repair facility, subject to Section 21.11	S	S	S	NP
Open air business, subject to Section 2.01.68	P	P	P	NP
Family childcare home, subject to Section 21.06	P	P	P	P
Group childcare home, subject to Section 21.06	NP	NP	S	S
Child care center, subject to Section 21.06	NP	NP	S	S
Adult day care family home	P	P	P	P
Adult day care group home	NP	S	S	S
Adult day care center	NP	P	P	P
Adult foster care family homes, subject to Section 2.01.1d	NP	P	P	P
Adult foster care small group home, subject to Section 2.01.1e	NP	NP	NP	S

Convalescent homes subject to Section 21.14	NP	NP	NP	P
Housing for the elderly subject to Section 21.13	NP	NP	NP	P
Temporary outdoor sales and service, subject to Section 4.16	P	P	P	P
Publicly utility transformer stations and substations, telephone exchanges and public utility offices	NP	NP	NP	S
Essential services, subject to Section 9.03q	S	S	S	S
<p><sup>1</sup> Not permitted on lots with majority of lot frontage on King Highway or Michigan Avenue.</p> <p><sup>2</sup> Subject to footnote h of Article 23.</p>				

(Added: Ord. No. 512, § I, 6-15-20)

300.1454 - Standards applicable to Comstock Center Zones.

Sec. 14.50.04. Definition: For purposes of this ordinance, *Required Building Line* is the line at which the front building wall of the primary structure must be located.

A. *Parking.*

1. *CC-C Zone and CC-S Zone parking.* To encourage redevelopment within the CC-C Zone and the CC-S Zone, a change of use that is required by this ordinance to provide less than 10 parking spaces as determined through the site plan review process shall be exempt from providing any new parking.
2. *CC-E Zone and CC-N Zone parking.* Parking shall be provided for CC-E Zone and CC-N Zone sites in accordance with the provisions of Section 6.0 of this ordinance.
3. *Parking location.* When provided on-site, whether required or not, parking must comply with the following:
  - a. When parking is located in a side yard but fronts on a required building line, no more than 25 percent of the building line not occupied by a building or 60 feet, whichever is greater, shall have parking abutting.
  - b. For a corner lot or lot with multiple frontages, no more than 25 percent of the required building lines not occupied by a building or 60 feet, whichever is greater, shall have parking abutting.

B. *Landscape and streetscape elements* shall be required in accordance with section 21.50 of this ordinance and the following. Whenever provisions of section 21.50 (or any other provisions of this ordinance) conflict with provisions of this article, the provision of this article shall prevail.

1. Street furniture shall be provided at a ratio of one element for every 30 linear feet of frontage along a right-of-way in Zone CC-C and Zone CC-S and one element for every 100 feet in Zone CC-E and Zone CC-N. Street furniture features may be located in the right-of-way or on private property, provided it is located between the front building line and the back-of-curb. Permitted street furniture features include the following:
  - a. A permanently mounted seating fixture constructed of decorative metal.
  - b. A permanently reserved planting bed with defined, durable edges. Such beds must be a minimum of 12 square feet in area and should be raised or protected from the surrounding paved areas by a durable curb, edge or

other design feature. Planting beds must be properly maintained and planted with hardy plants and general areas within planting beds must be planted with groundcover.

- c. Waste receptacle constructed of decorative metal.
  - d. A permanently mounted bicycle rack constructed of decorative metal or other materials as may be approved by the Planning Commission.
2. Parking areas which front on a right-of-way shall be screened from the public right-of-way in Zones CC-C, CC-E and CC-S when the measurement of the parking area adjacent to the right-of-way is greater than 40 contiguous feet in any section. The height of landscaping, fences, and walls shall be between 30 and 36 inches in height measured from the grade of the adjacent sidewalk. Screening shall consist of the following:
- a. A brick wall with stone or precast cap shall be placed along the right-of-way line of off-street parking areas except in the location of access drives or walks; or
  - b. Dense landscaping installed and maintained between 30" and 36" in height, providing sufficient year-long screening, while not infringing onto the public sidewalk, and adhering to the requirements of the Road Commission of Kalamazoo County and as approved by the Planning Commission; or
  - c. A combination of landscaping and brick knee wall as approved by the Planning Commission; or
  - d. The use of wrought iron or aesthetically equivalent fencing between stone or brick columns; or
  - e. If the width of the area between the public sidewalk or right-of-way and the off-street parking area is greater than 4 feet and the parking area has a concrete curb, then no screening is required; however a grass or landscaped greenbelt shall be maintained.
- C. *Kalamazoo River frontage.* When properties in Zone CC-C and Zone CC-S abut the Kalamazoo River, the site shall be designed to allow for a future pedestrian path along the Kalamazoo River. To that end, all site improvements such as parking, dumpsters and buildings shall be setback from the property line abutting the river's edge at least 25 feet.
- D. *Planning Commission modification.* Any of the landscape and/or streetscape provisions noted above may be waived or modified through site plan approval, provided the Planning Commission first makes a finding:
- 1. That a physical site feature or characteristic create conditions that the strict application of the provisions of this section will result in less effective screening and landscaping than alternative designs.
  - 2. That the public benefit intended to be secured by the provisions will exist with less than the required landscaping or screening.

(Added: Ord. No. 512, § 1, 6-15-20)

#### 300.1455 - Design standards.

Sec. 14.50.05. In addition to standards set forth in this article, all proposed development in the CC shall comply with the standards set forth herein.

- A. *Building design and materials.*
  - 1. *Overall design.* It is the intent of this article to improve the appearance of and add visual interest to the CC. Emphasis shall be placed upon methods that focus attention on attractive buildings that front on the adjacent right-of-way.
  - 2. *Materials.* Durable building materials, simple configurations and solid craftsmanship are required. Fifty percent of walls visible from public streets, exclusive of wall areas devoted to meeting transparency and ground story activation requirements, shall be constructed of brick, glass, fiber cement siding, metal (beams, lintels, trim elements, and ornamentation only), wood lap, stucco, split-faced block, or stone. Exterior insulation finishing systems (E.I.F.S.) and vinyl or aluminum siding may not constitute more than ten percent of the surface area of any façade's overall surface area.
- B. *Modulation required.* Modulation is required to ensure that the building is not monotonous in appearance. Modulation



is defined as a change in the vertical plane of the building façade. Building façades shall be modulated at least every 30 feet horizontally and at least every 20 feet vertically. Modulations shall measure at least three inches perpendicular to the building face.

C. *Ground story activation.*

1. *Transparency.*

- a. The first floors of all buildings shall be designed to encourage and complement pedestrian-scale activity. It is intended that this be accomplished principally by the use of windows and doors arranged so that active uses within the building are visible from or accessible to the street. The first floor of any front façade facing a right-of-way shall be no less than 50 percent windows and doors, and the minimum transparency for facades facing a side street, side yard, or parking area shall be no less than 30 percent of the façade.
- b. Transparency requirements shall not apply to sides which abut an alley.
- c. Windows for building sides shall be concentrated toward the front edge of the building, in locations most visible from a public open space or right-of-way.

2. *Transparency alternatives.* The following alternatives may be used singularly or in combination. They may count toward no more than 80 percent of the transparency requirement.

- a. *Wall design.* Wall designs that provide visual interest and pedestrian scale may count as a transparency alternative if they provide a minimum of three of the following elements, occurring at intervals no greater than 25 feet horizontally and 10 feet vertically:
  - i. Expression of structural system and infill panels through change in plane not less than three inches.
  - ii. System of horizontal and vertical scaling elements such as: belt course, string courses, cornice, pilasters.
  - iii. System of horizontal and vertical reveals not less than one inch in width/depth.
  - iv. Variations in material module, pattern and/or color.
  - v. System of integrated architectural ornamentation.
  - vi. Green screen or planter walls.
  - vii. Translucent, fritted, patterned, or colored glazing.
- b. *Outdoor dining/seating.* Outdoor dining/seating located between the building and the primary street lot line may count toward the transparency requirement. Such spaces must be permanently created by a wall or other permanent improvement defining the outdoor dining area.
- c. *Permanent art.* Non-commercial art or graphic design of sufficient scale and orientation to be perceived from the public right-of-way and rendered in materials or media appropriate to an exterior environment and permanently integrated into the building wall or immediately between the building wall and the right-of-way may count toward the transparency requirement. Public art alone shall not be an eligible feature to allow the relocation of the required building line identified in Table 14.50.06.A, footnote 2, but may satisfy the ground story activation requirements of subsection 14.50.05.C when located in an otherwise permitted setback area.

D. *Pedestrian access/entrance.*

1. The primary entrance for a non-residential and/or mixed-use building shall be clearly identifiable and useable and located facing the right-of-way.
2. A pedestrian connection shall provide a clear, obvious, publicly accessible connection between the primary street upon which the building fronts and the building. The pedestrian connection shall comply with the following:
  - a. Fully paved and maintained surface not less than five feet in width.
  - b. Unit pavers or concrete distinct from the surrounding parking and drive lane surface.
  - c. Located either within a raised median or between wheel stops to protect pedestrians from vehicle overhangs where parking is adjacent.

3. Additional entrances. If a parking area is located in the rear or side yard, it must also have a direct pedestrian entrance that is of a level of materials quality and design emphasis at least equal to that of the primary entrance.

(Added: Ord. No. 512, § I, 6-15-20)

300.1456 - Form regulations.

Sec. 14.50.a.06. Single-family residential dwellings are exempt from the below regulations. All existing and proposed single- and two-family residential uses must meet the area, height, width and setback regulations for the R-1C, single-family residential district, pursuant to Section 23 of this Ordinance.

A. *Comstock Center Core Zone*: Comstock Center Core (CC-C) buildings and sites will be developed in a manner which contributes to the character of the area by maximizing the value of the property. CC-C sites must comply with the following regulations:

Table 14.50.06A

height	minimum	stories	1 story residential 2 stories non-residential 2 stories residential and non-residential in same building
		feet	12 feet
	maximum	stories	3 stories <sup>1</sup>
		feet	45 feet <sup>1</sup>
	ground floor minimum	feet	12 feet
placement	front	required building line <sup>2</sup>	25 feet. 75% of the building façade must meet the required building line, while up to 25% of the façade can be setback to allow for architectural consideration
		minimum setback	n/a
	side	minimum setback	0 feet; 10 feet if abut a single-family residence
	rear	minimum setback	0 feet; 10 feet if abut a single-family residence
lot	required open space		n/a

access and circulation	Driveways may access the site from any side; pedestrian pathways must be provided from the right-of-way to the building entrance.
parking location	Parking shall be located in a side or rear yard.

<sup>1</sup> Planning Commission may allow buildings to exceed three stories and/or 45 feet in height as a special exception use.

<sup>2</sup> Planning Commission may adjust the required building setback to a maximum of 40 feet for projects incorporating a permanent space for an outdoor café, public space, or a cross access drive with an adjacent parcel. Outdoor cafes or public spaces must be developed as part of the primary building and incorporate a permanent wall or landscaping area along the required building setback line.

- B. *Comstock Center East Zone*: Comstock Center East (CC-E) buildings and sites will be developed in a manner which contributes to the character of the core, as well as the adjacent residential areas. The CC-E area will provide a transition along Michigan Avenue and King Highway as people enter the downtown area with more intermediate use, dimensional and height regulations. CC-E sites, other than those occupied by a one- or two-family dwelling which shall satisfy the front and side yard setback requirements of Article 23 for lots zoned R-1C, Cluster Housing District, must comply with the following regulations.

Table 14.50.06B

height	minimum	stories	1 story
		feet	12 feet
	maximum	stories	2 stories <sup>1</sup>
		feet	25 feet <sup>1</sup>
placement	front	maximum setback	50 feet
		minimum setback	20 feet
	side	minimum setback	0 feet; 20 feet if abut a single-family residence
	rear	minimum setback	0 feet; 20 feet if abut a single-family residence

lot	required open space	20 percent
	access and circulation	Driveways may access the site from any side provided a single family residence does not abut that same side of the site; pedestrian pathways must be provided from the right-of-way to the building entrance.
	parking location	Parking shall be located in a side or rear yard. A single row of parking may be placed in front of the building with the row positioned so that vehicles are oriented to face the building or, if adjacent to the right-of-way, oriented parallel to the building provided pedestrian and non-motorized facilities are not impacted as determined by the Planning Commission.

<sup>1</sup> Planning Commission may allow buildings to exceed two stories and/or 25 feet in height as a special exception use.

- C. *Comstock Center South Zone*: Comstock Center South (CC-S) buildings and sites will be developed in a manner which contributes to the character of the downtown, as well as the adjacent residential area. The CC-S area will transition the residential areas south of downtown with more intermediate use, dimensional and height regulations. CC-S sites, must comply with the following regulations.

Table 14.50.06C

height	minimum	stories	1 story
		feet	12 feet
	maximum	stories	2 stories <sup>1</sup>
		feet	25 feet <sup>1</sup>
	ground floor minimum	feet	12 feet
placement	front	maximum setback	25 feet <sup>2</sup>
		minimum setback	n/a
	side	minimum setback	n/a

	rear	minimum setback	n/a
lot	required open space		20 percent
	access and circulation		Driveways may access the site from any side, pedestrian pathways must be provided from the right-of-way to the building entrance.
	parking location		Parking shall be located in a side or rear yard. A single row of parking may be placed in front of the building with the row positioned so that vehicles are oriented to face the building or, if adjacent to the right-of-way, oriented parallel to the building provided pedestrian and non-motorized facilities are not impacted as determined by the Planning Commission.

<sup>1</sup> Planning Commission may allow buildings to exceed two stories and/or 25 feet in height as a special exception use.

<sup>2</sup> Planning Commission may adjust the required building setback to a maximum of 40 feet for projects incorporating a permanent space for an outdoor café, public space, or a cross access drive with an adjacent parcel. Outdoor cafes or public spaces must be developed as part of the primary building and incorporate a permanent wall or landscaping area along the required building setback line.

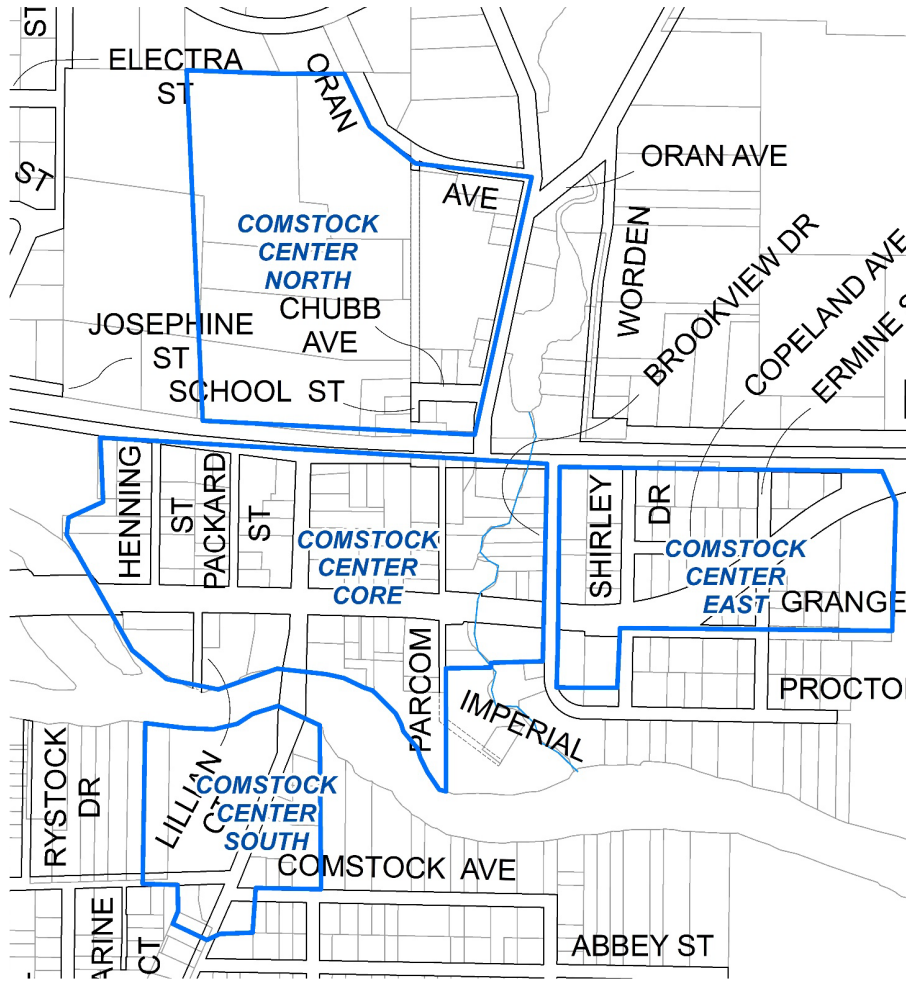
D. *Comstock Center North Zone*: Comstock Center North (CC-N) buildings and sites will be developed in a manner which recognizes the location on the fringe of the downtown area and allows for the continued historic mix of public, residential and institutional land uses. CC-N sites must comply with the following regulations.

Table 14.50.06D

height	minimum	stories	1 story
		feet	12 feet
	maximum	stories	3 stories <sup>1</sup>
		feet	35 feet <sup>1</sup>
	ground floor minimum	feet	12 feet
placement	front	maximum setback	50 feet <sup>2</sup>

		minimum setback	10 feet
	side	minimum setback	Nonresidential: 20 feet Residential: One must be at least 10 feet, other must be at least 5 feet
	rear	minimum setback	30 feet
lot	required open space		20 percent
	access and circulation		Driveways may access the site from any side, pedestrian pathways must be provided from the right-of-way.
	parking location		Parking shall be located in a side or rear yard.
<p><sup>1</sup> Planning Commission may allow buildings to exceed three stories and/or 35 feet in height as a special exception use.</p>			
<p><sup>2</sup> Planning Commission may allow a greater setback as a special exception use.</p>			

E. *Map of Comstock Center Zones:*



(Added: Ord. No. 512, § I, 6-15-20)

ARTICLE 15.00

300.1500 - B-1 NEIGHBORHOOD BUSINESS DISTRICT

300.1501 - Intent.

Sec. 15.01. The intent here is to provide a district wherein local service and convenience shopping facilities can be optimally located so as to best serve the immediate neighborhood. These regulations are meant to encourage cluster development and otherwise discourage costly commercial strip or linear development, especially along major thoroughfares. It also may contain other compatible and/or accessory uses.

300.1502 - Uses permitted.

Sec. 15.02. (See also Article 22 for site plan review requirements.) In the B-1 District, no building or land, except as otherwise provided for specifically in this Ordinance, shall be erected or used for other than the following specified uses:

- a. All uses permitted in the O-1 district.
- b. Retail establishments for the sale of alcoholic beverages, baked goods, bicycles, books, confection, drugs, flowers, groceries, hardware, hobby equipment, jewelry, music, notions, paint, periodicals, sundry small household articles, and tobacco.

- c. Personal service establishments performing services on the premises, such as barber and beauty shops; watch, radio, telev clothing and shoe repair, tailor shops, locksmith and similar establishments.
- d. Laundry or dry cleaning customer outlets, coin operated laundromats, self-serve dry cleaning centers and the like. Dry cleaning or laundry plants serving more than one customer service outlet are prohibited.
- e. Eating and drinking establishments, including brewpubs. Drive in or drive-thru restaurants, or open front stores are prohibited.
- f. Accessory buildings and uses.
- g. Private service clubs, fraternal organizations and lodge halls (see Section 21.19).
- h. Temporary outdoor sales and service.

(Amended: Ord. No. 473, § VI, 11-16-15; Ord. No. 510, §§ III, VII, 11-18-19)

300.1503 - Uses permitted only by special exception.

Sec. 15.03. (See also Article 22 for site plan review requirements.)

- a. Hospitals, convalescent homes, adult day care centers, and nursing homes, but not including institutions whose primary function is for the care of mentally ill persons.
- b. Houses of Worship in preexisting office or commercial buildings, subject to Section 21.02, except subsections a, b, and c thereof.
- c. Temporary buildings or trailer offices incidental to construction.
- d. Essential services, subject to the conditions and limitations contained in Section 9.03(q).
- e. Single Family Dwellings under the following terms and conditions:
  1. Said structure may be constructed only on a lot or parcel of land exceeding five acres in size.
  2. Said structure may only be constructed in connection with an existing permitted use or special exception use on the parcel.
  3. Said residence shall only be used by the owner of said parcel or a resident caretaker or watchman.
  4. A restriction recorded in the Office of the Register of Deeds for Kalamazoo County be placed on the title to said parcel providing that, for a period of at least 20 years from the date of the grant of the special exception use permit for said single family dwelling, said structure may not be sold separately from the permitted use or special exception use to which it is accessory.
- f. Micro breweries.
- g. Telecommunication antennas located on structures other than telecommunication towers (see Section 300.419).

(Amended: Ord. No. 283, 11-6-89; Ord. No. 354, 7-7-97; Ord. No. 373, § III, 8-30-99; Ord. No. 463, § XXII, 11-18-13; Ord. No. 479, § III, 3-21-16)

300.1504 - Dimension and setback requirements for buildings and lots.

Sec. 15.04. (In accordance with the attached schedule of regulations, Article 23.00)

(Amended: Ord. No. 408, § VIII, 11-17-03)

ARTICLE 16.00

300.1600 - B-2 COMMUNITY BUSINESS DISTRICT



## 300.1601 - Intent.

Sec. 16.01. The intent here is to provide a district wherein the community's overall commercial and business facilities can be centralized to most efficiently and effectively serve the general Township and adjacent areas, plus compatible and/or accessory uses.

## 300.1602 - Uses permitted.

Sec. 16.02. (See also Article 22 for site plan review requirements.) In the B-2 District, no building or land, except as otherwise provided for in this Ordinance, shall be erected or used for other than the following specified uses:

- a. All permitted uses in the O-1 and B-1 District.
- b. Any retail business whose principal activity is the sale or rental of merchandise within a completely enclosed building.
- c. Business service establishments performing services on the premises such as office machine and typewriter repair; printing.
- d. Any service establishment of an office, showroom, or workshop nature within a completely enclosed building of a taxidermist, decorator, upholsterer, caterer, exterminator, building contractor (including electrical, glazing, heating, painting, paper hanging, plumbing, roofing, ventilating and plastering), excluding outside storage yards and similar establishments that require a retail adjunct.
- e. Photographic film developing and processing.
- f. Physical culture establishment, including gymnasiums, reducing salons, masseurs and steam baths.
- g. Veterinary Hospitals and Clinics.
- h. Other uses similar to the above, subject to the following restrictions:
  1. All goods produced on the premises shall be sold at retail on the premises where produced.
  2. All business or servicing shall be conducted within a completely enclosed building.
- i. Bowling alleys, indoor ice skating rinks and similar recreational uses.
- j. A.T.M. machines.

(Amended: Ord. No. 408, § XX, 11-17-03)

## 300.1603 - Uses permitted only by special exception.

Sec. 16.03. (See also Article 22 for site plan review requirements.)

- a. Drive-in and Drive-thru restaurants. (See Article 21, Section 21.05.)
- b. Open-air business. (See Article 21.00, Section 21.08.)
- c. Automobile service stations, filling stations. (See Article 21.00, Section 21.11.)
- d. Hospitals, convalescent homes, adult day care centers, and nursing homes, but not including institutions whose primary function is for the care of mentally ill persons.
- e. Temporary buildings or trailer offices incidental to construction.
- f. Essential services, subject to the conditions and limitations contained in Section 9.03 (q).
- g. Single-Family dwellings under the following terms and conditions:
  1. Said structure may be constructed only on a lot or parcel of land exceeding five acres in size.
  2. Said structure may only be constructed in connection with an existing permitted use or special exception use on the parcel.
  3. Said residence shall only be used by the owner of said parcel or a resident caretaker or watchman.
  4. A restriction recorded in the office of the Register of Deeds for Kalamazoo County be placed on the title to said parcel providing that, for a period of at least 20 years from the date of the grant of the special exception use permit

for said single-family dwelling, said structure may not be sold separately from the permitted use or special exception use to which it is accessory.

- h. Micro breweries.
- i. Mini-storage facility, subject to the following conditions:
  1. That all activities shall be totally confined within a structure utilized for such mini-storage purposes.
  2. That there shall be no outdoor storage on the premises.
  3. That there shall be no material adverse impact upon adjacent residentially zoned or residentially used properties.
- j. Telecommunication antennas located on structures other than telecommunication towers (see Section 4.19).
- k. Vehicle wash establishments. (See Article 21.00, Section 21.18).
- l. Houses of Worship in preexisting office or commercial buildings, subject to Section 21.02, except subsections a, b, and c thereof.

(Amended: Ord. No. 354, 7-7-97; Ord. No. 357, 4-20-98; Ord. No. 373, § III, 8-30-99; Ord. No. 425, § II, 8-10-05; Ord. No. 463, § XXII, 11-18-13; Ord. No. 473, § VII, 11-16-15; Ord. No. 479, § III, 3-21-16)

300.1604 - Dimension and setback requirements for buildings and lots.

Sec. 16.04. (In accordance with the attached Schedule of Regulations, Article 23.00.)

(Amended: Ord. No. 408, § VIII, 11-17-03)

## ARTICLE 17.00

300.1700 - B-3 GENERAL BUSINESS DISTRICT

300.1701 - Intent.

Sec. 17.01. The intent here is to provide a district wherein those commercial, business, and service uses which primarily cater to the motoring public, plus compatible and/or accessory uses, may be located instead of encroaching into other districts where their unique needs or circumstances would render them incompatible or undesirable.

300.1702 - Uses permitted.

Sec. 17.02. (See also Article 22.00 for site plan review requirements.) In any "B-3" District, unless otherwise provided for in this Ordinance, no buildings or land shall be erected or used for other than the following specified uses:

- a. All permitted uses in the "B-2" District.
- b. Vehicle wash establishments. (See Article 21.00, Section 21.18.)
- c. Reserved for future use by Ordinance No. 473.
- d. Outdoor display and sale of garages, swimming pools, and similar uses.
- e. Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park, or similar outdoor recreation uses.
- f. Uses similar to the above as approved by the Planning Commission and provided they are no more injurious to abutting residential uses than uses permitted herein.
- g. Lumber yards.
- h. Accessory buildings and uses.
- i. Hotels, motels, and motor courts.

- j. Mini-storage facility.
- k. Drive-in and Drive-thru restaurants. (See Article 21, Section 21.05.)

(Ord. No. 473, § VIII, 11-16-15)

300.1703 - Uses permitted only by special exception.

Sec. 17.03. (See also Article 22.00 for site plan review requirements.)

- a. Automobile repair facilities.
- b. Kennels and shelters with or without crematories.
- c. Automobile service stations, filling stations. (See Article 21.00, Section 21.11.)
- d. Open-air business. (See Article 21.00, Section 21.08.)
- e. Essential services, subject to the conditions and limitations contained in Section 9.03 (q).
- f. Heavy equipment sales and storage incidental thereto.
- g. Roofing business establishments.
- h. Distribution centers used for storage purposes only provided the total square footage of the floor area of the structure does not exceed 25,000 square feet.
- i. Single Family Dwellings under the following terms and conditions:
  1. Said structure may be constructed only on a lot or parcel of land exceeding five acres in size.
  2. Said structure may only be constructed in connection with an existing permitted use or special exception use on the parcel.
  3. Said residence shall only be used by the owner of said parcel or a resident caretaker or watchman.
  4. A restriction recorded in the office of the Register of Deeds for Kalamazoo County be placed on the title to said parcel providing that, for a period of at least 20 years from the date of the grant of the special exception use permit for said single family dwelling, said structure may not be sold separately from the permitted use or special exception use to which it is accessory.
- j. Tool and die shops subject to the following conditions:
  1. That all activities shall be totally confined within a structure utilized for such tool and die shops.
  2. That there shall be absolutely no outdoor storage upon the premises.
  3. That the operation shall not produce any noise or odors discernible beyond the boundaries of said property where the same abuts residentially zoned or residentially used property.
  4. That there shall be no other adverse impact upon adjacent residentially zoned or residentially used properties.
- k. Micro breweries.
  - l. Telecommunication antennas located on structures other than telecommunication towers (see Section 4.19).
- m. Houses of Worship in preexisting office or commercial buildings, subject to Section 21.02, except subsections a, b, and c thereof.

(Amended: Ord. No. 214, 8-13-82; Ord. No. 216, 11-15-82; Ord. No. 354, 7-7-97; Ord. No. 357, 4-20-98; Ord. No. 373, § III, 8-30-99; Ord. No. 408, § X, 11-17-03; Ord. No. 473, § VIII, 11-16-15; Ord. No. 479, § III, 3-21-16)

300.1704 - Dimension and setback requirements for buildings and lots.

Sec. 17.04. (In accordance with the attached Schedule of Regulations, Article 23.)

(Amended: Ord. No. 408, § VIII, 11-17-03)

## ARTICLE 18.00

## 300.1800 - LM, LIGHT MANUFACTURING DISTRICT

## 300.1801 - Intent.

Sec. 18.01. The intent here is to provide a district wherein those resources and services essential to good industrial development may be provided, while guarding against such development encroaching into other districts where they would be incompatible.

## 300.1802 - Uses permitted.

Sec. 18.02. (See also Article 22 for site plan review requirements.) In all LM Districts, no buildings or land shall be erected or used, except as otherwise provided for in this Ordinance, for other than the following uses:

- a. *Wholesale and Warehousing:* The sale at wholesale or warehousing of automotive equipment; dry goods and apparel; groceries and related products; raw farm products except livestock; electrical goods; hardware, plumbing, heating equipment and supplies; machinery and equipment; tobacco and tobacco products; beer, wine and distilled alcoholic beverages, paper and paper products; furniture and home furnishings, and any commodity the manufacture of which is permitted in this District.
- b. *Industrial Establishments:*
  1. The assembly, fabrication, manufacture, packaging or treatment of such products as food projects, candy, drugs, cosmetics and toiletries, musical instruments, optical goods, toys, novelties, electrical instruments and appliances; radio and phonographs; pottery and figurines or other similar ceramic products using only previously pulverized clay.
  2. The assembly, fabrication, manufacture or treatment of such products from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, felt, fibre, glass, horn, leather, paper, plastics, precious or semi-precious metals or stones, sheet metal (excluding large stampings such as automobile fenders or bodies), shell, textiles, wax, wire, wood (excluding saw and planing mills) and yarns.
  3. Tool and die shops; metal working machine shops involving the use of grinding or cutting tools: manufacturing of tools, dies, jigs, and fixtures; publishing, printing or forming of box, carton, and cardboard products.
  4. Laboratories — research or testing.
  5. Central dry cleaning plants and laundries.
- c. *Public Utility Uses:* Electric transformer station and substation; electric transmission towers; municipal building and uses; gas regulator and municipal utility pumping stations.
- d. *Retail and Service Establishments.*
  1. Barber shops.
  2. Truck, tractor and trailer sales, rental and repair.
  3. Dog kennels. (See [Article 21.00](#), Section 21.15.)
  4. Automobile repair facilities and tire vulcanizing and recapping businesses.
  5. Outdoor drive-in theaters. (See [Article 21.00](#), Section 21.03.)
- e. Accessory buildings and uses.
- f. Child care centers. (See [Article 21.00](#), Section 21.06).
- g. Microbreweries, breweries, cideries, distilleries and wineries.
- h. Mini-storage facility.

- i. Medical and dental appliance laboratory, medical and dental tool laboratory or medical or dental production facilities, with administrative offices.
- j. Temporary outdoor sales and service.

(Amended: Ord. No. 199, 6-16-81; Ord. No. 216, 11-15-82; Ord. No. 283, 11-6-89; Ord. No. 463, § XI, 11-18-13; Ord. No. 470, § II, 4-27-15; Ord. No. 473, § IX, 11-16-15; Ord. No. 510, § VIII, 11-18-19)

300.1803 - Uses permitted only by special exception.

Sec. 18.03. (See also Article 22.00 for site plan review requirements.)

- a. Municipal waste treatment or water treatment facilities.
- b. Airports, heliports, landing fields and platforms, helipads, hangars, masts and other facilities for the operation of aircraft (see Article 21.00, Section 21.16).
- c. Mining, processing and transporting of stone, sand, or gravel aggregate.
- d. Automobile service stations. (See Article 21.00, Section 21.11.)
- e. Essential services, subject to the conditions and limitations contained in Section 9.03 (q).
- f. Single-Family dwellings under the following terms and conditions:
  1. Said structure may be constructed only on a lot or parcel of land exceeding five acres in size.
  2. Said structure may only be constructed in connection with an existing permitted use or special exception use on the parcel.
  3. Said residence shall only be used by the owner of said parcel or a resident caretaker or watchman.
  4. A restriction recorded in the office of the Register of Deeds for Kalamazoo County be placed on the title to said parcel providing that for a period of at least 20 years from the date of the grant of the special exception use permit for said single family dwelling, said structure may not be sold separately from the permitted use or special exception use to which it is accessory.
- g. Eating and drinking establishments when food or beverage is consumed within a completely enclosed building.
- h. Offices.
- i. Heavy equipment contractor's equipment yard.
- j. Telecommunication antennas located on structures other than telecommunication towers (see Section 4.19).
- k. Telecommunication towers (see Section 4.19).
- l. Reserved for future use.

(Amended: Ord. No. 199, 6-16-81; Ord. No. 216, 11-15-82; Ord. No. 283, 11-6-89; Ord. No. 354, 7-7-97; Ord. No. 357, 4-20-98; Ord. No. 373, § III, 8-30-99; Ord. No. 375, § IV, 6-5-00; Ord. No. 388, § II, 9-4-01; Ord. No. 432, § I, 5-7-07; Ord. No. 470, § II, 4-27-15)

300.1804 - Open storage.

Sec. 18.04. All storage of building, contracting or plumbing materials, gravel, stone, lumber equipment, and other supplies, shall be located within an area not closer than one hundred fifty (150) feet from any street right-of-way line. The storage of lumber, coal, or other combustible material shall not be less than twenty (20) feet from any interior lot line and a roadway shall be provided, graded, surfaced, and maintained from the street to the rear of the property to permit free access of fire trucks at any time. All such open storage shall be screened from all streets, and on all sides which abut any residential or business district, by a solid six (6) foot wall or fence sufficient to serve as a permanent retaining wall.

300.1805 - Dimension and setback requirements for buildings and lots.

Sec. 18.05. (In accordance with the attached Schedule of Regulations, Article 23.)

(Amended: Ord. No. 408, § VIII, 11-17-03)

## ARTICLE 18.50

### 300.1850 - LD RESTRICTED INDUSTRIAL DISTRICT

#### 300.1851 - Intent.

Sec. 18.50.1. The purpose of this district classification is to establish a zone where designated industrial activities may locate which produce a minimum amount of adverse effect on adjoining premises, which are more uniform in character and which provide for a higher quality industrial land use. In this regard, no building or premises shall be used and no building shall hereafter be erected or altered within an "LD" Restricted Industrial District unless otherwise provided in this Ordinance, except for one or more of the following uses and subject to the following conditions and limitations.

#### 300.1852 - Permitted uses.

##### Sec. 18.50.2.

- a. Wholesale distributor of goods and merchandise.
- b. Offices and office buildings.
- c. Essential services, municipal or public utility buildings.
- d. Fully enclosed warehouses.
- e. Industrial manufacturing operations and operations for the servicing, compounding, assembling or treatment of articles of merchandise.
- f. Accessory buildings and uses incidental and subordinate to the principal building or use hereinbefore permitted upon the premises.
- g. Repealed (as per Ord. #291) Effective 8-6-90.
- h. Child care centers. (See Article 21.00, Section 21.06).
- i. Micro breweries.

(Amended: Ord. No. 283, 11-6-89; Ord. No. 290, 6-18-90; Ord. No. 291, 8-6-90; Ord. No. 354, 7-7-97; Ord. No. 463, § XI, 11-18-13)

#### 300.1853 - Conditions, and limitations.

##### Sec. 18.50.3.

- a. All operations must be carried on within fully enclosed buildings except for the following:
  - (1) Outdoor storage in the rear yard area of such buildings which must not exceed 15% of the square foot area of the principal building upon the premises. Such outdoor storage must be screened from adjoining premises and public streets. (See Section [Article] 21.50.)
  - (2) Delivery operations to and from said business which do not involve excessive noise, excessive fumes or any excessive nuisance to adjacent premises.
  - (3) Such outdoor storage or activities as may be allowed under a variance permit by the Board of Appeals which may be granted by said Board where, in its discretion, the purposes of this district classification are still fully complied with and no greater adverse effect would result therefrom to adjoining premises.
- b. No building shall be located nearer than 75 feet from the property line abutting any public street nor nearer than 20 feet from any interior, side, or rear property line. In no event shall a building be located nearer than 150 feet to the

boundaries of any "AGR", "A-H", "R1-A", "R1-B", "R1-C", "RM", "OW", "RSM", or "RMH" zoning classification.

- (1) Any building or structure which exceeds 35 feet in height as measured from the lowest abutting grade level shall be set back one additional foot for each foot of height in excess of 35 feet from all boundary lines of the site.
- c. Adequate off-street parking equal to one parking space for each employee on the maximum shift shall be maintained on the premises. Each parking space shall be not less than 10 feet by 20 feet in size, exclusive of driveways, and shall be constructed of asphalt or similar hard surface material, shall be set back not less than 25 feet from adjoining public streets and 50 feet from adjoining residential areas, and shall be screened from adjoining residential areas by an obscuring wall not less than 4 feet high.
  - d. All land of any individual site in use hereunder, not occupied by buildings, structures, improved parking areas or storage areas shall be maintained in a neat and attractive manner, free of junk and debris and excessive uncontrolled growth. The sites shall be landscaped in accordance with the requirements of Section [Article] 21.50.
  - e. The principal building on the premises must not be less than 4,000 square feet in area, as measured around the exterior of said building.
  - f. The total area of buildings on any individual site shall not exceed  $\frac{1}{3}$  of the total land area of such site.
  - g. No individual site shall have less than 150 feet of frontage upon a public or private street. Any private street shall be constructed not less than 40 feet in width and shall contain not less than a 6-inch compacted gravel base under the traveled portion thereof and a surface of concrete or all-weather bituminous aggregate with curb and gutter.
  - h. No site shall be developed for use until a plan, drawn to scale, has been prepared and filed with the Township Zoning Department, showing the intended future development of all adjoining lands under ownership or control of the applicant and which were under the ownership or control of the predecessor in title to said applicant, complying with the requirements of the "LD" Restricted Industrial District Classification.
  - i. Reserved for future use.
  - j. No exposed or outdoor loading and unloading docks or areas shall face any adjoining residential zone unless the same are screened therefrom by other buildings, structures, or pursuant to Section 21.59.
  - k. Public water and sanitary sewer shall be utilized, if available within one-half mile of any portion of the site. Surface drainage shall be through public storm sewers or shall be disposed of upon the site.
  - l. No use shall be allowed which shall emanate noise, smoke, odor, dust, dirt, noxious gases, glare, heat, vibration or psychological ill effects to such an extent as will be a nuisance or annoyance to owners or occupants of surrounding premises. (Fly ash in excess of .15 grains per cubic foot of flue gas at a stack temperature of 500 degrees Fahrenheit and smoke of density in excess of "Ringelman Chart No. 1" are hereby declared such a nuisance). The Zoning Board of Appeals is hereby given the right and authority to determine any question of nuisance or annoyance which might arise hereunder, and such determination shall be conclusive.
  - m. The Zoning Board of Appeals is further hereby given the right and authority to grant permission for the establishment and operation of any use within this district, not expressly included within the permissible uses hereinbefore set forth but which shall, in the absolute discretion of said Board, comply with the spirit, intent and purpose of these provisions. As provided by statute, said Board of Appeals shall further have the right and authority to interpret and construe the provisions of the "LD" Restricted Industrial District as the same apply to any particular industry or trade operating or proposed to be established within such district. Such decision of said Board shall be conclusive.

(Amended: Ord. No. 233, 12-19-83; Ord. No. 290, 6-18-90; Ord. No. 293, 9-4-90; Ord. No. 294, 9-17-90; Ord. No. 456, § II, 9-17-12; Ord. No. 484, § IX, 10-24-16; Ord. No. 487, § III, 3-20-17)

300.1854 - Prohibited uses.

Sec. 18.50.4. Nothing herein contained shall be construed to allow any of the following types of operations or uses within this district classification.

- (a) Ready-mix concrete and asphalt plants.
- (b) Refineries or smelting plants.
- (c) Slaughter houses.
- (d) Commercial incinerator businesses.
- (e) Truck terminals or motor freight warehousing terminals.
- (f) Any other uses not compatible with the purposes of the "LD" Restricted Industrial District.

(Amended: Ord. No. 281, 7-17-89; Ord. No. 291, 8-6-90)

300.1855 - Special exception uses.

Sec. 18.50.5.

1. Quarries, mines, gravel pits and other excavation businesses for obtaining minerals and other natural resources subject to the requirements and restrictions contained in Section 4.04.
2. Single Family Dwellings under the following terms and conditions:
  - a. Said structure may be constructed only on a lot or parcel of land exceeding five acres in size.
  - b. Said structure may only be constructed in connection with an existing permitted use or special exception use on the parcel.
  - c. Said residence shall only be used by the owner of said parcel or a resident caretaker or watchman.
  - d. A restriction recorded in the office of the Register of Deeds for Kalamazoo County be placed on the title to said parcel providing that, for a period of at least 20 years from the date of the grant of the special exception use permit for said single family dwelling, said structure may not be sold separately from the permitted use or special exception use to which it is accessory.
3. Telecommunication towers (see Section 4.19).
4. Telecommunication antennas located on structures other than telecommunication towers (see Section 4.19).
5. Breweries, subject to the condition that they not be located on a parcel or site condominium unit adjacent to land zoned or developed for residential purposes.

(Amended: Ord. No. 309, 5-4-92; Ord. No. 373, §§ II, III, 8-30-99; Ord. No. 388, § III, 9-4-01)

300.1856 - Dimension and setback requirements for buildings and lots.

Sec. 18.50.6. In accordance with the attached Schedule of Regulations, Article 23.00.

(Amended: Ord. No. 408, § IX, 11-17-03)

ARTICLE 19.00

300.1900 - MANUFACTURING DISTRICT

300.1901 - Intent.

Sec. 19.01. The intent here is to provide a district where heavy industrial uses may best utilize essential public and private facilities and utilities while minimizing their incompatible aspects.

300.1902 - Uses permitted.



Sec. 19.02. (See also Article 22 for site plan review requirements.) No building or land in the M District, except as otherwise provided for in this Ordinance, shall be erected or used for other than the following specified uses:

- a. All permitted uses in the LM District.
- b. Industrial Establishments:
  1. The assembly and/or manufacture of automobiles, automobile bodies, parts and accessories, cigars and cigarettes, electrical fixtures, batteries and other electrical apparatus and hardware.
  2. Processing, refining or storage of food and foodstuffs.
  3. Breweries, bump shops, distilleries, machine shops, metal buffing, plastering and polishing shops, metal and plastic molding and extrusion shops, millwork lumber and planing mills, painting and sheet metal shops, undercoating and rustproofing shops, and welding shops.
  4. Truck terminals and heavy equipment contractor's equipment yards.
  5. Any other uses similar to any of the above Uses Permitted.

300.1903 - Uses permitted by special exception.

Sec. 19.03. (See also Article 22 for Site Plan Review Requirements).

- a. Uses Permitted by Special Approval in the LM District.
- b. Essential Services, subject to the conditions and limitations contained in Section 9.03 (q).
- c. Automobile Salvage Yards, involving the sale, resale, dismantling and/or storage of junked or inoperable motor vehicles or parts thereof, subject to the following conditions and limitations.
  - (1) All outdoor storage of junked or inoperable motor vehicles or the parts thereof shall be located within an area not closer than one hundred fifty (150) feet from any street right-of-way line.
  - (2) Said yard shall be enclosed by a solid fence at least but not more than eight (8) feet in height and maintained in a slightly condition, and in good repair, free of posted handbills or advertising other than the name and character of the business of the owner thereof. All entrances shall have gates which, when closed, shield the view of the yard to the same extent required for the remainder of the fence.
  - (3) No junked or inoperable motor vehicles, the parts thereof, or any other material shall be stored within said yard in such a manner as to be visible to persons traveling upon a public right-of-way or persons upon the premises of any adjoining property.
  - (4) Any automobile crushing operation practiced on the property on which said yard is located must be conducted in such a manner as to not be visible to persons traveling upon a public right-of-way or persons upon the premises of any adjoining property.
  - (5) Said yard shall be operated in such manner as to be at all times in compliance with noise level standards set forth in the Township Anti-Noise and Public Nuisance Ordinance, being Comstock Township Ordinance No. 137, or any ordinance adopted hereafter to amend or supplement said ordinance.
  - (6) Said yard shall be maintained so that rats, vermin and all other hazards to health are kept to a reasonable minimum and under control at all times. The owner of said yard shall comply promptly with all requests and directives of the director of the County Health Department.
- d. Single Family Dwellings under the following terms and conditions:
  1. Said structure may be constructed only on a lot or parcel of land exceeding five acres in size.
  2. Said structure may only be constructed in connection with an existing permitted use or special exception use on the parcel.
  3. Said residence shall only be used by the owner of said parcel or a resident caretaker or watchman.

4. A restriction recorded in the office of the Register of Deeds for Kalamazoo County be placed on the title to said parcel p for a period of at least 20 years from the date of the grant of the special exception use permit for said single family dwe structure may not be sold separately from the permitted use or special exception use to which it is accessory.
- e. Telecommunication towers (see Section 4.19).
- f. Telecommunication antennas located on structures other than telecommunication towers (see Section 4.19).

(Amended: Ord. No. 199, 6-16-81; Ord. No. 373, §§ II, III, 8-30-99)

#### 300.1904 - Open storage.

Sec. 19.04. All storage of building, contracting, or plumbing materials, sand, gravel, stone, lumber, equipment, and other supplies, shall be located within an area not closer than one hundred and fifty (150) feet from any street right-of-way line. The storage of lumber, coal, or other combustible material shall not be less than twenty (20) feet from any interior lot line, and a roadway shall be provided, graded, surfaced, and maintained from the street to the rear of the property to permit free access of fire trucks at any time. All such open storage shall be screened from all streets, and on all sides which abut any Residential or Business District, by a solid six (6) foot wall or fence sufficient to serve as a permanent retaining wall or fence.

#### 300.1905 - Dimension and setback requirements for buildings and lots.

Sec. 19.05. (In accordance with the attached Schedule of Regulations. Article 23.00)

(Amended: Ord. No. 408, § VIII, 11-17-03)

### ARTICLE 20.00

#### 300.2000 - OPEN WETLANDS DISTRICT

##### 300.2001 - Intent.

Sec. 20.01. Pursuant to Section 52 of Article 4 of the Constitution of the State of Michigan and the Township Rural Zoning Act, being Act 184 of the Public Acts of 1943, as amended, wherein the conservation and development of natural resources of the State are of paramount public concern in the interest of health, safety and general welfare of the people of the State of Michigan, the within Open Wetlands District Classification is designed to support, encourage and provide for necessary natural resources of the Township and for the conservation and development thereof so as to prevent substantial, immeasurable, permanent and irreparable injury of and damage to the inhabitants and property of the Township.

##### 300.2002 - Objectives.

Sec. 20.02.

- a. Protection of soils capable of providing necessary infiltration for the maintenance of aquifer stability.
- b. Prevention of damage caused by erosion, scarification, sedimentation, turbidity or siltation.
- c. Protection against the loss of wildlife, fish or other beneficial aquatic organisms, vegetation and also protection against the destruction of the natural habitat thereof.
- d. Prevention of conditions which increase susceptibility to dangers of flood and pollution.

##### 300.2003 - Characteristics.

Sec. 20.03. Any Open Wetlands District shall contain at least ten (10) contiguous acres, not necessarily under single ownership, and, in addition, shall contain at least one or more of the following characteristics:

- a. At least 50 percent of the area inundated by water either permanently or periodically within any continuous ten year period.
- b. Any areas designated as bogs, marshes, swamps, or muck lands on the most recent United States geological survey map.
- c. Surface or subsurface soil characteristics which either contribute to the replenishment of subsurface water supply, or are self-contained water resources relating directly to wildlife, fish or other beneficial aquatic organism, vegetation or to the natural habitat thereof.

#### 300.2004 - Permitted uses.

Sec. 20.04. No building or land in the Open Wetlands District, except as otherwise provided for in this ordinance, shall be erected or used for other than the following specified uses:

- a. General farming including, but not limited to, the harvesting of any wild crops such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, but specifically excluding concentrated animal feeding operations as defined in Section 9.02(f).
- b. Hunting, fishing, and the preservation of scenic, historic, and scientific areas and wildlife preserves.
- c. Non-resident buildings used solely in conjunction with raising water fowl, minnows, and other similar lowland animals, fowl, or fish, subject, however, to the minimum lot size, maximum building height, and minimum yard setback requirements for the R-1B Single Family Residential Zoning District.
- d. Hiking trails and bridle paths.
- e. Uses customarily incidental to the above permitted uses.
- f. Single-family dwellings and buildings accessory thereto, including the incidental raising and retail sale of horticultural products grown on the premises.
- g. Family child care homes licensed or registered under Act No. 116 of the Public Acts of 1973 (See Article 21.00, Section 21.06).
- h. Adult foster care family home (See Section 2.01.1d).
- i. Adult day care family home (See Section 2.01.1b).

(Amended: Ord. No. 245, 3-4-85; Ord. No. 271, 8-1-88; Ord. No. 283, 11-6-89; Ord. No. 284, 12-4-89; Ord. No. 290, 6-18-90; Ord. No. 293, 9-4-90; Ord. No. 297, 12-17-90; Ord. No. 445, § VI, 3-15-10; Ord. No. 463, §§ V, XIV, XVIII, 11-18-13)

#### 300.2005 - Uses permitted by special exception.

Sec. 20.05. The following uses shall be permitted only by special exception:

- a. All permitted uses in the R-1A and R-1B Residential Districts, except single-family dwellings and buildings accessory to single-family dwellings.
- b. Piers, docks, and boat houses.
- c. Relocation of any water course.
- d. Any filling, drainage or dredging of district lands.
- e. Dams, power plants, and flowages.
- f. Removal of topsoil or peat.
- g. Essential services, subject to the conditions and limitations contained in Section 9.03 (q).
- h. Kennels and/or boarding kennels.
- i. Group child care homes licensed or registered under Act No. 116 of the Public Acts of 1973. (See Article 21.00, Section 2.06.)
- j. Planned Unit Developments.
- k. Telecommunication antennas located on structures other than telecommunication towers (see Section 4.19).

l. Adult foster care small group home (See Section 2.01.1e).

m. Adult day care group home (See Section 2.01.1c).

(Amended: Ord. No. 373, § III, 8-30-99; Ord. No. 463, §§ VIII, XVI, XX, 11-18-13; Ord. No. 467, § I, 7-21-14)

### 300.2006 - Standards for special exception review.

Sec. 20.06. In addition to the requirements of applicants and the duties of the Planning Commission with respect to the special exception use requests, the applicant should be required to show and the Planning Commission shall be required to consider the following standards before issuing a permit for special exception use:

- a. The nature and extent of the subject wetland area, in terms of its characteristics which are beneficially consistent with one or more of the stated objectives of this Ordinance.
- b. The extent to which the proposed use or development will stifle or totally destroy the said characteristics.
- c. The prospective dangers, shortcomings and nuisance conditions which would result as a consequence of the proposed use or development, as considered on both a short and long term basis.

(Amended: Ord. No. 245, 3-4-85; Ord. No. 271, 8-1-88)

### 300.2007 - Dimension and setback requirements for buildings and lots.

Sec. 20.07. In accordance with the attached Schedule of Regulations, Article 23.00.

(Amended: Ord. No. 408, § IX, 11-17-03)

## ARTICLE 20.50

### 300.2050 - OSP-OPEN SPACE PRESERVATION OVERLAY DISTRICT

#### 300.2051 - Intent.

Sec. 20.50.1. The establishment of this overlay district is to satisfy the requirements of Section 506 of the Michigan Zoning Enabling Act (2006 PA 110). It requires that qualified townships provide, at the option of the landowner, for the clustering of residential units on a portion of the property provided that fifty percent (50%) or more of the land is preserved in permanent open space. This overlay district shall be a development option for landowners within the following zoning classifications: "OW", "A-H", "AGR", "R1-A" and "R1-B".

(Amended: Ord. No. 404, § II, 12-2-02; Ord. No. 430, § IV, 6-19-06)

#### 300.2052 - Permitted uses.

Sec. 20.50.2. All permitted residential uses within the underlying district are permitted within the "OSP" Overlay District. At the landowner's option, single family dwellings, or two family dwellings where permitted, shall be permitted within residential clusters subject to the following:

##### A. *Application Procedure.*

1. An application shall be filed identifying the landowner's desire to exercise the open space preservation development option. With the application, the landowner shall submit a comparison plan that adheres to site development requirements for the underlying zoning district. This can be in the form of a proposed plat establishing lots, a land division plan creating parcels or a planned unit residential development creating sites and/or units. This comparison plan shall determine the number of dwelling units that can be developed within the open space preservation plan.

Within the "R1-A" and "R1-B" Districts, the density shall be determined by the minimum lot area standard for unplatted lots with single family dwellings. This comparison plan and the number of dwelling units shall be finalized by the Planning Commission during site plan review and approval.

2. A site plan, adhering to all of the requirements under Article 22.00, shall be submitted for review and approval by the Planning Commission. It shall be titled "Open Space Preservation Plan" and a copy of the application and comparison plan shall be included with the site plan. A copy of these documents shall also be submitted by the applicant to the Kalamazoo County Human Services Department for their review and a copy of their report shall then be submitted by the applicant to the Planning Commission.
  3. The Planning Commission shall review the site plan and determine compliance with the ordinance standards for: a) site plan review; b) requirements within the underlying zoning district; and c) the requirements within this overlay district. They may approve the site plan as presented, approve subject to conditions or changes reflected in the motion to approve, table pending the submission of additional information, or deny the request based upon noncompliance with the ordinance standards.
  4. The applicant shall submit a timeline for development and identify any phases that may require further Township review and approval. The Planning Commission may impose conditions on this development timeline and the required open space in each phase shall not be less than 50% of the land area for that phase.
- B. *Conditions for Approval.* The required conditions shall be based upon the layout and design of the dwelling units and preservation of the open space as follows:
1. *Layout/Design Provisions:* The layout and design of the dwelling units shall be in a manner that achieves the greatest compatibility with surrounding land use and with the intent and purpose of this overlay district and the underlying zone. It shall balance what is economically feasible for efficient cluster development with the need to preserve the character of the area. Individual parcels, lots or sites within the residential cluster shall meet the following:
    - a. *(Lot) Width:* The parcels, lots, or sites (units) shall have a minimum lot width of no less than fifty percent (50%) of the minimum lot width requirement within the underlying zone or seventy-five (75) feet, whichever is greater.
    - b. *(Lot) Area:* The parcels, lots, or sites (units) shall have a minimum lot area of twenty-five percent (25%) of the minimum lot area requirement within the underlying zone or 7,500 square feet, whichever is greater.
    - c. *(Lot) Coverage:* The parcels, lots or sites (units) shall have a maximum lot coverage of twenty-five percent (25%).
    - d. *Floor Area:* The minimum floor area for the dwelling unit shall meet the minimum standard within the underlying zone.
    - e. *Yard/Setback:* The dwelling units shall meet the following setback provisions:
 

*Front:* Fifty percent (50%) of the underlying zone but no less than thirty (30) feet.

*Side:* Fifty percent (50%) of the underlying zone but no less than ten (10) feet.

*Rear:* Fifty percent (50%) of the underlying zone but no less than twenty (20) feet.
    - f. *Height:* The building height shall not exceed the maximum building height requirement within the underlying zone.
  2. *Open Space Provisions:* The intent of this overlay district is to preserve the character of the area consistent with that of the underlying zone. In order to achieve this intent, the following conditions shall apply:
    - a. In order to comply with the Act, the following definition shall be used to describe the nature of the open space to be preserved:
 

*Undeveloped State:* A natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to use of the public.

- b. The applicant shall provide documentation of the means to preserve the open space, whether in the form of a conservation deed restriction or similar method approved by the Planning Commission, and the party responsible for maintaining the open space area. If proposed for dedication to the public, a letter of support from the public entity, indicating acceptance for maintenance, shall be included with the application. A single entity, including, but not limited to, a private association, organization or a public body, shall have responsibility for maintaining the land in permanent open space.
- c. No part of the parcels, lots or sites shall be counted toward the open space, nor any land devoted to roadways or other impervious surfaces, other than those of a recreational nature (such as bikepaths, tennis or basketball courts, or for pavilions or picnic shelters).
- d. The open space, with the exception of active agricultural use, shall be arranged in a manner so that it is contiguous and accessible by residents within the residential cluster. It shall also be arranged to connect to other open space areas on adjoining properties and/or connected to possible pedestrian or non-motorized trails.
- e. The Planning Commission may consider the preservation of those areas where protection of the highest quality of natural resource is achieved. This includes areas of mature tree stands or forested areas, habitat areas for wildlife or similar areas that could otherwise be developed.

(Amended: Ord. No. 404, § II, 12-2-02)

#### 300.2053 - Special exception uses.

Sec. 20.50.3. No special exception use within the underlying zoning district shall be allowed unless such use is processed separately under the special exception use process for review and approval.

(Amended: Ord. No. 404, § II, 12-2-02)

#### 300.2054 - Site development regulations.

Sec. 20.50.4. The following regulations are based upon the relationship of the residential cluster(s) and the restricted open space to the adjoining properties, including the road right-of-way:

- A. *Cluster Setback.* The placement of any residential cluster, inclusive of lots or sites, shall be setback no less than fifty (50) feet from any abutting property line adjoining the open space preservation parcel and not less than one hundred (100) feet from any public road right-of-way adjoining the open space preservation parcel. This area may be included within the calculated open space.
- B. *Access.* Access to the dwelling units within the residential cluster may be in the form of a public road or private road, with any private road adhering to the standards under Section 25.04.G.2. (Planned Unit Development).

(Amended: Ord. No. 404, § II, 12-2-02)

### ARTICLE 21.00

#### 300.2100 - SITE DESIGN CONDITIONS FOR SPECIFIC LAND USES

##### 300.2101 - Conditions.

Sec. 21.01. Those permitted or special exception uses allowed in any given zoning district, and listed below, shall be subject, unless a variance is granted by the Zoning Board of Appeals, to all the following conditions and regulations regarding site development:

(Amended: Ord. No. 408, § XIV, 11-17-03)

##### 300.2102 - Houses of worship.

## Sec. 21.02.

- a. Reserved for future use.
- b. Reserved for future use.
- c. For new buildings, for every foot of height by which the building, exclusive of spire, exceeds the maximum height limitation for the district, an additional (to the minimum) foot of front, side or rear yard setback shall be provided.
- d. For new buildings, the lot location shall be such that at least one (1) property line abuts a collector street, secondary thoroughfare, or major thoroughfare. All ingress and egress to the lot shall be directly onto said thoroughfare.
- e. Off-street parking shall be prohibited within the required front yard setback area.

(Amended: Ord. No. 479, § IV, 3-21-16; Ord. No. 409, § VII, 10-26-17)

## 300.2103 - Repealed.

Sec. 21.03. [Repealed by Ordinance No. 408, § X, adopted November 17, 2003.]

## 300.2104 - Hotel, motel, motor court.

## Sec. 21.04.

- a. Public access to the principal business shall be located so as not to conflict with access to adjacent uses or not adversely affect traffic flow on adjacent streets.
- b. Each unit of commercial occupancy shall contain a minimum of two hundred and fifty (250) square feet of gross floor area.

(Amended: Ord. No. 408, § VII, 11-17-03; Ord. No. 484, § X, 10-24-16)

## 300.2105 - Drive-in and drive-thru restaurants.

## Sec. 21.05.

- a. All buildings shall be set back a minimum of sixty (60) feet from any adjacent right-of-way line or residential property line.
- b. Public access to the site shall be located at least seventy-five (75) feet from any intersection (as measured from the nearest right-of-way line to the edge of said access).
- c. Screening shall be established adjacent to any abutting properties that are residentially developed or in an AGR, A-H, R1-A, R1-B, R1-C, RM, RSM, RMH, OW, O-1 or B-1 zoning district. (See Section 21.56).
- d. (Repealed per Ord. # 311)

(Amended: Ord. No. 281, 7-17-89; Ord. No. 283, 11-6-89; Ord. No. 311, 6-15-92; Ord. No. 473, § X, 11-16-15; Ord. No. 484, § X, 10-24-16)

## 300.2106 - Child care facilities.

## Sec. 21.06.

- a. Each child care facility shall be duly licensed or registered by the State of Michigan Department of Social Services (DSS) continuously and for all times it is operating as a child care facility.  
Any child care facility whose license or certificate of registration by the State of Michigan is no longer valid and/or which has been revoked or denied or refused by the DSS shall immediately lose its status and authorization to continue operating as a permitted or special exception use in any zoning district.
- b. Buildings and lots used for child care facilities shall conform to all state, DSS, and local requirements, rules, and standards.

- c. Each child care facility shall provide, equip, and maintain on the premises the minimum square feet of indoor floor space and outdoor play area as required by the DSS. An applicant for a group child care home or child care center shall submit to the Planning Commission sufficient information and documentation regarding the maximum number of children allowed and the amount of indoor floor space and outdoor play area required by the DSS for the proposed child care facility prior to obtaining special exception use or site plan approval to operate within the Township.
- d. The zoning lot occupied by any child care facility shall have a fence which shall be not less than four (4) feet, but not more than six (6) feet in height and which shall completely enclose the outdoor area where the minor children play or congregate, except that interior fences within a mobile home park shall not exceed thirty-six (36) inches in height. In addition, the requirements of Section 4.06.4 of the Zoning Ordinance shall apply to child care facilities. However, the provisions of this subsection 21.06.d shall not apply to family child care homes. Further, the Planning Commission shall have authority to waive all or any part of this fencing requirement if the Planning Commission determines in its sole reasonable discretion that, because of the nature of the subject property, the nature of the surrounding area and/or the nature of the operation of the child care facility, such a waiver will not have a material adverse impact on the safety of the children in the child care facility.
- e. A group child care home licensed or registered under Act No. 116 of the Public Acts of 1973 shall be issued a special exception use permit if the group child care home meets the following standards:
  - 1. A group child care home shall comply with all the requirements set forth in subsections "a", "b", "c", and "d" above.
  - 2. A group child care home shall be located not closer than 1,500 feet to any of the following:
    - (i) Another licensed group child care home, or
    - (ii) Another adult foster care small group home or large group home licensed under the adult foster care facility licensing act, Act No. 218 of the Public Acts of 1979, being Sections 400.701 to 400.737 of the Michigan Compiled Laws, or
    - (iii) A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under Article 6 of the public health code, Act No. 368 of the Public Acts of 1978, being Sections 333.6101 to 333.6523 of the Michigan Compiled Laws, or
    - (iv) A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.

(Amended: Ord. No. 283, 11-6-89; Ord. No. 434, §§ I, II, 6-16-08; Ord. No. 463, §§ IV, VII, X, 11-18-13)

### 300.2107 - Hospitals.

#### Sec. 21.07.

- a. Minimum lot area shall be twenty (20) acres.
- b. The lot location shall be such that at least one (1) property line abuts a major thoroughfare. The ingress and egress for off-street parking facilities for guests and patients shall be directly from said major thoroughfare.
- c. All buildings shall be set back a minimum of one hundred (100) feet from all property lines.
- d. Ambulance and emergency entrance areas shall be screened from the view of any adjacent properties that are residentially developed or in an AGR, A-H, R1-A, R1-B., R1-C, RM, RSM, RMH or OW zoning district. (See Section 21.56).
- e. No power plant or laundry shall be located nearer than three hundred (300) feet to any adjacent residential use.

(Amended: Ord. No. 281, 7-17-89; Ord. No. 283, 11-6-89; Ord. No. 311, 6-15-92; Ord. No. 484, § X, 10-24-16)

### 300.2108 - Open-air business.

#### Sec. 21.08.



- a. Minimum lot area shall be ten thousand (10,000) square feet.
- b. Minimum lot width shall be one hundred (100) feet.
- c. Repealed. Ordinance No. 345, 9/3/96.
- d. The Building Inspector may, to insure strict compliance with any regulation contained herein and required as a condition of the issuance of a permit for an open-air business use, require the permittee to furnish a Surety Bond executed by a reputable surety company authorized to do business in the State of Michigan, in an amount determined by the Zoning Administrator to be reasonably necessary to insure compliance hereunder. In fixing the amount of such Surety Bond, the Zoning Administrator shall take into account the size and scope of the proposed open air business use, current prevailing cost of rehabilitating the premises upon default of the operator of the use, estimated expenses to compel the operator to comply by Court Decree, and such other factors and conditions as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application.
- e. Lighting shall be installed in such a manner which will not create a traffic hazard on abutting streets or which will cause a glare or direct illumination to be cast onto adjacent properties, residential or otherwise.
- f. In the case of car sales lots:
  1. All areas subject to vehicular use shall be paved with a durable, dustfree surfacing, with appropriate bumper guards where needed.
  2. The entire premises shall be graded so that the surface water runoff does not drain across public sidewalks.
- [g.] In the case of a plant materials nursery:
  1. The storage or materials display areas shall meet all the yard setback requirements applicable to any building in the district.
  2. All loading activities and parking areas shall be provided on the same premises (off-street).
  3. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.
- h. Deleted by Section X of Ord. No. 510.

(Amended: Ord. No. 281, 7-17-89; Ord. No. 345, 9-3-96; Ord. No. 408, § I, 11-17-03; Ord. No. 456, § I, 9-17-12; Ord. No. 510, § X, 11-18-19  
)

### 300.2109 - Accessory Dwelling Units.

Sec. 21.09. It is the intent of this section to allow for ADUs within or upon single family properties to allow homeowners to have a supplemental source of income with a long-term tenant as well as other nontangible benefits to older residents such as companionship or a live-in caretaker. It is recognized that ADUs provide an opportunity for affordable housing for young and old households as well as a way for family members to reside nearby with independence. It is further recognized that appropriate limitations are necessary so that ADUs are a compatible and harmonious use in the neighborhoods of the Township. Where contradictions with Section 2.01.28, definition of dwelling, exist, the provisions hereunder shall apply, however the Township Building Code still remains applicable.

1. The following provisions shall apply to all ADUs.
  - A. An ADU may only be established on a lot with a single-family dwelling on it.
  - B. Only one (1) ADU allowed per lot.
  - C. No more than two individuals may reside in an ADU.
  - D. No more than one bedroom may be provided in the ADU.
  - E. Maximum square footage of the ADU may not exceed 20% of the above grade gross floor area of the principal dwelling unit or 350 square feet, whichever is greater.
  - F. The principal dwelling or the ADU must be declared the main residence of the owner of the lot. A deed restriction

stating that the lot is so restricted shall be provided to the Township by the property owner in a format suitable for recording with the Kalamazoo County Register of Deeds.

- G. The ADU and modifications to an existing residence for an ADU shall be of similar or better workmanship as the principal dwelling unit, shall not detract from the single-family character and appearance of the principal residence and shall be aesthetically compatible in appearance with other residences in the area.
  - H. For attached ADUs: the principal residence shall have no external evidence of the ADU other than a separate entrance/exit. If provided on the exterior, the entrance/exit to the ADU shall be located on the side or rear of the building when not shared with the principal residence.
  - I. For new home construction incorporating an ADU, at least one of the dwelling units shall incorporate Universal Design principles on the main floor of the dwelling unit.
  - J. Mobile homes, shipping containers and trailers on wheels shall not be considered an ADU for purposes of this section.
  - K. An ADU shall be connected to a water supply and sanitary facilities.
  - L. When the ADU will be served by a well and/or septic system, written verification of an existing system's adequacy to serve the ADU and/or a permit from the Kalamazoo County Environmental Health Department for new or replacement well and/or septic system shall be provided to the Township.
  - M. The principal residence and the ADU shall share the same vehicular access to the lot.
  - N. If garage floor area is converted for an ADU, replacement off-street parking shall be provided for the principal residence.
  - O. In addition to the required off-street parking for the principal residence, one additional off-street parking space shall be provided for the ADU.
2. Unless waived by the Planning Commission, pursuant to the factors listed below, the following additional provisions shall apply to detached ADUs that are neither structurally attached to the principal dwelling, within the principal residence nor in the principal accessory building (garage) serving the residence, along with those conditions reasonably imposed by the Planning Commission during the special exception use process:
- A. Minimum lot area of 1.5 acres.
  - B. The ADU must be located in the rear yard.
  - C. The ADU must be located closer to the principal dwelling on the lot than the ADU is located to the principal dwelling on an adjacent property.
  - D. Universal Design principals shall be fully incorporated.
  - E. The height of the ADU may not exceed 18 feet.
  - F. The requirements and lot coverage limitations of Article 23, Schedule of Regulations shall be satisfied.
  - G. The ADU shall be properly maintained at all times pursuant to the International Property Maintenance Code and shall at no time fall into disrepair such that it detracts from the appearance of the property or the nearby properties.
  - H. When not occupied for a continuous period of 12 months or more, the ADU shall be removed from the property.

The Planning Commission shall consider the following factors when a waiver of any of the provisions of Section 2, above, is requested:

- A. The topography and/or wooded nature of the subject property and how it reduces the visibility of or screens from view the ADU.
- B. A unique design is proposed preventing or reducing the ability to comply with items 2D and/or 2E, above.
- C. Principal and accessory buildings on the subject property or nearby properties would support a waiver.

(Amended: Ord. No. 497, § V, 11-19-18)

## 300.2110 - Animal hospitals.

Sec. 21.10. All principal use activities shall be conducted within a totally enclosed main building.

(Amended: Ord. No. 408, § XII, 11-17-03)

## 300.2111 - Automobile service stations, public garages, filling stations.

Sec. 21.11.

- a. Minimum lot area shall be 25,000 square feet.
- b. Minimum lot width shall be one hundred twenty (120) feet.
- c. No more than 80% of the lot may be covered in building or pavement. The entire lot, excluding the area occupied by a building or landscaped in accordance with Section 21.50, shall be hard surfaced with concrete or a plant mixed bituminous material. Landscaped areas shall be separated from all paved areas by a low barrier or low curb.
- d. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than 35 feet from any lot line and shall be arranged so that trucks and motor vehicles shall not be supplied with gasoline or serviced while parking upon or overhanging any public sidewalk, street or right-of-way.
- e. When adjoining residentially used or zoned property, screening in accordance with Section 21.56 shall be established and maintained along the connecting interior lot line, or if separated by an alley, then along the alley lot line.
- f. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a six (6) foot tall fence. Such outdoor storage areas shall be screened from view both upon the subject site and adjoining premises unless the Planning Commission determines in its sole reasonable discretion that, based on the location of the storage area, the nature of the site on which it is located and/or the nature of the uses conducted on adjoining properties, such screening would not materially assist in preserving the general appearance of the subject site and/or surrounding area or otherwise promote the public health, safety, or general welfare. (See Section 21.56.) Outside storage or parking of vehicles awaiting repair for any overnight period shall not exceed more than two (2) vehicles awaiting repairs for each indoor repair stall located within said premises; each such vehicle shall have a current and valid license plate or temporary registration certificate. In no event shall the outdoor storage or parking of any such vehicle awaiting repair be permitted for a period exceeding thirty (30) days unless documentation that satisfies the Planning and Zoning Administrator or his/her designee as to the progress being made to repair any vehicle stored or parked on the property for more than thirty (30) days is provided by the property owner.
- g. On a corner lot, both frontages shall be subject to all the applicable front yard provisions of this Ordinance.

(Amended: Ord. No. 281, 7-17-89; Ord. No. 290, 6-18-90; Ord. No. 291, 8-6-90; Ord. No. 345, 9-3-96; Ord. No. 408, § III, 11-17-03; Ord. No. 484, § X, 10-24-16; Ord. No. 487, § IV, 3-20-17; Ord. No. 511, § XIII, 8-17-20; Ord. No. 521, § VII, 9-20-21)

## 300.2112 - Private swimming pool.

Sec. 21.12.

- a. Swimming pools with a floor area of one hundred (100) square feet or more and their swimming pool platforms shall not be located:
  - (1) Within the required minimum front yard (See Footnote "d" to Article 23.00 Schedule of Regulations as to corner lots);
  - (2) Within 10' of a side or rear lot line; or
  - (3) Upon any easement or right-of-way which has been granted for public utility use.
- b. No swimming pool fence shall be located within the required minimum front yard (See Footnote "d" to Article 23.00 Schedule of Regulations as to corner lots).

(Amended: Ord. No. 271, 8-1-88; Ord. No. 281, 7-17-89, Ord. No. 290, 6-18-90; Ord. No. 428, § V, 2-6-06)

300.2113 - Housing for the elderly.

Sec. 21.13.

- a. Minimum lot size shall be five (5) acres.
- b. [Repealed by Ordinance No. 408, § XVII, adopted November 17, 2003.]
- c. Each dwelling unit shall contain at least three hundred and fifty (350) square feet of area, not including kitchen, and sanitary facilities.

(Amended: Ord. No. 408, § XVII, 11-17-03)

300.2114 - Convalescent homes.

Sec. 21.14.

- a. Minimum lot size shall be three (3) acres.
- b. The lot location shall be such that at least one (1) property line abuts a collector street, secondary thoroughfare or major thoroughfare. The ingress and egress for off-street parking areas for guests and patients shall be directly from said thoroughfare.
- c. All buildings shall be set back a minimum of seventy-five (75) feet from all property lines.
- d. The facility shall be designed to provide a minimum of fifteen hundred (1,500) square feet of open space for every bed used or intended to be used. This open space shall include landscaping in accordance with the requirements of Section [Article] 21.50 and may include off-street parking areas, driveways, required yard setbacks and accessory uses.

(Amended: Ord. No. 484, § X, 10-24-16)

300.2115 - Kennels (including boarding kennels).

Sec. 21.15.

- a. All kennels shall be operated in conformance with all applicable County and State regulations.
- b. The minimum lot size for kennels other than boarding kennels shall be two (2) acres. The minimum lot size for boarding kennels shall be five (5) acres.
- c. No buildings (other than a dwelling) wherein kennel animals are kept, animal runs and/or exercise areas shall be located less than 100 feet from a neighboring dwelling and/or less than 50 feet from a neighboring property line. All buildings (other than a dwelling) wherein kennel animals are kept, animal runs, and/or exercise areas shall be located to the rear of any dwelling established on the subject property.

300.2116 - Airports, aircraft landing fields, heliports, helipads.

Sec. 21.16.

- a. Adequate provision shall be made for reasonable and safe vehicular and pedestrian access to the facility.
- b. The surfaces used for landing and other air operations shall be constructed and maintained to ensure that dust, dirt or other matter will not be blown onto adjacent property from aircraft operations.
- c. Appropriate provision shall be made for off-street parking.
- d. Hours of operation may be restricted by the Planning Commission to prevent disturbances to off-site residences and property.
- e. Property line setback distances for the facility shall be adequate to avoid any material adverse impact upon adjacent

properties. Proposed setback distances may be increased or decreased by the Planning Commission in its reasonable discretion based upon consideration of the number of flights, hours of operation, types of aircraft, number of aircraft, types of existing land uses in the area, topography, proximity to natural corridors, and other factors relevant to the protection of adjacent property.

- f. The facility shall obtain all governmental approvals required by state or federal law.

(Amended: Ord. No. 432, § II, 5-7-07)

#### 300.2117 - Golf courses, country clubs.

##### Sec. 21.17.

- a. Minimum lot size shall be forty (40) acres.
- b. A shelter building with toilet facilities shall be provided which meets all requirements of the Kalamazoo County Health Department and the Township Building Code.
- c. The main and accessory buildings shall be set back at least seventy-five (75) feet from all property lines.

#### 300.2118 - Vehicle wash establishments.

##### Sec. 21.18.

- a. Minimum lot size shall be ten thousand (10,000) square feet.
- b. All washing activities must be carried on within a building.
- c. Vacuuming activities must be at least fifty (50) feet from any adjoining residential property.
- d. The building entrances and exits of the facility shall be from within the lot and not directly to or from an adjoining street or alley. An alley shall not be used as maneuvering or parking spaces for vehicles being serviced by the subject facility.
- e. An adequate on-site area for waiting vehicles shall be provided to prevent the lining up of said vehicles on public streets.

(Amended: Ord. No. 271, 8-1-88; Ord. No. 521, § VIII, 9-20-21)

#### 300.2119 - Private clubs and lodges.

##### Sec. 21.19.

- a. The lot shall be located so as to abut a collector street, secondary thoroughfare, or major thoroughfare with at least one (1) property line.
- b. Retail sales to guests only may be permitted, but there shall be no externally visible evidence of any commercial activity, however incidental, nor any access to any space used for commercial activity from other than within the building.

#### 300.2120 - Private stables.

##### Sec. 21.20.

- a. For breeding, rearing and housing of horses, mules and similar domestic animals, the minimum lot size shall be ten (10) acres, except that up to two (2) saddle horses or ponies may be housed and reared on lots of five (5) acres or more.
- b. A building used as a stable shall not be located nearer than sixty (60) feet to any property line and not nearer than one hundred (100) feet to any dwelling on adjacent premises.
- c. Animals shall be confined in a suitable fenced area, or paddock, to preclude their approaching nearer than sixty (60) feet to any dwelling on adjacent premises.
- d. The facility shall be so constructed and maintained that odor, dust, noise or drainage shall not constitute a nuisance or hazard to adjoining premises.

(Amended: Ord. No. 408, § XV, 11-17-03)

300.2121 - Roadside stand.

Sec. 21.21.

- a. The gross floor area of the temporary building shall be not less than one hundred and fifty (150) square feet but not more than eight hundred (800) square feet.
- b. Suitable containers for rubbish shall be placed on the premises for public use.
- c. Any stand located within two hundred (200) feet of any adjacent dwelling shall close at 10:00 p.m.
- d. The temporary building shall be located not less than fifty (50) feet from the nearest public road pavement. Its height shall be no more than one (1) story.
- e. Off-street parking may be provided in the required front yard setback area, except an area twenty-five (25) feet in depth adjacent to the road pavement, shall remain as open space.

(Amended: Ord. No. 484, § X, 10-24-16)

300.2122 - Camp grounds, travel trailer parks.

Sec. 21.22.

- a. Minimum lot size shall be three (3) acres. The lot shall provide direct vehicular access to a public street or road. The term "lot" shall mean the entire camp ground or travel trailer park. Each lot shall be provided with at least one (1) public telephone.
- b. Each site on a lot designated for camping use may accommodate a travel trailer or tent, and shall be provided with individual electrical outlets.
- c. Public stations, housed in all-weather structures, containing adequate water outlet, flush toilets, waste container, electricity, and shower facilities, shall be provided uniformly throughout the lot at a ratio of not less than one (1) such station per each twenty (20) sites.
- d. Each lot containing more than sixty (60) sites shall provide a masonry building containing machine laundry (wash and dry) facilities.
- e. No commercial enterprises shall be permitted to operate on the lot, except that a convenience goods shopping building may be provided parking space as provided for in Article 6.00, Section 6.02, nn.
- f. Each lot shall provide a hard-surfaced, dust-free vehicle parking area for site occupant and guest parking. Such parking shall be located within four hundred (400) feet of the site it is intended to serve (except in the case of sites specifically designated only for tent camping).

Each parking space shall be two hundred (200) square feet in area. Guest parking shall be provided at the ratio of not less than one (1) space per each two (2) sites. Occupant parking space for two (2) vehicles shall be provided on each site.

- g. Each site shall contain a minimum of fifteen hundred (1,500) square feet, except that the minimum size for sites specifically designated for tents shall be three thousand (3,000) square feet. Each site shall be set back from any right-of-way or property line at least seventy-five (75) feet.
- h. A common use area shall be provided on each lot at a ratio of not less than one thousand (1,000) square feet of such area per each site. This common area shall be developed by seeding, landscaping, picnic tables, barbecue stands and passive recreation equipment (i.e., swings, horseshoe pits, shuffleboard courts and the like) for the general use of all occupants of the entire lot.
- i. Each travel trailer site shall have direct access to a hard-surfaced, dust free roadway of at least twenty-four (24) feet in width for two-way traffic and twelve (12) feet in width for one-way traffic. Parking shall not be allowed on any roadway.

Public streets shall be paved with asphaltic concrete. Sites specifically designated for, and only used for, tent camping, need not have direct vehicular access to any street or road, but shall be provided with adequately cleared and marked pedestrian pathway access which originates at a point on a street or road within two hundred (200) feet of the parking area mentioned in paragraph f.

- j. All sanitary facilities shall be designed and constructed in strict conformance to all applicable Kalamazoo County health regulations.
- k. The development of the entire lot is subject to all applicable requirements of the Michigan Department of Natural Resources.
- l. A minimum distance of fifteen (15) feet shall be provided between all travel trailers and tents.
- m. Screening may be required by the Planning Commission. The location of common use areas, roadways, streets, and buildings shall be subject to approval by the Planning Commission.

(Amended: Ord. No. 281, 7-17-89; Ord. No. 290, 6-18-90; Ord. No. 484, § X, 10-24-16)

### 300.2123 - Junk yards.

#### Sec. 21.23.

- a. Minimum lot size shall be five (5) acres.
- b. The setback from the front property line to the area upon which junk materials are stored shall be not less than one hundred and fifty (150) feet and said area shall be screened from the roadway and from any adjoining residential or business uses by a solid fence not less than eight (8) feet nor more than twelve (12) feet in height. Said fence to be kept uniformly painted, neat in appearance, and shall not have any signs or symbols painted on it.
- c. The area upon which junk materials are stored, including any buildings, shall be located not closer than five hundred (500) feet to any public building, house of worship, hospital, sanitarium, convalescent home, day nursery, school, or residential district boundary.
- d. All structures and fencing and used material storage yards shall be set back not less than fifty (50) feet from any street or highway right-of-way.

(Amended: Ord. No. 281, 7-17-89; Ord. No. 479, § IV, 3-21-16)

### 300.2124 - Event barn.

#### Sec. 21.24.

- A. *Purpose.* To allow event barns as a special exception use in the AGR, Agriculture-Residential District on agricultural or former agricultural properties.
- B. *Standards.*
  1. The event barn and all structures associated with events are subject to the Building and Fire Codes applicable to the intended occupancy.
  2. The access drive shall be at least 20 feet wide, of compact gravel or better surface and on the subject property or, if off-site, in an easement. The driveway is subject to review and approval of the road agency having jurisdiction.
  3. No overnight lodging is permitted.
  4. Handicap parking spaces shall meet the provisions of the Americans with Disabilities Act. Other parking shall be provided with a grass, gravel or better surface.
  5. The hours of any event shall not be later than 11:00 p.m. on Friday or Saturday nights and 9:00 p.m. on other days with music concluding one hour prior to the event ending.
  6. The special exception use permit shall be reviewed by the Planning Commission annually. The Planning Commission

may waive this requirement after three years of annual reviews and finding no significant concerns with the facility or its operation.

7. Information to be provided by the applicant in a conceptual plan and/or as supporting documentation:
- a. Size of the property and the square footage of the facility as well as a floor plan including a statement indicating the maximum number of attendees per event type.
  - b. Proposed hours of operation including pre and post-event activities on the site.
  - c. Provision for and location of restroom facilities.
  - d. Traffic management plans including access drive location, parking areas and the number of parking spaces.
  - e. Location of exterior lights and the fixture details including proposed hours of use.
  - f. Placement and type of all temporary structures.
  - g. Location of trash receptacles and plans for trash management.
  - h. Proposed exterior signs. Sign permit required.
    - i. Sound amplification details including placement of speakers and amplifiers.
    - j. Number of employees.
  - k. Proposed screening of parking areas, trash receptacles, restroom facilities and other outdoor aspects of the venue.
  - l. Other items as deemed necessary by the Planning Commission necessary to complete the review.

(Amended: Ord. No. 510, § XIII, 11-18-19; Ord. No. 511, § XVI, 8-17-20)

#### 300.2125 - Public stables and riding academies.

##### Sec. 21.25.

- a. That a site plan showing the proposed development of all structures, driveways, parking areas, screening facilities, and all accessory uses incidental thereto is first submitted by the applicant and approved by the Comstock Township Planning Commission.
- b. That the land area proposed to be used for such purposes shall contain at least twenty (20) acres.
- c. That all activities other than incidental uses shall be conducted within a fully enclosed building or, in the alternative, that outdoor activities shall be screened from surrounding residential properties in accordance with Section 21.56.
- d. That any proposed lighting shall produce no glare or shining discernible at the boundaries of said parcel.
- e. That adequate off-street parking shall be provided to accommodate the peak demands on said parcel.
- f. That all activities of a public or quasi-public nature shall be conducted between the hours of 8:00 a.m. and 6:00 p.m.
- g. That additional restrictions as to building size, design, screening, parking, setbacks, lighting, landscaping, etc., may be required by the Comstock Township Planning Commission when necessary to protect the health, safety and general welfare of adjoining residence and neighborhoods; to encourage the use of lands in accordance with their character and adaptability and to limit improper use of land; to protect the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building and population development.

(Amended: Ord. No. 484, § X, 10-24-16; Ord. No. 488, § VI, 4-17-17)

#### 300.2126 - Sanitary landfills and solid waste disposal facilities.

Sec. 21.26. Prior to approval of the Planning Commission of a special exception use for a sanitary landfill facility, as herein defined, in any area of the Township, said Board shall be certain that the following limitations and conditions are or shall be strictly complied with, in addition to any other requirements contained in the Township Zoning Ordinance, or in any other Township ordinance



controlling such operations. The following rules and regulations shall apply specifically to each landfill area, unless county or state regulations on any particular requirement are more restrictive, and then such more restrictive regulations shall apply.

A. *Location.*

1. All such operations shall be located on a state highway or county primary road, as defined by the County Road Commission of Kalamazoo, for ingress and egress thereto, and on a road which does not create traffic through an area developed primarily for residential purposes. Where necessary, the Planning Commission may require the applicant to construct and/or improve a road to accommodate the truck travel necessitated by the operations, as a condition of such operation, and for the purpose of routing traffic around residential areas. A stop sign shall be erected and maintained by the owner/operator at all egress roads of the disposal area. Under no circumstances shall trucks use private drives or private access routes from the applicants' property which are within 150 feet of any residence.
2. Sufficient setback shall be provided from all property lines and public highways to assure adequate lateral support for adjacent public and private property. No such disposal area shall be permitted closer than 100 feet from the interior boundary lines. In addition, no disposal areas shall be permitted closer than 300 feet to any domicile, or within 300 feet of any residential districts. No such disposal areas shall be permitted closer than 100 feet to adjacent public right-of-way, property lines or lakes and streams. Such disposal areas shall at no time be permitted where adjoining lateral support for the maintenance for adjoining land is not maintained.
3. Any permanent processing plant and its accessory structures shall not be located closer than 250 feet from the interior boundary lines. In addition, if located within 1,000 feet of a residence, it shall be obscured by a suitable barrier, not less than 10 feet high, with screening, of a type to be decided on an individual basis, by the Planning Commission at the time of application. Where practicable, the processing plant shall be as close to the center of the subject property as possible, and at a lower level than the surrounding terrain to lessen visual and noise impact. The foregoing shall not apply to the digging or excavating apparatus, nor to the stockpiling or loading and transportation equipment.
4. No such disposal area shall interfere with the established natural flow of surface waters, to the detriment or damage to adjoining public or private properties. The Planning Commission shall have the right to require an applicant to construct adequate sediment basins if it appears that substantial sediment may be carried into any nearby watercourse.
5. Any sanitary landfill area, located within the boundaries of the Township, whether publicly or privately owned, shall be open to Township residents, property owners and businesses, during established business hours, at a rate competitive with other disposal areas in Southwestern Michigan. Other persons or parties may also be granted access to a public facility, subject to paying charges as determined by the public body having jurisdiction. Private waste disposal areas shall provide service to all persons and businesses, regardless of where located. Special handling fees may be charged for bulky or difficult to process items. Hazardous materials, as defined in P.A. 64 of 1978 for the State of Michigan and defined by the Department of Natural Resources in its Hazardous Waste Management Rules, Sections R299.630 through R299.6317 inclusive, containing Rules 301-317 exclusively, and dated February 5, 1981, are prohibited.
6. Greater isolation distances may be required by the Planning Commission if the sanitary landfill area being proposed, is adjacent to special quiet zones, as designated by local or state government.

B. *Sight Barriers and Fencing:*

1. Sight barriers shall be provided along all setback lines of the sites which lack natural screening conditions through existing contours or evergreen growth. Such barriers shall consist of the following: A berm of at least 10 feet in height and plantings of evergreen trees, not more than 10 feet apart, or shrubbery not more than 5 feet apart, in

staggered rows, on the berm, parallel to the boundaries of the property. Evergreens shall be at least 2-year transplants at the time of planting, and shall grow to not less than 10 feet in height, and shall be sufficiently spaced to provide effective sight barriers when 10 feet in height. Trees or shrubs which die must be replaced.

The requirements for screening by means of a berm and plantings may be reduced or eliminated by the Planning Commission if the particular site and terrain of the subject property (with screening of a reduced height), will afford adequate sight barriers for adjoining property owners, residents or passers-by.

2. The sanitary landfill area is to be fenced with an eight-foot high chain link fence with three strands of barbed wire, angled 45° toward the outside of the premises on the top. Such fence shall be located inside of any berms or screening following the exterior boundaries.

The entrance to the sanitary landfill area shall have a gate which shall be closed and locked at all times that the landfill is not open.

C. *Nuisance Abatement:*

1. Air pollution, noise and vibration, and their effect upon adjacent properties shall be minimized by the utilization of adequate soundproofed equipment and buildings designed to accomplish such minimization, and by the proper use of berms, walls and natural planting screens. Interior and adjoining roads used in the solid waste disposal operations shall have their surfaces treated to minimize any condition.
2. Rodent traps, if needed, shall be placed every 100 yards, around the perimeter of the sanitary landfill area, inside the fence, and shall be regularly inspected and cleaned, not less frequently than once each week.
3. Any security lighting deemed necessary by the owner/operator shall be of the sodium vapor type and shall be aligned so that no part of the illuminated field shall fall on any adjoining residential property.
4. Every sanitary landfill facility, which accepts refuse, shall have adequate water supply and facilities for quick delivery of water to any part of the property, for the purpose of extinguishing fires. Capacity shall be such that at least 50 gallons of water per minute can be applied to any fire, continuously, for at least 10 hours. The source of the water supply and the facilities to provide for the delivery of the water shall be indicated on the plans submitted for approval by the Planning Commission.
5. All litter shall be collected from the sanitary landfill site by the end of each working day and either placed in the fill, compacted and covered that day, or stored in a covered container.
6. In winter operations, snow and ice shall be removed before any material, either refuse or earth cover, is placed on the fill. A supply of unfrozen earth cover material shall be maintained and available, either in protected stockpiles or in a natural bank protection from, or not subject to freezing. Frozen cover materials shall not be placed on the fill.
7. Prior to the commencement of the construction of any landfill within the Township the owner/operator of the proposed landfill shall obtain from each lake, stream, creek, watercourse and private, residential, agricultural and commercial water well a water sample for complete chemical analysis. These water samples shall be taken from each of the aforementioned water sources within a mile radius of the exterior boundaries of the property acquired for the construction of the landfill. These samples shall contain the exact location from which they were obtained, the name and address of the property owner who owns the land from which the water sample was taken, and the name and address of the principal user of the water well, if different from the owner of the property upon which the well is located. The owner/operator of the proposed landfill shall turn these samples over to a properly accredited laboratory for complete analysis. The results of the individual analysis shall be certified by the laboratory, and then filed with the Township Clerk, for the purpose of future reference, should there at some later date be suspected groundwater contamination. In addition, copies of the quarterly monitoring test well results shall be delivered to the Township promptly upon receipt by the owner/operator.

- D. *Time Limits:* All operations, other than the maintenance of equipment within a fully enclosed building, shall be conducted only between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday, and 7:00 a.m. and 3:00 p.m. on

Saturdays and legal holidays. A sign stating the hours and prohibiting the dumping at other times shall be placed in a conspicuous location at the entrance.

Keys for admittance to the disposal area shall be given to the Township Clerk.

Disposal facilities shall have qualified personnel on duty at all times to direct the dumping, spreading, compaction and covering of materials.

- E. *Liability Insurance:* All applicants shall be required to carry personal injury and property damage insurance, in addition to any and all bonds required by state statute, while any open or unrehabilitated area exists. Such insurance shall be in the amount of not less than \$1,000,000 for each person injured or property damaged, or for any injury or damage to more than one person or one person's property, arising out of one occurrence. Such insurance shall cover injury or damage occurring upon the site of the operation, as well as upon properties adjoining thereto, as the result of conditions or activities existing upon the site. Such policies shall be filed with the Township Clerk, and shall be maintained in effect for a period of not less than twenty years following final closure and termination of sanitary landfill activities. The deductible written into the insurance policy shall not exceed five percent of the per incident limit of the liability of the policy. The coverage obtained by the owner/operator to fulfill the requirements of this section shall include the provisions that the insurer shall notify the Township 30 days prior to the cancellation of the insurance for any reason.
- F. *Closure of Disposal Areas:* Reclamation or rehabilitation of sanitary landfill areas shall be accomplished as soon as practicable following the completion of an area. Where possible, such rehabilitation or reclamation shall be accomplished concurrently with facility's operations. Substantial completion of reclamation and rehabilitation shall be effected within two years after the termination of the waste disposal facility. Inactivity for 12 consecutive months shall constitute, for this purpose, termination of disposal activities. Technical standards which shall control the final reclamation and rehabilitation of the site, and the post-closure monitoring of the site shall be the rules and regulations written by the Department of Natural Resources, Resource Recovery Division. Solid Waste Management for the State of Michigan pursuant to Public Act 641 of 1978, as amended, being Section 299.401, et seq., of the Michigan Compiled Laws and known as the Solid Waste Management Act, or other similar acts which may provide such regulation hereafter.
- G. *Submission of Operational and Closure Plans:*
1. No sanitary landfill activities shall be allowed or commenced until a plan has been submitted to the Township Planning Commission, disclosing compliance with all of the provisions within this ordinance, or the manner in which compliance will be secured by the applicant. Such plans shall include, among other things, the following:
    - a. A contour map of the tract of land involved in the operations, including dimensions of the same, access thereto, abutting public streets, and whether or not the same are on state or county primary roads, additional roads, if any, to be constructed and the location and nature of abutting improvements of adjoining properties.
    - b. The number of acres and the location of the same, proposed to be operated upon within the following 12-month period after commencement of operations.
    - c. The type of sanitary landfill proposed to be constructed, the nature of the equipment to be used and the materials to be accepted.
    - d. A survey by a registered surveyor, showing the location of the principal disposal site and the distance of any proposed operations, and the boundaries of the site.
    - e. A map disclosing the approximate final grade and the levels to be established following completion of the disposal areas, including the proposed uses being contemplated for the future use of the land, and other such matters as may evidence the bona fide nature of the rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the proposed waste disposal area.
    - f. A map disclosing the location of all lakes, streams, creeks, water-courses and public, private, residential, agricultural and commercial water-wells from which the samples will be taken for analysis, as stipulated in C(7) of

this Section.

- g. A written agreement, signed by the owner/operator of the proposed disposal area, agreeing to abide by the following plan for solutions to groundwater contamination, should such contamination occur as a result, or suspected result of his disposal operations.

H. *A Trust Fund For The Mitigation Of Landfill Problems:*

1. A trust fund shall be established at a convenient bank, within the County, chosen by the Township Board. The operator shall agree to pay \$.10 per cubic yard of waste disposed of, into this trust fund, for the life of the sanitary landfill. Expenditures from the trust fund are to be approved by a committee consisting of one citizen appointed by the Township Board, the Township Supervisor, and one representative of the owner/operator. Funds may be used but are not limited to off-site litter control, groundwater and surface water monitoring and payments to adjacent property owners, and others, at the discretion of the committee, for damages proven to have been caused as a result of the sanitary landfill or its operations. The trust fund shall exist and earn interest for 20 years following closure, and at that time the funds remaining shall be paid to the owner/operator or its successors or assigns.
2. The mitigation of environmental degradation shall be accomplished by limiting the amount of new leachate produced; steps shall be taken which restrict the movement of existing pollutants in the water. When domestic, agricultural or commercial wells lie in the path of a contaminated plume, one of the following possible solutions to the problems of public health, hazard and environmental degradation shall, at the discretion of the Township be required of the owner/operator of the landfill:
  - a. Immediate purging of the groundwater. Studies must be conducted, at the expense of the owner/operator of the waste disposal area, to determine the extent of the groundwater contamination, cleanup required, and the timetable by which the cleanup will proceed.
  - b. Provision of an alternate water supply. This shall include, but not be limited to:
    1. Locating uncontaminated groundwater.
    2. Providing bottled water. This shall be a temporary measure, designed to prevent health hazards until another system can be prepared. This service should be terminated once a permanent water supply system becomes operational.
    3. Hooking into an existing municipal water supply system.

Owner/operator of a sanitary landfill reasonably suspected of contamination of the groundwater for residence, farms, or businesses, shall guarantee the cost of the construction of the extension of a municipal water line to the affected area, and the cost of the hookup to this water supply. The Township shall pay for any oversizing of the line to permit the extension of service to areas not affected by the leachate. The owner/operator of the sanitary landfill may make an unrestricted cash payment to the Township to carry out its responsibility to the residents in obtaining for them uncontaminated water. This option shall be at the discretion of the proper authority. If the water is available to the residents of the affected area, it will assume sole responsibility for establishing water rates, assessments and connection charges, and for the granting of waivers of any of these charges to residents whose water supply is endangered by the leachate and for policies governing the system operation and waiver policy.

If the Township does not agree to make water available to its residents, the entire issue shall revert back to the landfill owner/operator's responsibility. The Township shall assume no responsibility or liability for any injuries or property damage resulting from the sanitary landfill operations.

- i. *Financial Guarantee shall be given the Township*, insuring the proper closure and rehabilitation of the solid waste disposal area. The amount of the guarantee shall not be less than \$5,000 per acre of disposal area, but not less than \$20,000 nor more than \$200,000 for the area proposed to be licensed by the State, or which has previously been operated upon during any preceding period and which has not been reclaimed or rehabilitated. All such financial guarantees shall be reviewed annually on or about the anniversary date of the sanitary landfill construction permit, for

adjustment in compliance of the foregoing requirements by the Zoning Inspector of the Township or other such official as may be designated by the Township Board. In this regard, the amount of the financial guarantee may be increased or decreased, based upon the cost of living index, promulgated by the U.S. Department of Labor, using the effective date of this ordinance amendment as the base period for the \$5,000 per acre amount. Such financial guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit or a corporate bond of a licensed insurance company, eligible to insure disposal facilities in Michigan. The corporate bond, if it is used, shall be a performance bond which shall be filed with the Township Clerk governing all portions of the sanitary landfill operation required to be maintained in accordance with these regulations, guaranteeing the satisfactory performance of these regulations. The bond shall not be cancellable for nonpayment of premium on disposal areas already worked, and shall continue in force for one year after closure and reclamation of the sanitary landfill facility.

For all sanitary landfill areas, the minimum financial guarantee shall be at least \$20,000, provided to the Township, if less than five acres are required to be covered by the financial guarantee at any time. The bond shall be filed with the Township before the permit is issued, and on or before the first of each year, thereafter.

A recommendation by the Planning Commission and approval by the Township Board shall be based upon the criteria set forth within said ordinance and shall be based, in addition, on a consideration of the following:

- a. The most advantageous use of the land, resources and property.
- b. The character of the area in question and its particular suitability, if any, for the particular use.
- c. Conservation of property values as well as natural resources and the general appropriate trend and character of development in the subject area.
- d. The protection and preservation of the general health, safety and welfare of the Township.
- e. The scarcity or value of waste disposal areas as compared with the effect upon adjacent communities near the proposed operation.

The Planning Commission may provide for a periodic review of the proposed operations to ascertain compliance with the conditions and limitations imposed upon the same.

- J. *Existing Sanitary Landfill Operations:* All licensed sanitary landfill operations existing on the effective date of this ordinance shall be subject to the within regulations with regard to future operations; however, such pre-existing disposal areas shall be allowed to continue in operation on its then existing land. A Special Exception Use shall not be required therefor.

(Amended: Ord. No. 234, 1-17-84; Ord. No. 235, 1-17-84; Ord. No. 290, 6-18-90)

### 300.2127 - Wind Energy Conversion Systems (WECS).

#### Sec. 21.27.

- A. *Purpose:* The regulation of wind energy conversion systems, including the height, minimum lot area and required setbacks for such systems, is intended to provide for an alternative source of power generation while protecting the health, safety and welfare of Township residents.
- B. *Definitions:*
  - 1) *Decibel:* A unit used to express the magnitude of sound pressure and sound intensity. (See complete definitions, including dB(A), within the Anti-Noise and Public Nuisance Ordinance, Section II of Ordinance No. 137, as amended)
  - 2) *Nacelle:* The body/shell/casing of a propeller-type wind turbine. Covering the gearbox, generator, blade hub, and other parts.
  - 3) *Rotor:* That part of the wind energy conversion system that acts as a multi-bladed airfoil assembly which, through rotation, produces kinetic energy from the wind.

- 4) *Wind energy conversion systems*: A system which converts wind energy into electricity through the use of a wind turbine and includes the turbine, blades, and tower as well as related equipment. A "small turbine/on-site" system is intended to serve the needs of the customer, with a single tower that that may, or may not, be connected to the utility grid. A "large grid system" is designed to generate electricity from one or more towers (within an array) and is intended to serve institutional residential communities or larger cooperatives.
- C. *Special exception use*: Due to the concerns related to health, safety and welfare, such systems shall be regulated as special exception uses within all zoning districts unless such systems are either: (1) roof-mounted and the combined system and roof height does not exceed the maximum height regulation within the underlying zoning district (See footnote "a" of Article 23.00) and does not exceed the maximum decibel level within the Township's Anti-Noise and Public Nuisance Ordinance; or (2) a tower mounted system that does not exceed a maximum height (tower + blade) of 60 feet and the maximum decibel level within the Township's Anti-Noise and Public Nuisance Ordinance and is setback not less than 110% of the height from any adjoining property line or road right-of-way. These exempted systems shall be subject to all other permits as required for buildings or structures as determined by the Zoning Administrator.

The following requirements shall be met by all special exception use applications and the Planning Commission may impose additional conditions if the Planning Commission determines in its sole reasonable discretion that the imposition of such condition(s) is needed to assure compliance with the general standards for special exception use permit approval set forth in Section 4.13(c)(2) of this Ordinance:

- 1) In addition to the requirements for site plan review, the site plan of the property shall show the location of overhead electrical transmission or distribution lines, whether utilized or not, and the location of the WECS with its specific dimensions, including the entire area through which the rotor(s) may pass, the location of any guy wires or other support devices, and the location of all dwelling units within five hundred (500) feet of the WECS.
- 2) Each special exception use permit application shall be accompanied by a complete set (either the original or an accurately reproduced copy) of the manufacturer's instructions which shall, at a minimum, include the following: A standard foundation and anchor design or specifications for normal soil conditions; Detailed instructions for operation and maintenance of the WECS on site; A copy of all warnings and/or documents provided by the manufacturer of the WECS; Grounding and lightning procedures protection which follow the National Electrical Code, Articles 250 (Grounding) and 280 (Lightning Arresters). In addition, the Underwriters Label shall be attached to the base of the tower and any subsystem, such as the nacelle or generator. The following information shall also be included with the application: The name, address, and telephone number of the owner of the tower/subsystem; Manufacturer's name and address; Model number; Emergency and normal shutdown procedures; The survival wind speed in miles per hour and meters per second for the tower and the maximum power output for the generator.

Following installation, the Name of installer; Name of person responsible for maintenance; Emergency telephone number in force for the installer and the person responsible for maintenance shall be attached to the base of the tower.

- 3) *Electromagnetic Interference*: The entire WECS (including turbines, alternators, generators, and interconnect systems) shall be filtered and/or shielded to prevent the emission of generated radio frequency energy which would cause any interference with radio, and/or television broadcasting or reception, and shall comply with Federal Communication Commission Rules.
  - 4) *Noise*: Subject to regulation under the Anti-Noise and Public Nuisance Ordinance. (See Section IV. (A.) of Ordinance No. 137, as amended.)
- D. *Site development*: The following site development requirements shall apply:
- 1) *Lot Area/Setbacks*: No "small turbine/on-site" WECS shall be erected on any lot or parcel less than one (1) acre in area and no "large turbine/utility grid" WECS shall be erected on any parcel less than twenty (20) acres in area. The tower(s) shall be situated on the lot or parcel so that no portion of the tower or turbine is closer to above-ground

utility lines and/or property lines than 150% of the height of the tower as defined in (b) below. For roof-mounted systems, the minimum setback from any property line shall be no less than 110% of the combined height of the roof location and system, including any blades.

- 2) *Height:* The maximum allowable height for any "small turbine/on-site" WECS, based upon the combined tower and rotor blade length, shall be eighty (80) feet for parcels of one (1) to less than five (5) acres, one hundred (100) feet for parcels of five (5) to less than ten (10) acres and up to one hundred and twenty (120) feet for parcels of ten (10) acres or more. The maximum allowable height for any "large turbine/utility grid" WECS, based upon the combined tower and rotor blade length, shall be three hundred (300) feet. The Planning Commission may waive this height requirement where in its sole reasonable discretion it determines that such height and location would not negatively impact adjoining properties. *Ground Clearance:* For both horizontal and vertical axis turbines, the WECS rotor shall be located on the tower or support such that the blade clearance above ground level is not less than 20 feet.
  - 3) *Design:* The tower shall be of monopole design. The tower shall be of a color and finish to minimize visibility and shall not be lighted unless required by the FAA. The Planning Commission may waive these design requirements if it determines that such alternative design is consistent with the intent of this regulation.
  - 4) *Accessibility:* Towers shall be designed and constructed in such a manner that climbing devices are only accessible with a separate ladder to a height of 12 feet or provided for a secured access.
  - 5) *Connection to power grid:* In the case of a WECS to be interconnected with the power grid of the local electric utility, the applicant shall provide proof of written notice to the utility of the proposed interconnection and the utility's response thereto.
  - 6) *Vibration:* Under no circumstances shall a WECS produce vibrations humanly perceptible beyond lot boundaries.
  - 7) *Additional studies:* The applicant may offer and submit, or the Planning Commission may require that the applicant submit, studies related to noise, vibration, or similar issues that may be considered a nuisance. In addition, studies may be required to address avian and wildlife impact, visual impacts, shadow flicker (changes in light intensity caused by the moving blade) or similar issues related to the compatibility of the proposed use in the requested location.
- E. *Plan for WECS Removal:* The applicant shall submit with its application a plan that indicates the design life of the WECS, the estimated cost for the removal of the WECS and the manner in which the WECS shall be removed and the site reclaimed once the WECS is no longer in operation. The owner of the WECS shall, within twelve (12) months after the WECS ceases to be in operation either: (1) remove the WECS in accordance with the removal plan submitted hereunder or (2) repair or replace the deficient WECS component(s) and resume operation of the WECS. All replacement components shall conform in all material respects to the components they replace, (e.g., height, setback, noise, vibration, shadow flicker, wildlife impact, other impacts on the surrounding area) or receive amended special exception use permit approval from the Planning Commission. The Planning Commission shall have authority, if it deems it necessary to assure satisfaction of the general standards for special exception use permit approval, to require the applicant to file and maintain with the Township a financial guaranty in an adequate amount to cover the cost of the proper removal of the WECS. The financial guaranty shall be in the form of cash, certified check or an irrevocable bank letter of credit in a form acceptable to the Township and shall give the Township the right, but not the obligation, to use such funds to cause the removal of the WECS if the owner fails to do so within the time frame prescribed herein.

(Added: Ord. No. 439, § I, 9-21-09; Ord. No. 456, § III, 9-17-12)

## ARTICLE 21.50

### 300.2150 - LANDSCAPING

## 300.2151 - Statement of purpose.

Sec. 21.51. The purpose of this Section is to identify the landscaping objectives by setting forth minimum yet flexible standards for required landscape areas for those uses requiring site plan review. The objectives of the landscape requirements work to accomplish the following:

- Increase compatibility between abutting uses including roads and to provide buffering between dissimilar land uses.
- Protect residential quality of life.
- Improve air quality, provide shade and reduce noise.
- Decrease wind velocity, reduce soil erosion and increase surface water retention.
- Reduce glare from buildings, cars, night lighting, and other sources.
- Screen unattractive features.
- Provide visual relief from monotonous features such as building walls, large parking lots and streets.
- Encourage use of native plants as they are well adapted to local conditions, reduce the need for fertilizers, pesticides and water, and are less expensive to maintain.

(Ord. No. 484, § I, 10-24-16)

## 300.2152 - Scope.

Sec. 21.52. All uses subject to site plan review shall be landscaped in accordance with a plan meeting the requirements of this Section.

(Ord. No. 484, § I, 10-24-16)

## 300.2153 - General provisions.

Sec. 21.53.

- A. Portions of the site not devoted to floor area, parking, access ways or pedestrian use shall be landscaped with live plant material consisting of deciduous canopy and coniferous trees, understory trees, shrubs, ground cover, and grasses and maintained in a neat and orderly manner.
- B. A landscaping plan drawn to scale shall be submitted detailing the location, type and size of all plant material, berms, walls and fences, and their relationship to existing and proposed facilities, structures, pavement, and access points. It must be of sufficient detail for the reviewing body to determine conformity with this section. Plans shall be reviewed pursuant to this Section and Section 22 - Site Plan Review Procedures.
- C. Landscaping material and structures shall be placed in such a manner so as to not interfere with cross-visibility, public safety, or the safe movement of vehicles and pedestrians.
- D. Completion of landscaping shall coincide with the completion of the building or structure unless a later date is permitted in writing by the Township and a performance guarantee is provided, pursuant to Section 27.04.
- E. Any areas that become disturbed for any reason shall be restored in accordance with the original landscape plan unless approved otherwise in writing by the Township.

(Ord. No. 484, § I, 10-24-16)

## 300.2154 - Landscaping.

Sec. 21.54. The landscaping terms contained in this Ordinance are defined as follows:

- Caliper - The trunk diameter of a nursery tree in inches measured at 12" above grade.
- Greenspace - Landscaped area around the perimeter of a lot.



- Ground Cover - Plant material that normally reaches a maximum height of not more than 18 inches.
- Shrub, Deciduous - A woody plant with several stems, smaller than a tree, that drops its foliage at the end of the growing season. Mature height ranges from three to 13 feet.
- Shrub, Evergreen - A woody plant with several stems, smaller than a tree, with foliage that remains green year-round. Mature height ranges from three to 13 feet.
- Shrub, Low growing - A woody plant with several stems, sometimes referred to as dwarf, usually evergreen. Mature height ranges from 1½ to three feet.
- Tree, Canopy - Tall woody plant of a species that normally grows to an overall height of at least 50 feet, usually with one main trunk and many branches.
- Tree, Evergreen - Woody plant of a species with foliage that remains green year-round, usually with one main trunk and many branches. Normally grows to a height of at least 25 feet.
- Tree, Understory - Woody plant of a species that normally grows to an overall height of at least 25 feet, usually with one main trunk and many branches. May be of an ornamental nature.
- Viewshed. The natural environment that is visible from one or more viewing points.

(Ord. No. 484, § I, 10-24-16)

300.2155 - Greenspace areas.

Sec. 21.55.

- A. The following table (Table 21A) indicates greenspace landscaping requirements stated in terms of depth of the greenspace as measured from the property line or right-of-way line, whichever is applicable, and the number and type of plant units required per 100 linear feet of greenspace. The clustering of plant material within a greenspace is encouraged.

**Table 21A - Landscaping Requirements**

**Greenspace Depth and Plant Material Quantities per 100 Linear Feet**

Greenspace Type	A	B	C	D	E
Minimum depth of greenspace (feet)	10	10	20	25	30
Canopy tree	1	2	2	3	4
Understory tree	2	4	3	6	6
Shrubs	-	-	4	9	12
Evergreen/Conifer tree	-	2	-	2	4

- B. Table 21B indicates the Greenspace Type required on properties based upon zoning and road classification. The letter designations indicated in Table 21B refer to the requirements and standards stated in Table 21A.

**Table 21B - Greenspace Type**

Zoning of Subject Site <sup>1</sup>	Adjacent Zoning or Road Classification										
	AGR	A-H	R-1A R-1B R-1C	RM RMH	O-1	CC	B-1 B-2 B-3	LM LD M	O W	Arterial, Collector or Local	Private Street Easement
AGR <sup>2</sup> A-H <sup>2</sup>	C	C	C	B	A	-	A	B	A	C	A
R-1A <sup>2</sup> R-1B <sup>2</sup> R-1C <sup>2</sup>	A	A	A	A	B	-	B	B	A	C	A
RM RMH	E	E	E	B	B	-	B	B	A	C	A
O-1	B	B	C	A	A	A	B	B	A	C	A
B-1	B	B	D	D	B	A	C	C	C	C	A
B-2 B-3	D	D	E	D	D	A	C	C	C	C	A
LM LD M	D	D	E	D	C	-	C	C	C	C	A
OW	-	-	A	-	-	-	-	-	A	-	-
CC	-	-	A	A	-	A	A	-	-	n/a	n/a

1

Greenspace type for Special Exception Uses may be increased by the Planning Commission based upon review of the criteria of Section 4.13.

2

Criteria apply to permitted uses other than farms, single- or two-family dwellings, home occupations unless other determined necessary by the Planning Commission and uses accessory to single- and two-family dwellings.

- C. Berms - Landscaped undulating earthen berms not exceeding six feet in height, as measured from the grade of the abutting paved area, either existing or proposed, of the subject site, and 3:1 slope may be permitted within a required greenspace. Credit of up to 25 percent may be received against the required plantings in a greenspace with the use of berms three feet in height or greater in said greenspace.
- D. No off-street parking, storage, outdoor commercial or industrial ground activities, or structures shall be permitted in greenspace areas.

(Amended: Ord. No. 484, § I, 10-24-16; Ord. No. 512, § III, 6-15-20)

## 300.2156 - Screening.

Sec. 21.56. Whenever screening is required by this ordinance, one of the following methods or combinations thereof may be required by the Planning Commission based upon the specific character of the proposed use of the subject property and the nature of the surrounding property, shall be utilized, unless otherwise specified in lieu of the provisions of Section 21.55:

- A. A natural compact planting area of narrow upright evergreens planted at no greater lineal spacing than 3 feet on center or 4½ feet on center when planted on 45° alternate spacing, which maintain their density and screening effect throughout the year; and which shall be maintained in a neat and attractive manner commensurate with adjoining development. An alternate spacing and species plan may be presented provided that it can achieve a compact density which can serve as an immediate screen.
- B. A wall or fence of sufficient density or compactness to screen the structures and activities required to be screened from the view of occupants of adjoining premises or public highways, not less than 6 feet in height, and maintained in a neat and attractive manner commensurate with adjoining development. (See Section 4.06.4 for additional fencing regulations.)
- C. A berm of not less than fifteen (15) feet in width and four (4) feet in height, landscaped with shrubs, evergreen trees, or small deciduous trees planted at not less than one (1) unit per every one hundred (100) square feet of surface area. The balance of the berm shall be covered with lawn, ground cover, bark or wood chips, boulders, cobble, river rock or any combination thereof.
- D. The Planning Commission shall have authority to approve an alternate form of screening if the Planning Commission determines that such alternate form of screening will, given the specific character of the proposed use of the subject property and the nature of the surrounding property, be adequate to accomplish the purposes of screening under this Ordinance and that allowance of such alternate form of screening shall not have a material adverse impact upon the owners and/or occupants of adjoining lands. The burden of proof to show these standards are satisfied shall be on the party seeking approval of such alternate form of screening.

(Ord. No. 484, § I, 10-24-16)

## 300.2157 - Plats/site condominiums.

Sec. 21.57. The following section applies to all residential plats and site condominiums:

- A. Street trees along internal roadways: Each lot within a plat or site condominium shall be required to have at least one canopy tree for every 80 feet of road frontage or portion thereof. The planting of additional canopy trees along streets is encouraged. Trees shall be planted near the street but outside of the right-of-way of all internal roadways. Required street trees shall be planted when the lot or building site is developed, prior to issuance of a Certificate of Occupancy.
- B. Greenspace along external roadways: In order to preserve viewsheds on Township roads, plantings in compliance with Table 25B shall be provided.
- C. Existing trees and vegetation: To the extent feasible, existing trees and vegetation shall be left undisturbed through the course of development. Existing canopy trees may be credited toward satisfying tree planting requirements.
- D. Replacement: Required trees and plantings shall be maintained to ensure their survival. At the discretion of the Planning Commission, a performance guarantee may be required to ensure that proposed landscaping is maintained for a period of at least 18 months per Section 21.62. Such guarantee may take the form of an irrevocable letter of credit, certified check, cash escrow, or performance bond.

(Ord. No. 484, § I, 10-24-16)

## 300.2158 - Parking lots.

Sec. 21.58. Parking lot landscaping shall be designed and situated to define safe access and circulation routes, provide shade and visual relief, and diminish the scale of large lots.

Landscape features, including end islands, peninsulas, and strips shall be installed in the interior of parking lots to delineate on-site circulation, ensure adequate sight distance at the intersection of aisles and interior roadways, and to prevent diagonal vehicular movement through parking lots. Features shall be designed with sufficient radii to ensure drivers are able to make 90-degree right turns without encroaching upon landscaping or adjacent traffic lanes.

1. Area Requirements based on the number of parking spaces are indicated in Table 21-C.

**Table 21C - Parking Lot Landscaping**

Spaces	Land area per parking space
9 or less	10 square feet
10—49	15 square feet
51—99	25 square feet
100 +	30 square feet

2. Minimum size - The minimum size of any internal landscaped area shall be 300 square feet, with a minimum width of 15 feet. Landscaping islands larger than 300 square feet are encouraged to enhance visual effect as viewed from the abutting road.
3. Protection of Landscaping - Interior landscape areas shall be protected by the installation of a raised concrete or asphalt curb, anchored landscape timbers around the border, bumper blocks, or other suitable means. A minimum distance of three feet shall be established between proposed tree and shrub plantings and the backside of the curb or timbers to facilitate snow storage while protecting the plantings.
4. Required Plantings - The number and type of plantings shall be determined at a rate of one deciduous canopy tree and two low growing shrubs per 300 square feet of interior landscape area.

(Ord. No. 484, § I, 10-24-16)

300.2159 - Loading areas.

Sec. 21.59. Loading areas shall be landscaped in such a manner as to screen the area from view of adjacent property, public right-of-way or private access easement. Plants, berms, walls, and/or solid decorative fencing may be used. When loading areas are adjacent to residentially zoned or used land, the screening must be a minimum of six feet high at installation.

(Ord. No. 484, § I, 10-24-16)

300.2160 - Rubbish disposal and recyclables facilities.

Sec. 21.60. Rubbish disposal facilities including dumpsters and other commercial containers for waste and recyclable material shall be situated on a hard surface and enclosed by a solid wall or solid fence no less than six (6) feet in height on three sides. In addition, if the front of the disposal facility is visible from an adjacent property, public right-of-way or private access easement, six-foot high view

obstructing doors shall be installed. Enclosure structures and gates shall be maintained in good repair at all times. The use of chain-link fencing with or without interwoven slats is not permitted.

Recyclable materials, such as pallets and bales, shall be situated and enclosed as described above unless waived by the reviewing body.

(Ord. No. 484, § I, 10-24-16)

300.2161 - Stormwater retention areas.

Sec. 21.61. Any fenced areas that are visible from an adjacent property, public right-of-way or private access easement shall be landscaped to screen them from view.

(Ord. No. 484, § I, 10-24-16)

300.2162 - Material requirements and maintenance.

Sec. 21.62.

- A. At least 50 percent of required canopy trees shall be native to Lower Michigan. At least 30 percent of all other required landscape material within each Plant Material Type shall be native to Lower Michigan. For a listing of species native to Lower Michigan, see MICHIGAN FLORA ONLINE at [www.michiganflora.net](http://www.michiganflora.net).
- B. Hardy Plant Materials. All landscaping material shall be hardy to the area and appropriate to the situation in which it is proposed, free of disease and insects, and conform to the American Standard for Nursery Stock of the American Association of Nurserymen.
- C. Minimum Plant Size. Plant materials shall meet the minimum plant size requirements contained in Table 21D. Height of a plant is measured from the top of the root ball or top of the container soil to the top of the leader, the primary stem of the plant.

**Table 21D - Minimum Size**

Plant Material Type	Size
Canopy Tree: Single Stem	2" caliper
Canopy Tree: Multi-stem, Clump	10 feet (height)
Understory Tree	8' to 10' (height)
Evergreen Tree	5 feet (height)
Shrub: Deciduous	24 inches (height)
Shrub: Evergreen	18 inches (height)
Shrub: Low growing	2-gallon pot

- D. Monoculture. The use of a single species is prohibited to increase the rate of plant survival. Except for plantings used for evergreen screening, no one species of tree or shrub may make up more than 50% of the total amount within each Plant

Material Type.

- E. Species not permitted as required street tree plantings and that should be used with caution when placed in proximity to any existing or proposed building, structure, walkway, or parking area are listed in Table 21E. These species may be appropriate in buffer areas or for landscape restoration.

**Table 21E - Species of Special Consideration**

Botanical Name	Common Name
Acer negundo	Box Elder
Acer saccharinum	Silver Maple
Aesculus hippocastanum	Horse Chestnut
Ailanthus altissima	Tree of Heaven
Catalpa speciosa	Catalpa
Ginkgo biloba (Female)	Female Ginkgo
Populus spp.	Poplars, Cottonwood, Aspen
Liquidambar styraciflua	Sweet Gum
Salix spp.	Willows
Ulmus spp.	Elms

- F. Any species known to have structural weakness or excessive bearing of fruit or nuts should not be used in areas of vehicular or pedestrian traffic.
- G. Invasive species. To protect species indigenous to the Township, the use of invasive species which naturalize is not permitted. Those invasive species not permitted are listed on the Midwest Invasive Species Information Network at <http://www.misin.msu.edu/>.
- H. Maintenance. Landscape areas shall be maintained in a neat and orderly manner including mowing, fertilizing, pruning, and irrigation to promote optimum condition.
- I. Replacement. Withered and/or dead plant materials shall be replaced within a reasonable period of time but no longer than one growing season later.
- J. Shrubs shall be grouped within the required greenspace and parking lot landscape areas when appropriate for aesthetic value and ease of maintenance.

(Ord. No. 484, § I, 10-24-16)

300.2163 - Preservation of existing trees.

Sec. 21.63. Credit shall be awarded for preserving canopy trees. By preserving canopy trees, tree planting requirements can be significantly reduced. The number of credits awarded for tree preservation shall be in accordance with Table 21F. Trees intended to be preserved shall be indicated on the landscape plan and type and size shall be noted. Tree protection fencing shall be required according to Section 21.65.

**Table 21F - Tree Preservation Credits**

Diameter of Preserved Tree*	Number of Trees credited
Over 24 inches	4
12 inches to 24 inches	3
8 inches to 11.9 inches	2
2 inches to 7.9 inches	1

\* Diameter measured at 4' above ground level

(Ord. No. 484, § I, 10-24-16)

300.2164 - Preservation of existing native vegetation.

Sec. 21.64. Credit shall be awarded for preserving existing vegetation native to Lower Michigan, including shrubs and grassland species. By preserving existing native vegetation, tree and shrub planting requirements can be significantly reduced. The number of credits awarded shall be determined by the Zoning Administrator based on existing species and the intended function of the required tree and shrub plantings.

(Ord. No. 484, § I, 10-24-16)

300.2165 - Tree protection prior to and during construction.

Sec. 21.65.

- A. Before development, the developer or builder shall erect tree protection fencing that will shield and protect all trees designated to be preserved. Fencing should be placed no closer than ten feet from the trunk of a tree or five feet beyond the drip line of a tree or group of trees, whichever is greater.
- B. Fencing shall be a minimum of 48 inches high.
- C. Tree protection fencing shall be maintained during construction and all construction materials, supplies, and equipment shall be kept out of the protected areas.
- D. Location of tree protection fencing must be shown on the approved landscape plan.

(Ord. No. 484, § I, 10-24-16)

300.2166 - Provisions for existing sites.

Sec. 21.66.

- A. Perimeter and parking area landscape requirements shall apply to all expansions, renovations, or alterations that

increase the gross floor area. Each increase in gross floor area of one percent shall require the installation of a minimum of five percent of the landscaping for the total site.

- B. Landscape requirements for Parking Areas, Section 21.58 shall apply when expansions increase the number of parking spaces by 20 percent or at least ten parking spaces.
- C. When parking lots not in conformance with Section 21.50 are milled and resurfaced landscaping in accordance with Section 21.58 is encouraged.

(Ord. No. 484, § I, 10-24-16)

#### 300.2167 - Exceptions.

##### Sec. 21.67.

- A. Additional Planting Requirements - For reason of conflicting uses, unfavorable topography, or other unique or extenuating physical circumstances, the reviewing body may increase required landscape plantings in any required greenspace if in its determination an increase is found necessary to reasonably achieve the spirit, purpose and intent of this Section.
- B. Reductions and Substitutions of Plantings - If a physical hardship exists or existing topography and vegetation are determined by the reviewing body to provide equal or better landscape and buffering effect, the reviewing body may approve modifications only to the planting requirements of Section 21.55. The reviewing body may require such alternate plantings and visual screens as hedges, fences, walls, and/or combination thereof which it deems necessary to ensure compliance with the spirit, purpose and intent of this Section.

(Ord. No. 484, § I, 10-24-16)

#### 300.2168 - Greenspace within the public right-of-way and private access easements.

Sec. 21.68. The land area lying between the required greenspace in the front yard of properties and the edge of pavement of a public or private access easement shall be neatly maintained with grass or groundcover.

(Ord. No. 484, § I, 10-24-16)

### ARTICLE 22.00

#### 300.2200 - SITE PLAN REVIEW PROCEDURES

##### 300.2201 - Scope.

Sec. 22.01. The intent of this Article is to provide for consultation and cooperation between land developers and the Township in order that the developer may accomplish his or her objectives in the utilization of his or her land within the regulations of this zoning ordinance and with minimum adverse effect on the use of adjacent streets and highways and on existing and future uses in the immediate area and vicinity. Prior to the issuance of a building permit, to the creation of a use or the erection of a building in the district and under the conditions cited below, a site plan shall be submitted in accordance with this Article to the Planning Commission for approval. Site plans shall be required for the following uses and related development:

##### Sec. 22.01.1. *For Permitted and Special Exception Uses In.*

- a) Cluster Housing District (excluding single-family dwellings).
- b) Multiple-Family Residential District (excluding single-family dwellings).
- c) Mobile Home Park District, excluding mobile home parks and mobile homes.



- d) Office District.
- e) All Business Districts.
- f) All Manufacturing Districts.

Sec. 22.01.2. *For Special Exception Uses In.*

- a) Agriculture-Residential District.
- b) Agriculture-Horticultural District.
- c) Single-Family Residential Districts.
- d) Open Wetlands District.

Sec. 22.01.3. The Planning Commission may approve a site plan lacking one or more of the site plan informational requirements set forth in Section 22.02 if the Planning Commission determines, in its sole reasonable discretion, that the nature of the use or development, the subject property and/or the neighboring properties, makes the provision of such information unnecessary to determine whether the site plan satisfies the standards set forth in Section 22.04. A site plan shall, however, contain at a minimum the following information:

- (a) A North Arrow and notation of the scale used.
- (b) All property lines shall be shown with their dimensions;
- (c) Location and dimensions of all existing and proposed structures on the subject property and any existing buildings on adjacent property within fifty (50) feet of the subject property.
- (d) The date, and the name and address of preparer.

Sec. 22.01.4. Repealed per Ordinance No. 359.

Sec. 22.01.5. Repealed per Ordinance No. 359.

(Amended: Ord. No. 264, 3-7-88; Ord. No. 309, 5-4-92; Ord. No. 359, 6-1-98; Ord. No. 408, §§ XXI, XXII, 11-17-03, Ord. No. 459, § III, 11-19-12; Ord. No. 473, § XI, 11-16-15)

300.2202 - Site plan.

Sec. 22.02. Except as otherwise provided in this ordinance, the site plan shall contain the following information:

- a. The date, including revision dates if applicable, north arrow, and scale. The scale shall be not less than one (1) inch equals twenty (20) feet for property under (3) acres and at least one (1) inch equals one hundred (100) feet for those three (3) acres or more.
- b. All lot and/or property lines are to be shown and dimensioned, including building setback lines.
- c. The location and height of all existing and proposed structures on the site and the location of buildings within one hundred (100) feet of the subject property.
- d. The location and dimensions of all existing and proposed drives, sidewalks, curb openings, signs (showing sign height and, if the sign is a high-rise sign, the base elevation of the sign), exterior lighting, parking areas (show dimensions of a typical parking space), loading/unloading areas, and recreation areas.
- e. The location and the pavement and right-of-way and/or easement width of all abutting roads, streets, or alleys.
- f. For buildings, uses, or facilities other than a privately owned one-family or two-family dwelling, the site plan shall be prepared by or under the supervision of a professional engineer, architect, architectural engineer, or land surveyor licensed or registered by the State of Michigan. The site plan shall contain the name and firm address of the professional engineer, architect, or land surveyor responsible for the preparation of the site plan, and the professional seal and signature of that person.
- g. The name and address of the property owner or petitioner.

- h. The location of all rubbish receptacles and the location, height, and type of enclosures, fences and walls. Landscaping shall in accordance with the provisions of Section [Article] 21.50.
- i. The location and type of drainage, sanitary sewers, storm sewers, and other utility mains and facilities including location of interior and exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store or transport storm water or wastewater.
- j. Location of all fire hydrants, emergency vehicle accessibility.
- k. A summary schedule should be affixed, if applicable, which gives the following data:
  - 1) The number of dwelling units proposed, to include the number, size and location (by code if necessary) of one-bedroom units, two-bedroom units, mobile home sites, etc.
  - 2) The residential area of the site in acres and in square feet, including breakdowns for any subareas or staging areas (excluding all existing rights-of-way).
- l. The location of existing and proposed facilities and structures for public and private groundwater supply wells and for septic systems and other wastewater treatment systems.
- m. Existing and proposed contours shall be shown on all site plans (two [2] feet intervals minimum) as may be required by the Township Engineer.
- n. For multiple-family development site plans, typical elevation views of the front and side of each type of building proposed, as well as typical dimensioned floor plans for each type of dwelling unit.
- o. The construction specifications, locations, depth, size, and anticipated use for each underground and aboveground storage tank to be used on the site.
- p. All interior and exterior areas to be used for the storage, use, loading/unloading, recycling, or disposal of hazardous substances.
- q. The point of discharge for all drains and pipes on the site.
- r. Natural features, including the location of existing wetlands and marshlands on the site, woodlots, soil characteristics of the site at least to the detail provided to the U.S. Soil Conservation Service, water bodies, watercourses and floodplains.
- s. Percentage of land covered by buildings and that reserved for open space.
- t. A line demarcating the limits of land clearing on a site. Land clearing shall be limited to that needed for the construction of buildings, structures, parking lots, street right(s)-of-way, drainage and utility areas, other site improvements, and any grading necessary to accommodate such construction.
- u. A fully completed State/County Environmental Permits Checklist.
- v. A fully completed Hazardous Substance Reporting Form.
- w. A fully completed Site Plan Review Checklist.
- x. A fully completed Planning and Zoning Application and review fee as determined by resolution of the Township Board.
- y. Floodplain Certification, if applicable.

(Amended: Ord. No. 240, 9-4-84; Ord. No. 243, 2-19-85; Ord. No. 274, 1-17-89; Ord. No. 290, 6-18-90; Ord. No. 330, 3-20-95; Ord. No. 344, 7-15-96; Ord. No. 359, 6-1-98; Ord. No. 408, § XXIII, 11-17-03; Ord. No. 473, § XI, 11-16-15; Ord. No. 484, § XI, 10-24-16)

### 300.2203 - Submittal.

Sec. 22.03. Three hard copies and one electronic copy of the site plan shall be presented to the Zoning Administrator for scheduling of review by the Planning Commission at least four (4) weeks prior to that meeting of the Planning Commission at which the plan will be reviewed. Copies shall be distributed by the Zoning Administrator to the Township Engineer and the Fire Marshall for review, comment and compilation with the Zoning Administrator's findings and provided to the applicant by the Zoning Administrator. Additional full-size copies, 11" x 17" copies, and an electronic copy of the revised site plan, reflecting the review comments, shall be

submitted to the Zoning Administrator for Planning Commission review at least two weeks prior to the meeting at which the plan will be reviewed or as requested by the Zoning Administrator. The Zoning Administrator will advise as to the number of copies to be provided.

(Amended: Ord. No. 408, § XXIV, 11-17-03; Ord. No. 418, § II, 12-6-04; Ord. No. 473, § XI, 11-16-15; Ord. No. 521, § IX, 9-20-21)

### 300.2204 - Approval.

Sec. 22.04. The Planning Commission shall have the function, duty and power to approve or disapprove, or to approve subject to compliance with certain modifications or conditions, the site plan in accordance with the purpose and intent of this Zoning Ordinance and after consideration of the comments and recommendations received from other appropriate Township officials. A public hearing is not required for a permitted use. In reviewing the application and site plan and in approving, disapproving or modifying the same, the Planning Commission shall be governed by the following standards:

- a. That there is a proper relationship between the existing streets and highways within the vicinity and proposed deceleration lanes, service drives, entrance and exit driveways and parking areas to insure the safety and convenience of pedestrian and vehicular traffic.
- b. That the buildings, structures and entryways thereto proposed to be located upon the premises are so situated as to minimize adverse effects therefrom upon owners and occupants of adjacent properties and the neighborhood in general.
- c. Judicious effort shall be demonstrated to preserve the integrity of the land, existing topography, natural features (i.e., slopes, woodlands, etc.) and natural drainage patterns to the greatest extent feasible. That as many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.
- d. That any adverse effect of the proposed development and activities emanating therefrom upon adjoining residents or owners, shall be minimized by appropriate screening, fencing, landscaping, setback and location of buildings, structures, and entryways thereto.
- e. That all provisions of the Township Zoning Ordinance are complied with unless an appropriate variance therefrom has been granted by the Zoning Board of Appeals.
- f. That the height and location of all portions of buildings and structures are accessible to emergency vehicles and available equipment.
- g. That the plan, as approved, is consistent with the intent and purpose of zoning to promote public health, safety, morals and general welfare; to encourage the use of lands in accordance with their character and adaptability; to avoid overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements; to conserve the expenditure of funds for public improvements and services; to conform with the most advantageous uses of land, resources and properties; to conserve property values and natural resources; and to give reasonable consideration to the character of a particular area, its peculiar suitability for particular uses and the general and appropriate trend and character of land, building and population development.
- h. That the plan as approved is consistent with the Groundwater Protection Standards in Section 22.50 [300.2250] of this Ordinance.
- i. That the plan will not result in any additional run off of surface waters onto adjoining properties or streets.

(Amended: Ord. No. 240, 9-4-84; Ord. No. 274, 1-17-89; Ord. No. 311, 6-15-92; Ord. No. 344, 7-15-96; Ord. No. 473, § XI, 11-16-15; Ord. No. 521, § IX, 9-20-21)

## 300.2205 - Conformity, revocation and modifications.

Sec. 22.05. Property which is the subject of Site Plan approval must be developed in strict compliance with the approved Site Plan and any approved amendments thereto or modifications approved pursuant to this Section. If any site is not developed in compliance with said Site Plan, the approval shall be revoked. Notice of such revocation shall be made by written notice by the Township to the developer at the last known address. Upon revocation of Site Plan approval, no further construction activities may be commenced upon the site other than for the purpose of correcting any violations.

The Township may, upon proper application by the developer and in accordance with the procedure established in this ordinance, approve a modification to the Site Plan to coincide with the developer's construction, provided such construction satisfies the criteria placed upon the previously granted Site Plan approval and the Zoning Ordinance.

Once Site Plan approval has been granted by the appropriate reviewing body, significant changes to the approved Site Plan shall require a resubmission in the same manner as the original application except as provided herein. Minor changes to an approved Site Plan, at the discretion of the Zoning Administrator, may be administratively reviewed and approved provided such modifications comply with the criteria contained in the Site Plan approval and with the spirit, purpose and intent of the Township Zoning Ordinance.

(Amended: Ord. No. 408, § XXV, 11-17-03; Ord. No. 473, § XI, 11-16-15)

## 300.2206 - Optional conceptional plan review.

Sec. 22.06. Preliminary sketches of proposed site and development plans may be submitted for a conceptual plan review meeting with the Zoning Administrator or Planning Commission prior to formal review. The purpose is to allow discussion as to the acceptability of the proposed plans prior to incurring extensive engineering and other costs which might be necessary for final Site Plan approval. Such sketch plans shall include as a minimum the following:

- (a) The name and address of the applicant or developer, including the names and addresses of all officers of a corporation or partners of a partnership.
- (b) A legal description of the property.
- (c) Sketch drawings showing tentative site and development plans.

The Zoning Administrator and Planning Commission shall not be bound by any tentative approval given at this time.

(Ord. No. 473, § XI, 11-16-15; Ord. No. 490, § III, 10-16-17)

## 300.2207 - Reserved.

Deleted and reserved by Ordinance No. 473.

## 300.2208 - Reserved.

Deleted and reserved by Ordinance No. 473.

## 300.2209 - Expiration of approval.

Sec. 22.09. Approval of a site plan shall be valid for a period of eighteen (18) months after the date of approval. If any required building permit has not been obtained and on-site construction or establishment of the proposed use has not actually commenced within said eighteen (18) month period, the site plan approval shall become void and a new application for site plan approval shall be required and approval obtained before any construction or new use is commenced upon the site.

(Ord. No. 364, 11-16-98; Ord. No. 473, § XI, 11-16-15)

## 300.2210 - Administrative review and approval.

Sec. 22.10. In lieu of site plan review conducted by the Planning Commission, the Zoning Administrator may review site plans or amendments to approve site plans if:

- (1) Such plans relate to an expansion of an existing permitted use or a change from one permitted use to another permitted use and the proposed modification consists solely of the establishment or expansion of an accessory building OR the proposed modification involves the expansion of a principal building by no more than 50% of the existing building's footprint 20,000 square feet, whichever is less.
- (2) Such plan is a new site plan relating to a special exception use and the Planning Commission at the time of granting special exception use approval specified that site plan review of the special exception use could be conducted by the Zoning Administrator.
- (3) Such plan is an amendment to a site plan for an existing special exception use and:
  - a. There is no proposed change in use;
  - b. Such amended plan satisfies all the conditions originally attached to special exception use approval; and
  - c. The plan satisfies subsection (1) above.

The Zoning Administrator in conducting site plan review may waive one or more of the site plan informational requirements set forth in Section 22.02 if the Zoning Administrator determines, in his/her sole reasonable discretion, that the nature of the use or development, the subject property and/or the neighboring properties, makes the provision of such information unnecessary to determine whether the site plan satisfies the standards set forth in Section 22.04. A site plan shall, however, contain at a minimum the following information:

- (1) A North arrow and notation of the scale used.
- (2) All property lines shall be shown with their dimensions.
- (3) Location and dimensions of all existing and proposed structures on the subject property and any existing buildings on adjacent property within fifty (50) feet of the subject property.

If the Zoning Administrator concludes that an application does not satisfy the standards for site plan approval, he/she shall communicate this to the applicant and give the applicant the opportunity to modify its application in a manner which the Zoning Administrator determines will satisfy the standards for site plan approval. If the applicant fails to make such modifications, then the Zoning Administrator shall forward the application to the Planning Commission for its approval or disapproval as the Planning Commission deems appropriate.

The above provisions for administrative site plan review shall in no way be deemed to deprive a Zoning Administrator of discretion to refer any site plan review application directly to the Planning Commission for its review and approval or denial.

(Ord. No. 451, § II, 3-7-11; Ord. No. 473, § XI, 11-16-15; Ord. No. 409, § IV, 10-16-17)

## ARTICLE 22.50

### 300.2250 - ENVIRONMENTAL PROTECTION

#### 300.2251 - Groundwater Protection Standards.

##### Sec. 22.51.

- A. *Scope.* These provisions shall apply to all businesses and facilities, including private and public facilities, which use, store, or generate hazardous substances in quantities greater than 100 kilograms per month (equal to 25 gallons or 220 pounds).
- B. *Standards.*

1. Land use and the design of related improvements should seek to protect the natural environment, including wetlands, watercourses, floodplains, groundwater, and soils.
2. The design of stormwater management and drainage facilities should seek to retain the natural retention and storage capacity of any wetland, water body, or watercourse and not increase flooding or the possibility of polluting surface or groundwater, on-site or off-site.
3. General purpose floor drains shall be connected to an approved public sewer system, an on-site closed holding tank (not a septic system) or as authorized and regulated through a State of Michigan groundwater discharge permit.
4. Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the surface of the ground, groundwater, lakes, streams, rivers, or wetlands.
5. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.
6. Secondary containment for aboveground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
7. Outdoor storage of hazardous substances shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage, and vandalism, and where same complies with the standards of this Section with regard to secondary containment.
8. The design and construction of areas and facilities for loading/unloading of hazardous substances shall be designed to prevent spills and discharges to the surface of the ground, groundwater, lakes, streams, rivers, or wetlands.
9. Bulk storage facilities for pesticides and fertilizers shall be in compliance with requirements of the Michigan Department of Agriculture.
10. Out-of-service water wells shall be sealed and abandoned in accordance with applicable requirements of the Michigan Department of Public Health.
11. Underground storage tank installation, operation, maintenance, closure, and removal shall be in accordance with the requirements of the State Fire Marshall Division and the Michigan Department of Environment, Great Lakes and Energy (EGLE).

( Ord. No. 521, § XI, 9-20-21 )

#### 300.2252 - Stormwater management.

Sec. 22.52. The Comstock Charter Township Zoning Ordinance is hereby amended adding a new section, Section 22.52, to read as follows:

A. *Statement of purpose.* The purpose of the Section shall be to:

1. Protect the public health, safety, welfare and property;
2. Promote the efficient use of land and water resources;
3. Provide for cost-effective and functionally effective stormwater management;
4. Prevent soil erosion and sediment runoff;
5. Encourage the use of natural drainage systems for runoff;
6. Encourage multiple-purpose stormwater management which enhances the environmental character;
7. Allow the use of wetlands for stormwater management in selected locations, while ensuring that the natural functions and quality of wetlands are protected;
8. Allow for off-site and/or common stormwater systems;

9. Allow for stormwater management designs that are consistent with the aesthetic character of the area;
  10. Allow for Township review of clear cutting that may result in a loss of soil-stabilizing vegetation, erosion of stream banks, and alterations of drainage patterns that may impact immediate property, neighboring properties, areas in near proximity, and the overall environment;
  11. Encourage minimal clearing, grading and land disturbance activities to that needed for construction, maintenance, and emergency services;
  12. Discourage the clear cutting of vegetation without restoration in order to prevent the abuse of land and the resultant negative impacts, both on- and off-site;
  13. Encourage the preservation of existing trees and vegetation and the restoration of pre-settlement vegetation areas.
- B. *Stormwater management/soil erosion plan.*
1. Kalamazoo County Drain Commissioner review and approval of a stormwater management and soil erosion control plan shall be obtained and proof of a soil erosion and sedimentation control permit from the Kalamazoo County Drain Commissioner's office shall be provided prior to the commencement of any site/earth changes or work.
- C. *Stormwater management standards.* All land uses shall be subject to the following stormwater system design conditions and limitations:
1. All structures and land uses in the Township shall be established in such a manner as to prevent runoff of surface water not accommodated by a public system onto adjoining properties; all owners or developers of property shall be required to construct and maintain such on-site stormwater management and drainage facilities necessary to prevent flow of runoff of surface water onto adjoining properties. All systems shall be designed, at minimum, to provide sufficient capacity to accommodate a 100-year storm as defined by the National Weather Service.
  2. The design of stormwater management and drainage facilities should seek to retain the natural retention and storage capacity of any wetland, water body, or watercourse, not increase flooding or the possibility of polluting surface or groundwater, on-site or off-site, and retain natural runoff patterns.
  3. The design of stormwater management and drainage facilities should seek to be comparable in function and appearance to common natural drainage systems and runoff patterns, including wetlands.
  4. Whenever feasible, developers are encouraged to design a stormwater management system which provides for runoff to be conveyed using a system of filtered percolation through surface means such as swales and/or vegetated buffer strips (using indigenous plant species) so as to decrease velocity, increase natural infiltration, allow sediment to settle, and remove pollutants before entering the retention area.
  5. The use of a seed mixture containing at least 45% native grasses and wildflowers for swales and retention areas is encouraged.
  6. Stormwater management and drainage facilities shall be designed to protect the public health, safety, welfare and property and be visually attractive, see Section 21.61. Consideration shall be given to the effects of an excessive rainfall and a possible overflow event.
- D. *Soil erosion control.*
1. The natural topography and vegetation of a site shall be preserved to the maximum extent possible, except where major alterations are determined to be consistent with the purpose of the Ordinance as set forth in Section 22.52.A. [300.2252.A].
  2. Earth changes shall occur in such a manner that minimizes the exposure time of any disturbed land. Any area of the development not actively under construction shall be stabilized, and seeded if weather permits, within 30 days of completion of earth disturbing work in that area of the site.
  3. All owners or developers of property shall erect such temporary soil erosion control measures during construction and/or earth change activity as required by the Kalamazoo County Drain Commissioner's Office through the soil erosion and sedimentation control permitting process. For those activities that require such a permit, proof of having

obtained a Soil Erosion and Sedimentation Control Permit shall be provided to the Township before earth change activities commence.

4. All areas of a residential parcel, lot or site disturbed for the construction of a residence, except for driveways, walkways and required parking areas, shall be seeded or sodded within six months of the certificate of occupancy.
- E. *Stormwater runoff to wetlands.* Wetlands may be used for stormwater management if the following conditions are met:
1. The wetland would not be impaired or destroyed;
  2. The wetland has sufficient holding capacity for stormwater;
  3. Adequate on-site soil erosion control is provided to protect the natural functioning of the wetland;
  4. Adequate erosion control and protection of wetlands is provided during the construction phase(s) of development;
  5. The requirements of state law have been satisfied as determined by the State of Michigan Department of Environmental, Great Lakes and Energy (EGLE).
- F. *Off-site/common stormwater management systems.* Except as to those systems subject to the jurisdiction of the Road Commission of Kalamazoo County and/or the Kalamazoo County Drain Commission, the following conditions apply:
1. In lieu of an on-site stormwater management system, the use of off-site stormwater management systems may be proposed. Any waiver shall be granted through a finding that the stormwater management system design meets the purpose of this Ordinance set forth in Section 22.52.A. [300.2252.A]. Such a waiver is not subject to variance approval by the Zoning Board of Appeals.
  2. Off-site stormwater management systems shall be established through the execution and recording of an easement agreement, subject to review/approval of the Township Engineer and the Township Attorney. Such agreement shall also:
    - a. Indicate that no further development in the area of the stormwater system be permitted without Township approval;
    - b. Provide standards for scheduled maintenance of the stormwater management system;
    - c. Provide for an effective means of enforcement by the Township in the event that the stormwater management system is inadequately maintained or is determined by the Township to be a public nuisance, allowing for the assessment of costs of enforcement and maintenance upon the property owners.
- G. *Run off of surface water.* All structures and land uses hereafter established in the Township shall be established in such a manner as to prevent any additional run off of surface water onto adjoining properties.

( Ord. No. 521, § XII, 9-20-21 )

300.2253 - Dumping, storage, removal, burial of materials.

Sec. 22.53.

- A. *Storage, dumping of waste, junk, garbage, etc.* The use of land for the storage or collection or accumulation of used lumber, and other used materials, or for the dumping or disposal of scrap iron, junk, garbage, or other refuse or of ashes, slag or other industrial wastes or by-products shall not be permitted in any district, except under a Temporary Certificate from the Zoning Administrator after approval of the Planning Commission, which shall be issued in special cases for a period not to exceed one (1) year upon the filing of an application accompanied by a suitable agreement and bond as determined by the Planning Commission that such dumping or disposal will not pollute the waters of the Township or cause stagnant water to collect, or leave the surface of the land, at the expiration date of such permit, in an unstable condition or unfit for the growing of turf or for other land uses permitted in the district in which such dumping occurs, except as provided in any existing ordinance.
- B. *Dumping of soil, sand, and clay materials or the removing of topsoil.* The dumping of any soil, clay, gravel or similar fill materials or the removing of any topsoil on any lot or parcel of land within the Township is hereby prohibited without



prior approval of the Planning Commission. In passing upon any application, the Planning Commission shall have the authority to deny, approve, or approve with conditions such request. In hearing a request as provided hereunder, the Planning Commission shall be governed by the principles and conditions imposed by Section 4.13(c) [300.413.c)] of this Ordinance. In submitting a request for approval by the Planning Commission, an applicant shall submit the following information:

1. The names and addresses of the owners of the subject property along with a person or contractor responsible for filling or removing activities.
  2. The legal description and plot plan of the property showing the dimensions of the area to be filled or removed from and to what finish elevation is proposed.
  3. A brief description of the type of material to be deposited. In no event shall such material be other than sand, clay, dirt, stone, brick or concrete and all such materials are to be deposited in a level condition with a minimum of six-inch debris-free top cover suitable for the growing of turf within six months of completion of such activities.
- C. *Burial of tree stumps on vacant property.* The burial of one or more uprooted tree stumps on a vacant lot or parcel of land of less than one acre in size in the AGR, A-H, R1-A, R1-B, R1-C, RM, RSM or OW zoning districts shall not be allowed unless special exception use approval is granted by the Planning Commission in accordance with the procedure prescribed in Section 4.13 [300.413] of this Ordinance. An application for such special exception use approval shall be accompanied by a diagram of the lot or parcel showing the area in which burial is to occur and indicating the approximate volume of tree stumps to be buried on the site. In determining whether or not to grant special exception use approval, the Planning Commission shall consider not only the standards in Section 4.13(c) [300.413.c], but also whether the volume, location and/or manner of the proposed burial of tree stumps will leave the surface of the land in an unstable condition or materially interfere with the development of the land. A lot or parcel shall not be deemed vacant for purposes of this provision if there is a valid building permit outstanding for construction on the lot or parcel.

( Ord. No. 521, § XIII, 9-20-21 )

### 300.2254 - Clear cutting of trees.

#### Sec. 22.54.

##### A. *Clear cutting permit.*

1. Any activity that involves the clear cutting of one or more acres of land and which is not otherwise exempt from this Ordinance, shall be required to obtain a clear-cutting permit from the Township as described below.
2. Exemptions: A clear cutting permit is not required for any of the following exempted activities:
  - a. Clear cutting of less than one acre of land within a twelve-month period.
  - b. Clear cutting on a developed residential parcel of two acres or less, including vacant lots and lots in an approved subdivision or site condominium.
  - c. Clear cutting for a development that has received site plan approval under the provisions of Article 22, Site Plan Procedures, provided that such clear cutting takes place after approval and is in accordance with such approval.
  - d. Clearing of land located within an agricultural zoning district for agricultural purposes.
  - e. Clearing for the maintenance of existing roads, private access easements, driveways, and utility easements.
3. Application requirements: Applicants proposing to clear cut more than one acre of land shall be required to submit the following information:
  - a. Name, address, and contact information of the applicant;
  - b. Written consent of the owner(s) of the land if the applicant is not the sole owner;
  - c. A site plan of the property, drawn to scale, showing the area to be cleared;
  - d. Amount of land to be cleared (in acres);

- e. A statement outlining the purpose of the clear cutting or the proposed use of the cleared area;
  - f. Location and dimension of required buffer areas as described in the General Provisions section below;
  - g. Location and description of proposed erosion-control devices or structures, in conformance with the requirements of Section 22.52.C [300.252.C], Stormwater management standards; Section 22.52.D [300.2252.D], Soil erosion control; and tree protection fencing, if required.
4. Upon receipt of the application for a clear-cutting permit, the Zoning Administrator shall inspect the site and review the application. Applicants shall be notified within 15 business days of submitting an application whether it has been approved, denied, or whether additional information is needed.
  5. If the Zoning Administrator determines that the application is in compliance with the provisions of this section, the permit shall be approved administratively. If the Zoning Administrator determines that the application is not in compliance with the provisions of this section, the permit shall be denied. Any such denial can be appealed to the Zoning Board of Appeals.
  6. Stormwater management and soil erosion control plans of a site being clear cut shall be subject to review and comment by the Township Engineer. If it is determined that the erosion control measures either proposed or implemented by the applicant do not satisfy the general provisions described below, the Township reserves the right to place additional requirements on the clear-cutting permit to rectify such deficiencies.
  7. Following approval of a clear-cutting permit, all sites shall be subject to inspection for compliance with this Ordinance.
  8. Fee: An application fee may be established by resolution of the Township Board for a clear-cutting permit based upon the cost of processing the review and inspections and would be required upon application for the permit.
- B. *General provisions of clear-cutting permit.* The following provisions will apply to all clear cutting governed by this Section and will be evaluated by staff during the application review process.
1. The site plan shall demonstrate that the proposed use of the clear-cut area is achieved with judicious effort to preserve the integrity of the land, existing topography, natural features (i.e., slopes, woodlands, etc.), and natural drainage patterns; preserves existing woodlands and understory and individual trees to the greatest extent reasonable; and maintains the soil-stabilizing vegetation and avoids altering drainage patterns.
  2. To preserve viewsheds along roadways and buffer adjoining properties, a 20-foot-wide buffer area of undisturbed vegetation shall be maintained along roadways and property lines. Clear cutting will not be permitted within buffer areas; however, harvesting of select trees within the buffer area and development of roadways may be permitted with approval from the Planning Commission. This provision shall not apply to sites, that through the site plan review process, are subject to the landscaping provisions of Section 21.50 [300.2150] where a minimum 20-foot-wide greenspace will be established along the perimeter of the site.
  3. During clear cutting and until revegetation or stabilization has taken place, erosion and sediment controls shall be designed and implemented necessary to prevent sediment from leaving the clear-cut site. Unacceptable clearing practices and erosion control measures are those that alter existing drainage patterns and/or cause property damage off-site.
  4. The plans for the use or restoration of the site following land clearing shall comply with the standards and requirements of Sections 22.52.A [300.2252.A] and 22.52.B [300.2252.B], as applicable.
  5. Tree protection fencing shall be installed around trees to be preserved in the required buffer areas. Tree protection fencing shall meet the requirements of Section 21.65 [300.2165].
- C. *Enforcement and penalties.*
1. Any clear cutting, grading, development, or other site work in violation of the requirements of this Section or contrary to the approved plans shall be considered a violation of the Township Zoning Ordinance and enforceable per the requirements of Section 29 of this Ordinance. Enforcement may include, but is not limited to, actions to

abate, enjoin or restore the property in question.

2. Where specific trees are designated to be preserved, each such tree that is removed shall constitute a separate offense.

( Ord. No. 521, § XIV, 9-20-21.)

ARTICLE 23.00

300.2300 - SCHEDULE OF REGULATIONS

The following regulations regarding lot sizes, yards, setbacks, and densities apply within the Zoning Districts as indicated, including the regulations contained in the footnotes. No building shall be erected, nor shall an existing building be altered, enlarged, or rebuilt, nor shall any open spaces surrounding any building be encroached upon or reduced in any manner, except in conformity with the regulations hereby established for the district in which such building is located. No portion of a lot used in complying with the provisions of this Ordinance for yards, courts, lot area occupancy, in connection with an existing or projected building or structure, shall again be used to qualify or justify any other building or structure existing or intended to exist at the same time.

					MINIMUM YARD SETBACKS REQUIRED (FT) <sup>b,c,d</sup>					
					MINIMUM LOT SIZE <sup>2</sup>	MAXIMUM BUILDING HEIGHT <sup>a</sup>				
ZONING DISTRICT	MINIMUM LOT AREA	MINIMUM LOT WIDTH	STORIES	FEET	FRONT YARD	SIDE YARD		REAR YARD	MINIMUM FLOOR AREA PER DWELLING UNIT <sup>e</sup>	MAXIMUM LOT COVERAGE BY BLDGS
						ONE MUST BE AT LEAST	THE OTHER MUST BE AT LEAST			
<b>Agriculture- Residential (AGR)</b>	One (1) Acre	165 ft.	2	35	30	10	5	35	960 s.f. single- story 750 s.f. ground floor two- story	10
<b>Single-Family Residential (R1-A)</b>										
<i>Unplatted</i>										20

Without water and/or sewer	One (1) Acre	165 ft.	2	25	30	10	5	35	Same as above	
With water and sewer	¾ Acre	150 ft.	2	25	30	10	5	35	Same as above	
<i>Platted</i>										20
Neither water nor sewer	13,200 s.f.	100 ft.	2	25	30	10	5	35	Same as above	
With water or sewer	12,000 s.f.	90 ft.	2	25	30	10	5	35	Same as above	
With water and sewer	10,000 s.f.	80 ft.	2	25	30	10	5	35	Same as above	
<b>Single-Family Residential (R1-B)</b>										
<i>Unplatted</i>										20
Without water and/or sewer	¾ Acre	150 ft.	2	25	30	10	5	35	Same as above	
With water and sewer	½ Acre	125 ft.	2	25	30	10	5	35	Same as above	
<i>Platted</i>										20
Neither water nor sewer	13,200 s.f.	100 ft.	2	25	30	10	5	35	Same as above	
With water or sewer	12,000 s.f.	85 ft.	2	25	30	10	5	35	Same as above	
With water and sewer	9,000 s.f.	75 ft.	2	25	30	10	5	35	Same as above	

<b>Open Wetlands (OW)</b>	One (1) Acre	200 ft.	2	25	30	15	15	35	960 s.f. single-story 750 s.f. ground floor two-story	20
<b>Agriculture-Horticulture (A-H)</b>										
<i>Greenhouses</i>	One (1) Acre	100 ft.	2	25	20	5	5	10	—	*
<i>Residential</i>										
<i>Unplatted</i>										20
Without water and/or sewer	¾ Acre	150 ft.	2	25	25	8	7	25	960 s.f. single-story 750 s.f. ground floor two-story	
With water and sewer	½ Acre	125 ft.	2	25	25	8	7	25	Same as above	
<i>Platted</i>										20
Neither water nor sewer	13,200 s.f.	100 ft.	2	25	25	8	7	25	Same as above	
With water or sewer	12,000 s.f.	85 ft.	2	25	25	8	7	25	Same as above	
With water and sewer	9,000 s.f.	75 ft.	2	25	25	8	7	25	Same as above	
<b>Cluster Housing (R1-C)</b>										
<i>Single-Family</i>										

<i>Unplatted</i>										20
Without water and/or sewer	½ Acre	125 ft.	2	25	25	10	5	35	960 s.f.	
With water and sewer	13,200 s.f.	100 ft.	2	25	25	10	5	35	960 s.f.	
<i>Platted</i>										20
Neither water nor sewer	13,200 s.f.	100 ft.	2	25	25	10	5	35	960 s.f.	
With water or sewer	12,000 s.f.	80 ft.	2	25	25	10	5	35	960 s.f.	
With water and sewer	8,500 s.f.	70 ft.	2	25	25	10	5	35	960 s.f.	
<i>Two-Family and Multiple-Family</i>	6,600 s.f. per dwelling unit	100 ft. <sup>P</sup>	2	25	25	f	f	35	720 s.f. - 1-bedroom unit 840 s.f. - 2-bedroom units 960 s.f. - 3-bedroom units	20
<b>Multiple-Family Residential (RM) <sup>m</sup></b>										
<i>Single-Family and Two-Family</i>										
<i>Unplatted</i>										20
Without water and/or sewer	½ Acre	125 ft.	2	25	25	10	5	25	960 s.f.	

With water and sewer	13,200 s.f.	100 ft.	2	25	25	10	5	25	960 s.f.	
<i>Platted</i>										20
Neither water nor sewer	13,200 s.f.	100 ft.	2	25	25	10	5	25	960 s.f.	
With water or sewer	12,000 s.f.	80 ft.	2	25	25	10	5	25	960 s.f.	
With water and sewer	8,500 s.f.	70 ft.	2	25	25	10	5	25	960 s.f.	
<i>Other</i>	g	*	3	40	25	f	f	25	h	*
<b>Senior Citizens Multiple-Story Residential District (RSM)</b>	Five (5) Acres	400 ft.	3 min.	70	75	50	50	50	475 s.f. - 1 bedroom 600 - s.f. 2 bedrooms	20
<b>Mobile Home Park (RMH)</b>	5,000 s.f.		1	20	15 <sup>1</sup>	10 <sup>1</sup>	10 <sup>1</sup>	20 <sup>1</sup>	720 s.f.	*
<b>Office District (O-1)</b>	*	*	2	25	25	10	10	20	*	20
<b>Neighborhood Business (B-1)</b>	*	*		25	25	10	10 <sup>k</sup>	20	*	20 <sup>q</sup>
<b>Community Business (B-2)</b>	*	*		30	40	10	10 <sup>k</sup>	20	*	*
<b>General Business (B-3)</b>	*	*		50	40	10	10 <sup>k</sup>	20	*	*
<b>Light Manufacturing (LM)<sup>i</sup></b>	*	*		*	25	20	20	20	*	*
<b>Restricted Industrial District (LD)</b>	*	*		*	*	*	*	*	*	*

<b>Manufacturing (M) <sup>i</sup></b>	*	*		*	40	30	30	50	*	*
<b>Comstock Center (CC)</b>	*	*	*	*	*	*	*	*	*	*

\*While no specific standards may be included herein, attention is directed to other applicable regulations in this ordinance for specific intended uses.

(2) Any minor irregularities or variances are subject to approval of Zoning Board of Appeals.

(Amended: 1-5-83; 12-19-83; Ord. No. 264, 3-7-88; Ord. No. 265, 3-7-88; Ord. No. 266, 4-18-88; Ord. No. 271, 8-1-88; Ord. No. 281, 7-17-89; Ord. No. 290, 6-18-90; Ord. No. 295, 12-3-90; Ord. No. 298, 3-4-91; Ord. No. 300, 6-3-91; Ord. No. 311, 6-15-92; Ord. No. 322, 1-4-94; Ord. No. 326, 9-6-94; Ord. No. 407, 8-18-03; Ord. No. 497, § XI, 11-19-18; Ord. No. 512, § IV, 6-15-20; Ord. No. 521, § X, 9-20-21)

FOOTNOTES TO ARTICLE 23.00  
SCHEDULE OF REGULATIONS

- a. Excepting houses of worship, schools, farm buildings and municipal buildings. Permitted height: No building 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, except that penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, stage lofts and screens, flagpoles, chimneys, smoke stacks, individual domestic radio and televisions aerials and wireless masts, water tanks, or similar structures may be erected to exceed by not more than fifteen (15) feet the height limits of the district in which it is located nor shall such structure have a total area greater than ten percent (10%) of the roof area of the building, nor shall such structure be used for any residential, commercial or industrial purpose other than a use incidental to the main use of the building, unless such structure is allowed as a special exception use pursuant to separate provision of this Ordinance.
- b. One-half the right-of-way of an abutting alley may be counted towards rear yard setback required.
- c. In any district in which single-family dwellings are permitted, no more than one single-family dwelling may be placed on a lot or site condominium building unit.

In any district in which single family dwellings are permitted, a single-family dwelling and any residential accessory buildings permissible under Section 4.02.11 of this Ordinance may be erected on a lawful nonconforming lot of record having not less than 40' nor more than 65' of width at the front setback line, and a lot area not less than 4,800 square feet, in accordance with the following site development standards:

Front Yard Setback	25'
Side Yard Setback	One must be at least 10'
	The other must be at least 5'
Rear Yard Setback	35'



The purpose of this provision is to permit utilization of recorded lots which lack adequate required width, where said lot is in separate ownership and not of continuous frontage with other lots in the same ownership.

Where there exists two (2) contiguous nonconforming lots of record, as described above, the side yard requirement from the common side lot line for two (2) attached single-family dwelling units may be waived (zero side yard setback) by special exception permit. Attachment of the two single-family dwelling units at a side lot line through the use of common party walls are limited to one or a combination of the following characteristics:

- (1) A common party wall that is one hour fire rated and with an STC sound rating of 50, the full length of the common wall;
- (2) An architectural wall detail which does not form interior room space between any two units; and
- (3) Common party walls through the garage portion of adjacent structures.

These attached dwellings shall be typified insofar as possible by characteristics commonly associated with one-family dwellings in the Township, including the expression of individuality of each dwelling unit; privacy; a sense of spaciousness and other characteristics that would be compatible with the adjoining residential uses. The Planning Commission shall determine if access needs to be provided to the rear of a property utilizing the zero side yard approach, by use of an alley or other means.

- d. In all residential, office and industrial districts, the required front yard setback shall not be used for off-street parking, loading, or unloading, and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, or vehicle access drives. Industrial parcels five (5) acres or larger may erect a protective fence within the required front yard area. All yards abutting upon a public street shall be considered as front yards for setback purposes. Where a front yard of lesser depth than specified in the Schedule of Regulations exists in front of dwellings on more than sixty (60) per cent of the lots of record on one side of the street in any one block in a Single-Family Residential District, the depth of front yard for any building thereafter erected or replaced on any lot in such block need not be greater than the average depth of front yards of such existing building.

All yards abutting upon a public street shall be considered as front yard for setback purposes, except that on a lake lot, the required yard setback for the lake frontage end shall be a minimum of fifty (50) feet, while the required yard setback for the street frontage end shall be a minimum of twenty-five (25) feet, excepting further that detached accessory buildings may be permitted within twenty (20) feet of the lake shoreline.

Architectural features, as defined, not including vertical projections, may extend or project into a required side yard not more than two (2) inches for each one (1) foot of width of such side yard and may extend or project into a required front yard or rear yard not more than three (3) feet.

An unenclosed porch, paved patio, or terrace may project into a required front or rear yard for a distance not to exceed sixteen (16) feet.

- e. The minimum floor area per dwelling unit shall not include area of basements, utility rooms, breezeways, porches, or attached garages.
- f. Each side yard shall be a minimum of ten (10) feet and this space shall be increased beyond ten (10) feet by two (2) feet for each ten (10) feet or part thereof by which said dwelling structure exceeds forty (40) feet in overall dimension along the adjoining lot line. Maximum building length shall not exceed two hundred twenty-five (225) feet.
- g. Minimum land area required for each dwelling unit shall be:

Dwelling Unit Size	Land Area In Square Feet
	Multiple Family Dwellings
Efficiency or one-bedroom unit	2,800

Two bedroom unit	3,850
Three bedroom unit	4,900
Four or more bedroom unit	6,300

In no event, however, shall the area of the lot on which a multiple family dwelling is located be less than that which would have been required if a single family detached dwelling had been placed upon the lot. The width of the lot shall be not less than that which would have been required if a single family detached dwelling had been placed upon the lot.

h. The minimum required floor space per dwelling unit in each multiple dwelling structure shall be:

Efficiency	350 square feet
One bedroom apartment	580 square feet
Two bedroom apartment	720 square feet
Three bedroom apartment	960 square feet

- i. No building shall be located closer than one hundred (100) feet to a perimeter property line which abuts a Residential District.
- [j. Reserved.]
- k. Side yards are not required at interior side lot lines if walls are of fireproof masonry construction, excepting that when such walls of buildings facing such interior side lot lines have windows or similar openings, side yards of at least fifteen (15) feet shall be provided. A side yard of twenty (20) feet is required on all corner lots and whenever adjacent to a residential use.
- l. Footnote 1. A mobile home park shall be developed with sites of not less than 5,500 square feet per mobile home unit. This minimum area requirement for any one site may be reduced up to 20% provided that the minimum individual site is not less than 4,400 square feet for mobile homes. For each square foot of land gained through such a reduction of the site, at least 75% of the land saved shall be dedicated as open space, but in no case shall the open space requirement be less than that required under Rule 125.1946 of the Michigan Administrative Code.

No mobile home site or any building in a mobile home park shall be located closer than fifty (50) feet to the right-of-way line of a public highway nor shall any mobile home in a mobile home park be located closer than twenty (20) feet to any mobile home park boundary property line which does not abut a public right-of-way.

A mobile home must be located at least fifty (50) feet from a permanent building and one hundred (100) feet from a baseball or softball field.

In the case of a mobile home site abutting a natural or man-made lake or waterway, the setback from said lake or waterway shall be not less than fifty (50) feet.

- m. Multiple family residential developments shall be served by public sanitary sewers.
- n. (Repealed per Ord. #290)
- o. *Neighborhood Recreation Open Space.* The developer or subdivider of a single-family subdivision may, with approval of the Zoning Board of Appeals, following a review and recommendation by the Planning Commission, reduce lot dimensions in a Single-Family District in accordance with the following schedule, provided the number of residential lots shall be no greater than if the land area to be subdivided were developed to meet the minimum square footage

requirements under Article 23.00. All calculations shall be predicted upon the R1-A District having a maximum gross density (including roads) of 1.5 lots per acre and the R1-B District a maximum gross density (including roads) of 3.5 lots per acres.

1. Minimum Area and Placement Regulations shall be as follows:

Use District	Minimum Lot Area	Minimum Lot Width	Minimum Yard Setbacks			
			Side	Total		
			Front	Least One	Two	Rear
R1-A	12,500	85	30	10	20	35
R1-B	7,200	60	25	5	15	35

Maximum Building Height and Minimum Floor Area per Dwelling Unit shall remain as required by Article 23.00, Schedule of Regulations.

2. For each square foot of land gained, under provisions of this Section, with a residential subdivision, through the reduction of the lot size below the minimum requirements of Article 23, equal amounts of land shall be dedicated to the common use of lot owners of the subdivision in the manner approved by the Planning Commission. These dedications shall be retained as open space for park and recreation purposes.
3. The total area to be dedicated for common use of the subdivision shall in no instance be less than four (4) acres and shall be in a location and shape approved by the Planning Commission. The dedicated land areas shall not include as part of the minimum requirement, under (2) above, lands under water or having excessive grades making the land unusable for active recreation, and shall be so graded, seeded and developed as to have adequate drainage and usability by residents of the subdivision.

If more than one parcel is to be dedicated, each shall contain not less than two (2) acres of area.

4. Access shall be provided to areas dedicated, for those lots not bordering upon such dedicated areas by means of street frontage or pedestrian ways. Such access shall be a minimum of twenty (20) feet in width and in such numbers and location to be convenient to all residents of the subdivision.
  5. The developer or subdivider shall dedicate the total open space area as herein set forth at the time of the filing for final approval of the preliminary plat.
  6. Public sanitary sewer and water system shall be provided.
- p. In no event shall the width of the lot be less than that which would have been required if a single family detached dwelling had been placed upon the lot.
- q. Deleted by Section V of Ord. No. 512.

(Amended: Ord. No. 212, 8-13-82; Ord. No. 214, 8-13-82; Ord. No. 233, 12-19-83; Ord. No. 264, 3-7-88; Ord. No. 281, 7-17-89; Ord. No. 290, 6-18-90; Ord. No. 295, 12-3-90; Ord. No. 311, 6-15-92; Ord. No. 322, 1-4-94; Ord. No. 407, 8-18-03; Ord. No. 410, 5-3-04; Ord. No. 439, § III, 9-21-09; Ord. No. 479, § IV, 3-21-16; Ord. No. 512, §§ IV, V, 6-15-20)

## ARTICLE 24.00

## 300.2400 - MOBILE HOME PARK REGULATIONS

## 300.2401 - [Compliance with state regulations.]

Sec. 24.01. All mobile home parks shall comply with the requirements imposed by Michigan Public Act 96 of 1987 and any and all amendments thereto and with any and all regulations promulgated thereunder by the Michigan Mobile Home Commission and the Michigan Department of Public Health, except as said Act and regulations may be modified by the provisions contained within this Ordinance.

## 300.2402 - Minimum size of mobile homes.

Sec. 24.02. Each mobile home within a mobile home park shall contain a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities, and plumbing and electrical connections designed for attachment to appropriate external systems. Mobile homes with a living area no less than 720 square feet shall be permitted in the park and only mobile homes complying with all applicable federal or state regulations shall be permitted in the park.

## 300.2403 - Zoning.

Sec. 24.03. All mobile home parks shall be located within the Mobile Home Park Zoning District as designated in Article 13.00 of this Ordinance.

## 300.2404 - Application—Preliminary plan review.

Sec. 24.04. Preliminary plans for all new mobile home parks or expansions to existing mobile home parks must be submitted to and approved by the Planning Commission as being in compliance with the terms of this Ordinance and all other applicable laws and ordinances before construction may commence.

Sec. 24.04.1. The preliminary plan and all related information specified hereunder shall be presented to the Planning Commission by the property owner or petitioner at least one week prior to that meeting of the Planning Commission at which the plan will be reviewed. The property owner or petitioner shall file sufficient copies of the preliminary plan so as to provide one copy for each Planning Commission member, the Township Zoning Department, the Township Fire Inspector, the Township Engineer, the Township Planning Consultant, and the Township Attorney.

Sec. 24.04.2. The preliminary plan shall contain the following information:

- a. The name and address of the applicant.
- b. The legal description of the subject parcel of land.
- c. The area of the subject parcel of land stated in acres.
- d. The present zoning classification of the subject parcel and all contiguous parcels.
- e. A plan drawn to scale (which scale shall be not less than one inch equals twenty feet for property under three acres and at least one inch equals 100 feet for those properties three acres or more) indicating the following:
  - i. The number and size of individual mobile home sites and the location and dimensions of all existing and proposed streets and drives.
  - ii. The proposed location and method of sewage treatment and disposal and appropriate supporting data.
  - iii. The source and location of the water supply and fire hydrants.
  - iv. The location and the pavement and right-of-way width of all abutting roads, streets, or alleys.

- v. Drainage provisions, including the size and location of all surface drainage facilities.
- vi. Site features including all structures, outdoor recreational facilities, walkways, landscaping, fences, parking areas, and street frontage.
- vii. The location and height of all existing and proposed structures on or within 100 feet of the subject property.
- viii. The location, size and design of all signs to be placed upon the site.
- ix. The location and general description of all screening to be retained or established on the site.

Sec. 24.04.3. The Planning Commission shall have the function, duty and power to approve or disapprove, or to approve subject to compliance with certain modifications or conditions, the preliminary plan in accordance with the purpose and intent of this Zoning Ordinance and after consideration of the comments and recommendations received from other appropriate Township officials. No action shall be taken by the Planning Commission until a hearing shall be held in accordance with its rules and regulations. In reviewing the preliminary plan and in approving, disapproving or modifying the same, the Planning Commission shall be governed by the following standards:

- a. That the preliminary plan complies with all provisions of the Township Zoning Ordinance unless an appropriate variance therefrom has been granted by the Zoning Board of Appeals.
- b. That the preliminary plan conforms with the requirements imposed by Michigan Public Act 96 of 1987 and any and all amendments thereto and with any and all regulations promulgated thereunder by the Michigan Mobile Home Commission and the Michigan Department of Public Health, except as said Act and regulations may be modified by the provisions of the within Township Zoning Ordinance.
- c. That the preliminary plan conforms to all other applicable laws and Township ordinances not in conflict with Michigan Public Act 96 of 1987, as amended, and the regulations promulgated thereunder.

Sec. 24.04.4. Any modification of the preliminary plan desired by the Township shall be so stated in writing to the applicant. Preliminary plan approval may be granted contingent upon the revision of said preliminary plan by the applicant to the satisfaction of the Planning Commission. Six (6) copies of the final approved preliminary plan, with its modifications, shall be on record in the Township offices. Each copy shall have the signature of the Planning Commission Chairman. If variances are required and have been secured, the preliminary plan shall also show the signature of the Chairman of the Zoning Board of Appeals.

Sec. 24.04.5. The Planning Commission shall have the right and authority to require the mobile home park's developer to file with the Township Building Department at the time of Township approval of a preliminary plan for a new mobile home park or for expansion of an existing mobile home park, a performance bond or bank letter of credit in such amounts as may be determined by said Zoning Board of Appeals necessary to insure the development of the site in accordance with the approved preliminary plans therefor, conditioned upon such property construction and development. Such bond, if required, shall continue for the duration of the construction and development of the site and shall be in a face amount which is a reasonable percentage of the estimated total cost of construction and site development. The bond shall be for the purpose of securing the completion of improvements considered necessary to protect natural resources or the health, safety and welfare of the residents of the Township and adjacent residents and property owners. The Planning Commission shall provide for the rebate of any cash bond filed in this connection in reasonable proportion to the ratio of the work completed on the improvements for which the bond was required.

Sec. 24.04.6. Any application for preliminary plan approval shall be accompanied by a fee as determined by resolution of the Township Board based upon the cost of processing the review.

Sec. 24.04.7. A preliminary plan shall be approved, approved with modifications, or disapproved by the Planning Commission within sixty (60) days from the date of submission of the preliminary plan to the Township. Failure of the Planning Commission to act within the sixty (60) day period shall be deemed to constitute approval of the preliminary plan unless the applicant has agreed in writing to the extension of the sixty (60) day review period.

(Amended: Ord. No. 264, 3-7-88; Ord. No. 456, § II, 9-17-12)

## 300.2405 - Park site development standards.

## Sec. 24.05.

Sec. 24.05.1. Minimum site size for mobile home parks shall be ten (10) acres.

Sec. 24.05.2. All mobile home parks shall have access to a concrete or asphaltic concrete paved public thoroughfare.

Sec. 24.05.3. All roadways, driveways, and parking spaces shall have a concrete or asphaltic concrete paved surface so constructed as to handle all anticipated peak loads, adequately drained and lighted for safety and ease of movement of vehicles. No one-way internal roadways shall be allowed within a mobile home park. All roadways shall have a minimum width of 24 feet exclusive of any area used for parking.

Sec. 24.05.4. *Utilities and Other Services.*

- a. All mobile home parks shall be connected to public water and sanitary sewer services where such public services are reasonably available. The water supply system of a mobile home park shall be underground and available and accessible to each mobile home. The water supply lines servicing the mobile home park shall be of sufficient size to provide adequate water flow for fire protection for the mobile home park. No mobile home site shall be more than 500 feet from a fire hydrant.
- b. The plumbing connections to each mobile home site shall be constructed so that all lines are protected from freezing, from accidental bumping or from creating any type of nuisance or health hazard.
- c. The mobile home park shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water. Where public storm sewers are not available for such drainage, all surface water shall be disposed of within the mobile home park boundaries.
- d. Any park fuel oil and gas storage shall be centrally located in underground tanks, at a safe distance away from any mobile home site. All fuel lines leading to mobile home sites shall be underground and so designed as to conform with the Township Building Code and any State code that is found to be applicable. When separate meters are installed, each shall be located in a uniform manner.
- e. Facilities for the storage and disposal of trash and garbage in a sanitary manner shall be provided in each mobile home park. All refuse shall be stored in fly-tight, watertight, rodent-proof containers or dumpsters, which shall be located not more than one hundred fifty (150) feet from any mobile home site. Containers or dumpsters shall be provided in sufficient number and capacity to properly store all refuse.

Sec. 24.05.5. *Skirting and Anchoring.*

- a. Each mobile home must be skirted within ninety (90) days after establishment in a mobile home park.
- b. All mobile homes shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.

Sec. 24.05.6. *Landscape.* Landscape shall be provided pursuant to Section [Article] 21.50.

Sec. 24.05.7. *Screening.* All mobile home parks shall be screened from abutting property in the "AGR" "R1-A", and "R1-B" zoning classifications and also from any previously existing adjoining single-family residence regardless of the zone in which such latter residence is located, provided all such screening shall be not less than six (6) feet in height. The Zoning Board of Appeals shall have the authority to grant a variance from the foregoing screening requirements where the mobile home park is adjacent to a lawful developed use in the higher district classification other than a single-family or two-family dwelling and the screening would serve no useful practical purpose in protecting the peace and quiet of the occupants of such adjoining premises.

Sec. 24.05.8. *Open Space.* The areas between mobile homes and other open areas on each mobile home site shall be seeded or sodded with grass or lawn and landscaped and thereafter maintained so as to provide a utilitarian and healthful area for the residents and the mobile home park.

Sec. 24.05.9. *Fences*. See Article 4.00, Section 4.06.4e. Perimeter fences exceeding six (6) feet in height in a mobile home park shall require a building permit for their lawful construction or substantial alteration.

Sec. 24.05.10. *Walkways*. If provided, all sidewalks shall be at least three (3) feet in width and four (4) inches in thickness.

(Amended: Ord. No. 264, 3-7-88; Ord. No. 484, § XII, 10-24-16)

## ARTICLE 25.00

### 300.2500 - PLANNED UNIT DEVELOPMENTS

#### 300.2501 - Intent.

Sec. 25.01. The specific requirements as set forth in these sections of the Ordinance assure compliance with objectives deemed essential to the public health, safety and general welfare of the community. It is recognized that permitting flexibility in the placement and the interrelationship of buildings and uses will foster more creative design and a desirable quality of development. Allowing greater flexibility, however, is possible without sacrificing established values and rights to adequate light, air, safety and privacy. These sections are further intended to foster efficient and economical use of land, resources, public services or utilities and energy while encouraging useful open space. For Planned Unit Residential Development (PURD), the intent is to promote variety in housing, both in cost and lifestyle. By allowing the dwelling type, density and open space to vary, yet maintaining those general policies and objectives of the Township Land Use Plan, the PURD concept will allow desirable environmental features to become part of the overall housing development. For Planned Multi-Use Development (PMUD), the intent is to promote a mixture of uses incorporating office, commercial and industrial uses where appropriate based upon underlying zoning and compatibility with surrounding land use. Finally, because flexibility is inherent in PUD review, a higher degree of public direction and scrutiny is an essential ingredient in the process.

(Amended: Ord. No. 407, 8-18-03)

#### 300.2502 - Minimum performance objectives.

Sec. 25.02. The particular facts and circumstances of each PUD proposal shall be reviewed in terms of the principles established in Section 4.13 (c) as well as those objectives listed below. All proposals:

- A. Shall minimize the cost of utility and street construction and associated maintenance costs, while adhering to accepted construction standards.
- B. Shall provide a safe, well-designed circulation system both internal and external connections for pedestrians, as well as vehicles. Points of conflict within the system shall be minimized and special provisions for pedestrian safety, such as overpasses, are to be encouraged.
- C. Shall utilize natural characteristics, such as vegetation or topographical characteristics, to protect home from prevailing winds, provide visual variety, encourage on-site storm drainage retention, promote solar use awareness and other similar benefits.
- D. Shall enhance and preserve any wildlife habitat areas or identifiable natural features, such as wetlands, swales, ponds and woodlots or orchards.
- E. Shall retain on-site storage and infiltration of all storm water runoff attributed to the proposed development, unless part of a public system or through approval of the Kalamazoo County Drain Commissioner.
- F. Shall provide for active and/or passive recreation activities in keeping with the character of the development and its open space.
- G. Shall provide for buffering by the use of plantings, earth berms or distance between any internal conflicting elements or between adjoining residential uses and on-site features.

(Amended: Ord. No. 212, 8-13-82; Ord. No. 407, 8-18-03)

300.2503 - Application and procedures.

Sec. 25.03.

- A. *Preapplication Conference:* Prior to the submittal of an application for a Planned Unit Development, each applicant shall confer with a sub-committee of the Planning Commission established for the purpose of discussing the proposed development and providing advice regarding the submittal procedures. Such a preapplication conference shall be informal and without commitments from either party. It is not required that any person requesting a preapplication conference be an owner or holder of an equity interest in the subject property.
- B. *Preliminary Submittal:* The Planning Commission shall receive the submittal for a proposed Planned Unit Development for initial review and study. Each application shall be accompanied by the following information:
- (1) Name and address of applicant.
  - (2) A statement of interest of the applicant in the affected parcel and the proposed PUD.
  - (3) Boundary survey and legal description prepared by a registered land surveyor. Map scale shall not be larger than one (1) inch to fifty (50) feet nor less than one (1) inch to two hundred (200) feet. The map shall show the location of adjacent property and its location in the Township.
  - (4) A topographic map of the parcel at contour intervals of at least five (5) feet and showing all major stands of trees, water bodies, wetlands, areas of unbuildable soils and the like. The map scale shall be the same as the boundary survey.
  - (5) A schematic site plan for the entire parcel at such a detail as to indicate the type and location of the functional uses, densities and dwelling types for PURD, the system of traffic circulations; parking layout and pedestrian pathways and the location and nature of common open space. The site plan shall be the same scale as the boundary survey and contain a signature box, to be signed by the Chairperson of the Planning Commission following preliminary approval of the site plan.
  - (6) An indication of the contemplated means of providing public water and sanitary sewer systems, storm water drainage and retention, a preliminary indication of grade elevations.
  - (7) A written statement explaining in detail, the full intent of the applicant indicating the type and number of dwelling units contemplated for PURD or the mix of uses anticipated for the PMUD. This shall include the acreage calculations showing distribution of the functional areas, and supporting documentation such as, but not limited to, market studies supporting land use requests.
  - (8) A site analysis reflecting the principal factors influencing design decisions made regarding the plan. A typical analysis shall include, but not be limited to, topography, soils, vegetation, views, adjoining land uses, and the surrounding circulation system.
  - (9) A written statement describing the proposed phasing program for the entire PUD and the intended schedule for completion of the development.
  - (10) Twelve (12) copies of the preliminary submittal shall be distributed to the Planning Commission at least ten days prior to a meeting date.
- C. *Preliminary Approval:*
- (1) After adequate review and study of the application, the Planning Commission shall hold a public hearing on the application in accordance with the requirements stipulated in Section 4.13 (b) (Special Exception Use process).
  - (2) Following the public hearing, the Planning Commission will make a decision to approve or deny the preliminary PUD plan. The motion for approval or denial shall stipulate the Commission's findings, the basis for their decision and any conditions relating to an approval.



- (3) Approval of the schematic site plan shall not constitute approval of the final site plan or phase thereof, but shall only in expression of approval of the schematic layout. If, at the time of this preliminary approval for a PUD project, the applicant submits a detailed site plan meeting the requirements of Subsection D. below, and no major changes are required, the Planning Commission may proceed to final approval (Subsection E.) without requiring any further submittals.
- D. *Final Submittal:* Prior to final approval of the Planned Unit Development or a phase thereof the applicant shall submit for review by the Planning Commission the following:
- (1) A final site plan containing the following information and requirements:
    - (a) Drawings to be of a scale not larger than one (1) inch to fifty (50) feet nor less than one (1) inch to two hundred (200) feet.
    - (b) Scale, north arrow and all boundary dimensions.
    - (c) Definition of land use areas, including accurate dimensions, property lines, angles and sizes, correlated with the legal description of said property.
    - (d) Existing and proposed topography at two (2) contour intervals.
    - (e) Existing site characteristics: Natural features such as wood-lots, streams, rivers, lakes, drains, wetlands and similar features. Existing and proposed features such as buildings, structures, high tension towers, pipelines, utilities, excavation, bridges, culverts, drains, and easements.
    - (f) Any changes in existing natural or manmade features.
    - (g) Proposed public water and sanitary sewer systems; storm water drainage and retention with final grade elevations; locations of all fire hydrants.
    - (h) Proposed local and collector streets, parking areas, sidewalks, and other vehicular and pedestrian circulation features within and adjacent to the site; typical building sites, location and type of use of all recreational areas and any other off-street areas; the location of all rubbish receptacles, landscaping, screening, fences, and/or walls.
    - (i) Plans shall be designed and prepared by an architect, engineer, or other qualified professional licensed by the State of Michigan.
    - (j) Twelve (12) copies of letters of review and approval from agencies having jurisdiction over this project. Copies of the final submittal shall be submitted to and letter of approval received from the Township Engineer, the County Road Commission, the County Drain Commissioner, and other authorities as may be determined.
    - (k) Twelve (12) Copies of the final submittal shall be provided to the Planning Commission.
- E. *Final Approval:*
- (1) Following review of the information submitted as required in Section 25.03(C) the Planning Commission will make a decision to approve or deny the final PUD plan. The motion for approval or denial shall stipulate the Commission's findings, the basis for their decision, and any conditions relating to an approval.
  - (2) Final Planned Unit Development approval may be granted for individual phases of a project.
  - (3) Approval under this Section is based on the plan submitted. Once an area has been included within this Planned Unit Development by having been granted approval, no differing development may take place thereon, no other use made of any part thereof, except in accordance with an approved amendment thereto.
  - (4) Approval for each project area shall be effective for the period stated in the final submittal. If development is not completed within this period, further submittals under this ordinance shall cease until the project in question is completed, or cause can be shown for not completing same.

(Amended: Ord. No. 212, 8-13-82; Ord. No. 407, 8-18-03)

## Sec. 25.04.

- A. *Minimum Project Area:* The minimum parcel size for a PURD shall be ten (10) acres. Parcels of less than forty (40) acres developed as a PURD shall only be used for residential purposes as provided in Section 25.04.C below. PURD's on parcels of forty (40) acres or more may, subject to the provisions of Section 25.04.C below, include all office and/or commercial activities.
- B. *Location:* Planned Unit Residential Developments of allowable size may be located in the following districts upon approval of the Planning Commission: "AGR", "A-H", "R1-A", "R1-B", "R1-C", "RM" and "OW". Planned Multi-Use Developments of allowable size may be located in the following districts: "O-1", "B-1", "B-2", "B-3", "LM", and "M".
- C. *Uses Permitted:*
- (1) Uses Permitted in PURD's:
- (a) All uses permitted in the "R1-A", "R1-B", "R1-C" and "RM" zoning districts shall be permitted, except as follows:
- (i) No multiple family dwellings shall be allowed in either:
- PURD's in the "AGR", "A-H" or "OW" zoning districts, or
  - PURD's of less than twenty (20) acres in the "R1-A" or "R1-B" zoning districts.
- (ii) The number of multiple family dwelling units in a PURD of twenty (20) acres or more in a "R1-A" or "R1-B" zoning district may not at any time exceed twenty-five percent (25%) of the total number of dwelling units actually constructed in the PURD.
- (iii) In a PURD in the "R1-C" zoning district, the number of multiple family dwelling units in buildings containing more than ten (10) dwelling units may not at any time exceed twenty-five percent (25%) of the total number of multiple family dwelling units actually constructed in the PURD.
- (b) Office and commercial uses permitted in the "O-1" and "B-1" zoning districts shall only be allowed in PURD's that are both (1) forty (40) acres or larger and (2) in the "R1-A", "R1-B", "R1-C" or "RM" zoning districts, subject to the following additional limitations:
- (i) Office and commercial development of any nature shall not exceed ten percent (10%) of the total land area of any PURD.
- (ii) Land used for office and commercial purposes in a PURD shall not be used to determine allowable residential densities.
- (2) *Uses Permitted in PMUD's:* The mix of uses permitted within a PMUD shall include all permitted and special exception uses in:
- (a) The zoning district in which the PMUD is proposed to be located;
- (b) The zoning district which is "immediately lower" than the zoning district in which the PMUD is proposed to be located (e.g., the "B-2" zoning district is "immediately lower" than the "B-1" zoning district);
- (c) Those zoning districts in which PMUD's are allowed which are "higher" than the zoning district in which the PMUD is proposed to be located (e.g., the "O-1" zoning district is "higher" than the "B-2" zoning district and the "B-2" zoning district is "higher" than the "LM" zoning district); and
- D. *Requirements:* The yard, setback, lot size, height and frontage requirements of ARTICLE 23.00 are generally waived for a Planned Unit Development. The Planning Commission, however, may determine that certain setbacks can be established within all, or a portion of the site. Further, the Commission may stipulate setbacks for perimeter development adjacent to established residential areas.
- E. *Density Calculation within PURD's:* The density (dwelling units per acre) in a Planned Unit Residential Development shall not exceed the density of the zone in which it is located in accordance with the table below and the following stipulations:

(1) *Maximum Density.*

Zoning District	Maximum Density
"AGR, "OW", "AH"	1 unit per acre
"R1-A"	3.0 units per acre
"R1-B"	5.0 units per acre
"R1-C"	7.0 units per acre
"RM"	11.0 units per acre

- (2) Those sites which contain wetlands or floodplains shall be permitted a maximum number of units based on the following formula:

$$N = A \times D \times C$$

N equals Maximum Number Units Permitted.

A equals Area of Site Outside the Wetland or Floodplain Areas.

D equals Allowable Density from Maximum Density Table, above.

C equals 1.0 plus Percent of Site in Wetland or Floodplain Areas, Expressed as Decimal.

- (3) When more than one zoning district is involved in a PURD Project area, the total density of the project will be based on the maximum density for the zoning districts involved multiplied by the size of the property (acreage) in each zone.

F. *Housing Types:* All PURD proposals shall contain a housing type or types sufficient in number to maintain a harmonious relationship with important site features, structures, adjacent land uses and endeavor to represent quality in design.

G. *Off-Street Parking and Vehicular Circulation:*

(1) Off-street parking shall be provided in accordance with the standards specified in Article 6.00.

(2) Public streets shall be encouraged within Planned Unit Developments, however, private streets may be permitted by approval of the Planning Commission provided:

(a) They are designed to allow sufficient access for emergency vehicles (police, fire, ambulance).

(b) Easement of sufficient width acceptable to the Kalamazoo County Road Commission may be required by the Township in order to accommodate possible future dedication.

(c) The design of private drives and width of easements shall be reviewed by the Township Engineer.

H. *Utilities:* Where feasible, Planned Unit Developments shall provide for underground installation of utilities (sewer, water, electric and telephone), both within rights-of-way and extensions to structures. Storm sewer facilities shall be provided to handle increases in storm water runoff. The development of retention basins or the use of turf areas for runoff infiltration is encouraged. The construction and maintenance of utilities shall be in accordance with the requirements and regulations of Comstock Charter Township.

I. *Open Space:* "Common Open Space" shall be provided within Planned Unit Developments in accordance with the following provisions:

(1) "Common Open Space" is defined as a parcel or parcels of land or an area of water or combination of land and water designed and intended for the use or enjoyment of the residents or tenants of the PUD or of the general public, preservation of attractive site features and diversity of features is encouraged. Common open space does not include proposed streets, rights-of-way, open parking area, or commercial areas. Common open space may contain accessory structures and improvements necessary or desirable for religious education, non-commercial, recreational or cultural uses.

(2) For Planned Unit Residential Developments constructed in the "R1-A" Zoning District, a minimum of fifteen (15) percent of the project area shall be retained in common open space. For PURDs in all other residential zoning

districts, the minimum open space requirement shall be twenty (20) percent. For PMUDs, the minimum open space requirement shall be ten (10) percent. The Planning Commission may approve a PUD with open space that is not contiguous with the rest of the PUD provided the distance separating such open space and the rest of the PUD is no greater than one hundred fifty (150) feet.

- (3) Preservation of unique or sensitive areas (especially wetlands or floodplains), or the best environmental features of the project area, is encouraged.
  - (4) The common open space shall be in a location and configuration approved by the Planning Commission. Consolidated open space of a useable size is encouraged.
  - (5) Conveyance and maintenance of common open space: All common open space shown on the final site plan must be reserved or dedicated by lease or conveyance of title (including beneficial ownership) to a corporation, association or other legal entity, or by reservation by means of a restrictive covenant. The terms of such lease or other instrument must include provisions guaranteeing:
    - (a) The continued use of such land for the intended purposes.
    - (b) Continuity of proper maintenance of those portions of the open space land requiring maintenance.
  - (6) The developer shall file with the Kalamazoo County Register of Deeds and the Comstock Charter Township Planning Commission legal documents embodying the aforesaid guarantees insuring the use of the common open spaces for the designated purposes. If the development is to be subdivided, said restrictions shall be recorded at the time of final plat approval.
  - (7) All common open space proposed for dedication to the Charter Township of Comstock must be acceptable to it, and may not be so dedicated without approval of the Board of Trustees.
- J. *Landscaping:* The appeal and character of the project area shall be preserved by retaining and protecting existing trees and other site features, where possible. New landscaping shall be added for privacy, shade, beautification of structures and grounds, or to screen objectionable features.
- K. *Privacy:* Each dwelling unit within a PURD shall be provided with visual and acoustical privacy utilizing features, such as fences, screening walls, landscaping and other appropriate barriers. Property adjoining existing development shall also be protected to provide privacy, as indicated above. High rise buildings in a PURD shall be located in such a way as to minimize any invasion of privacy of the occupants of adjoining low rise buildings, either within the development or adjacent area.
- L. *Sign Standards:* All signs in a Planned Unit Development shall be subject to the following requirements in addition to the requirements of Article 8, Signs:
- (1) *General Theme:* The general theme, plan or policy for all such signs proposed in a Planned Unit Development shall be submitted with a Sketch Plan to the Planning Commission for its review and approval before any signs are installed. After such review and approval, no signs shall be installed which do not comply with such approved plans. Said Commission shall consider compliance with the following criteria before making any decision in this connection:
    - (a) The aesthetic qualities of any proposal.
    - (b) The harmonious relationship of signs to buildings and landscaping within and adjacent to the PUD.
    - (c) The contour of the land and the total acreage involved in the PUD.
    - (d) The distance of any proposed sign from the boundaries of the PUD and its visibility from adjacent properties or public highways.
    - (e) The number, quality, character and location of entrances to the development as well as the uses served by such entrances.
  - (2) *Permitted Signs:*
    - (a) One free-standing permanent development sign per entrance to the development shall be permitted not to exceed forty-eight (48) square feet in area for the purpose of identifying the name of the Development; provided,

however, that not more than two such signs shall be permitted for total completed PUD development. As an alternative to one of the foregoing development signs, a directory-type sign not exceeding eighty (80) square feet in area identifying the name of the development and any non-residential uses therein shall be permitted at the entrance which is the primary entrance for more than one non-residential use; provided, that any identification of any individual non-residential use shall not exceed ten percent of the total area of such directory-type sign. Any such sign shall be within the PUD and where adjacent to any contiguous residential classification or use shall be located at least fifty (50) feet from the interior boundary between the PUD and such residential classification or use.

- (b) In the event that a directory-type sign is not used as hereinbefore provided, one commercial sign, not exceeding eighty (80) square feet in area and sixteen (16) feet in height, shall be permitted identifying an aggregate of non-residential uses within the development; provided that not more than ten percent of the total sign area is allocated to any individual non-residential use. This sign shall be within the PUD and at least fifty (50) feet from any boundary of the PUD.
  - (c) Identification nameplates not exceeding twenty (20) square feet in area identifying residential and non-residential uses within the development shall be permitted flat against the wall of a building within the development and at the entrance of each designated parking area for such building. The total display surface of all such identification nameplates for a particular building within the development shall not exceed twenty (20) square feet in area and shall not consist of more than one such identification nameplate per building and per parking area entrance.
  - (d) Signs of an informational, non-advertising nature, such as street signs and signs concerning public or quasi-public areas shall be permitted.
  - (e) Temporary real estate signs not exceeding six (6) square feet in area nor four (4) feet in height shall be permitted provided no illumination is permitted concerning the same.
- (3) *General Theme:* The general theme, plan or policy for all such signs proposed in a Planned Unit Development shall be submitted with a Sketch Plan to the Planning Commission for its review and approval before any signs are installed. After such review and approval, no signs shall be installed which do not comply with such approved plans. Said Commission shall consider compliance with the following criteria before making any decision in this connection:
- (a) The aesthetic qualities of any proposal.
  - (b) The harmonious relationship of signs to buildings and landscaping within and adjacent to the PUD.
  - (c) The contour of the land and the total acreage involved in the PUD.
  - (d) The distance of any proposed sign from the boundaries of the PUD and its visibility from adjacent properties or public highways.
  - (e) The number, quality, character and location of entrances to the development as well as the uses served by such entrances.

(Amended: Ord. No. 212, 8-13-82; Ord. No. 290, 6-18-90; Ord. No. 291, 8-6-90; Ord. No. 407, 8-18-03; Ord. No. 410, 5-3-04; Ord. No. 416, 8-16-04; Ord. No. 463, § XXVI, 11-18-13; Ord. No. 487, § VIII, 3-20-17)

## ARTICLE 26.00

### 300.2600 - PERFORMANCE STANDARDS

#### 300.2601 - Scope.

Sec. 26.01. After the effective date of this Ordinance, any use established or changed to, and any buildings, structure, or tract of land developed, constructed or used for, any permitted or permissible principal or accessory use shall comply with all of the performance standards herein set forth for the district involved. If any existing use or building or other structure is extended, enlarged, moved, structurally altered or reconstructed, or any existing use of land is enlarged or moved, the performance standards for the district involved shall apply with respect to such extended, enlarged, moved, structurally altered or reconstructed building or other structure or portion thereof, and with respect to land use which is enlarged or moved.

### 300.2602 - Procedure for determination of compliance.

Sec. 26.02. The purpose of these performance standards procedures is to insure that an objective, unbiased determination is made in those cases where there may be substantial doubt as to whether an individual use or group of uses complies with the Performance Standards of this Ordinance, and to formulate practical ways for the alleviation of such non-compliance.

Sec. 26.02.1. Subsequent to a preliminary study of the performance characteristics of an existing or proposed use, the Zoning Administrator shall make a determination as to whether there exist reasonable grounds to believe that the use in question may violate the performance standards set forth in this Article and may initiate an official investigation.

Following the initiation of an official investigation, the Zoning Administrator is hereby empowered to require the owner or operator of the use in question to submit such data and evidence as he may deem essential to his making an objective determination. The evidence may include, but is not limited to, the following items:

- a. Plans of the existing or proposed construction and development.
- b. A description of the existing or proposed machinery, process and products.
- c. Specifications for the mechanisms and techniques used or proposed to be used in restriction [of] the possible emission of any of the dangerous and objectionable elements as set forth in this Article.
- d. Measurements of the amount or rate of emission of said objectionable elements.

Failure to submit data required by the Zoning Administrator shall constitute grounds for denying a zoning permit for that use of land.

Sec. 26.02.2. Where determinations can reasonably be made by the Building Inspector or other Township official, using equipment and personnel normally available to the Township or obtainable without extraordinary expense, such determinations shall be so made before notice of violation is issued.

Where determination of a violation is made, the Building Inspector shall take or cause to be taken lawful action as provided by this Ordinance to eliminate such violation. Failure to obey lawful orders concerning cessation of violation shall be punishable as provided in this Ordinance.

Sec. 26.02.3. Where determination of violation of performance standards will likely entail the use of highly skilled personnel and expensive or unusual instrumentation not ordinarily available to the Township and when, in the considered judgement of the Building Inspector a violation exists, the procedure will be as follows:

- a. *Notice.* The Building Inspector shall give written notice, by certified mail (return receipt requested or other means insuring a signed receipt for such notice) to those owners or operators of subject use deemed responsible for the alleged violations. Such notice shall describe the particulars of the alleged violation and the reasons why the Building Inspector believes there is a violation in fact, and shall require an answer or a correction of the alleged violation to his satisfaction within a reasonable time limit set by him. The notice shall state, and it is hereby declared, that failure to reply or to correct the alleged violation to the satisfaction of the Building Inspector within the time limit set constitutes admission of violation. The notice shall further state that upon request of those to whom it is directed, technical determinations as described in the appropriate portions of this Ordinance will be made, and that if the

violation as alleged is found to exist in fact, costs of the determinations will be charged against those responsible in addition to such other penalties as may be appropriate. If it is determined that no substantive violation exists, then the costs of this determination will be paid by the Township.

- b. *Correction of Violation Within Time Limit.* If, within the time limit set, there is no reply but the alleged violation is corrected to the satisfaction of the Building Inspector, he shall note "Violation Corrected" on his copy of the notice and shall retain it among his records, taking such other action as may be warranted by the circumstances of the case.
- c. *No Correction: No Reply:* If there is no reply within the time limits set (thus establishing admission of violation as provided in "a" above), and the alleged violation is not corrected to the satisfaction of the Building Inspector within the time limit set, he shall take or cause to be taken such action as warranted by continuation of an admitted violation after notice to cease.
- d. *Reply Requesting Extension of Time:* If a reply is received within the time limit set indicating that an alleged violation will be corrected to the satisfaction of the administrative official, but that more time is required than was granted by the original notice, the Building Inspector may grant an extension of time, if he deems such extension is warranted in the circumstances in the case, and if such extension will not, in his opinion, cause imminent peril to life, health, or property. In acting on such requests for extension of time, he shall in writing state his reasons for granting or refusing to grant the extension and shall transmit the same by certified mail (return receipt requested or other means insuring a signed receipt) as provided in subsection (a) above, to those to whom the original notice was sent.
- e. *Reply Requesting Technical Determination:* If a reply is received within the time limit set requesting technical determinations as described in the appropriate provisions of this Ordinance and if the alleged violations continue, the Building Inspector may call in properly qualified experts to make the determinations. If expert findings indicate violation of the performance standards do exist in fact, the costs of the determinations shall be paid by the persons responsible for the violations, in addition to such other penalties as may be appropriate under the terms of this Ordinance. If no substantive violation is found, costs of the determination shall be paid by the Township.

Sec. 26.02.4. If, after the conclusion of the time granted for compliance with the performance standards, the Building Inspector finds the violation is still in existence, any permits previously issued shall be void and the operator shall be required to cease operation until the violation is remedied.

(Amended: Ord. No. 456, § I, 9-17-12)

### 300.2603 - Appeals.

Sec. 26.03. The Zoning Administrator's action with respect to the performance standards procedure may be appealed to the Zoning Board of Appeals within sixty (60) days following said action. In the absence of such appeal, the Zoning Administrator's determination shall be final.

(Amended: Ord. No. 456, § I, 9-17-12)

### 300.2604 - Performance standards.

Sec. 26.04. Any use established in a Business Manufacturing District shall not be permitted to carry out any activity or operation or use of land, building or equipment that produces an irritant to the sensory perceptions greater than the standard measures for safeguarding human safety and welfare.

Sec. 26.04.1. *Noise:* No operation or activity shall be carried out in a Business or Manufacturing District which cause or create measurable noise levels exceeding the maximum sound pressure levels prescribed below, as measured on or beyond the boundary lines of said Districts.

TABLE C  
 MAXIMUM PERMITTED SOUND PRESSURE LEVELS IN DECIBELS  
 (Pre-1960 Octave Bands American Standards Association, Z24)

Octave Band  (Cycles Per Second)*	LM		M	
	Day	Night	Day	Night
00 to 74	76	70	84	76
75 to 149	70	62	78	70
150 to 299	64	56	72	64
300 to 599	57	49	65	57
600 to 1199	51	44	59	51
1200 to 2399	45	39	53	45
2400 to 4799	38	33	46	38
4800 and above	36	31	44	36
*Sound level meter set on the "C" or "Flat" scale, slow response.				

A sound level meter and an octave band analyzer shall be used to measure the level and frequency of the sound or noise during the day and/or the night. The measuring equipment and measurement procedures shall conform to the latest ANSI specifications on acoustics. The sound level meter and octave band analyzer shall be calibrated before and after the measurements. Sounds of very short duration, which cannot be measured accurately with the sound level meter, shall be measured by an impact noise analyzer; and the measurements so obtained may be permitted to exceed the maximum levels provided in Tables C or D by no more than five (5) decibels. For purposes of this Ordinance, impact noises shall be considered to be those noises whose peak values are more than seven (7) decibels higher than the values indicated on the sound level meter.

For some post-1960 manufactured instruments, the octave bands mentioned above have been converted to the new Preferred Frequencies as established by the American Standards Association. To accommodate the possible use of either type of instrumentation, the preceding table is repeated below, again in decibels, with the conversion to Preferred Frequencies already accomplished. Care must be exercised to assure the proper correlation between instruments and tables used in measuring performance.

TABLE D  
 MAXIMUM PERMITTED SOUND PRESSURE LEVELS IN DECIBELS  
 (Post-1960 Preferred Frequencies)

Center Frequency	LM	M
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(Cycles Per Second)*	DAY	NIGHT	DAY	NIGHT
31.5	77	72	85	77
63	73	68	80	73
125	67	62	75	67
250	62	57	70	62
500	55	50	65	55
1000	51	46	60	51
2000	44	39	50	44
4000	37	32	45	37
8000	33	28	40	33

\*Sound level meter set on the "C" or "flat" scale, slow response.

Where street traffic noises directly adjacent to the boundary line exceed these maximum permitted levels, the intensity levels permitted may then exceed those levels specified in the tables but may not exceed the level of the subject adjacent street traffic noises. For those areas in which the existing background noise levels exceed the maximum permitted levels, The noise levels at the boundary line may not exceed the background noise levels. In such cases, a study shall be made to determine the character of the background noise to include sources, levels and duration.

Sounds of an intermittent nature or characterized by pure tones may be a source of complaints even if the measured level does not exceed that specified. In such cases, the complaints shall be investigated to determine the nature of and justification for the complaint and possible corrective action. If the complaints are not resolved within sixty (60) days, the Building Inspector may then proceed to take steps to enforce the terms of the Zoning Ordinance in accordance with the remedies provided herein.

Application for variance from the sound level provisions may be submitted to the Board of Appeals. In such cases, the owner or operator of equipment on the property in the specific district shall submit a statement regarding the effects of noise from his equipment on the noise levels in the surrounding area. This statement will include a study of background noise levels, predicted levels at the boundary lines due to equipment operation and justification for the variance. The requests for variance will be reviewed by the Board of Appeals and granted where unnecessary hardship would otherwise be imposed upon the applicant and where no basic injury to the surrounding area will result. The Board of Appeals may impose conditions of operation in granting a variance.

*Sec. 26.04.2. Dust, Soot, Dirt, Fly Ash and Products of Wind Erosion.* The regulation of smoke, dust, soot, dirt, fly ash and products of wind erosion shall be subject in all respects to the State of Michigan Air Pollution Control Act.

*Sec. 26.04.3. Vibration.* Machines or operations which cause vibration shall be permitted, but no operation shall be permitted to produce ground transmitted oscillations which cause a displacement exceeding that specified in the following Tables E and/or F as measured at the property line. These vibrations shall be measured with a seismograph or accelerometer; preferably the former.

For purposes of this Ordinance, steady state vibrations are vibrations which are continuous, or vibrations in discrete impulses more frequent than sixty (60) per minute. Discrete impulses which do not exceed sixty (60) per minute shall be considered impact vibrations.

Between the hours of 8:00 p.m. and 6:00 a.m. all of the above maximum vibration levels, as measured on or beyond the boundary line of residentially used areas adjacent to a Business or Manufacturing District, shall be reduced to one-half (½) the indicated permissible values.

TABLE E  
MAXIMUM PERMITTED STEADY STATE VIBRATION IN INCHES

Frequency (Cycles Per Second)	
10 and below	0.001
10 to 19	0.0008
20 to 29	0.0005
30 to 39	0.0003
40 and above	0.0001

TABLE F  
MAXIMUM PERMITTED IMPACT VIBRATION IN INCHES

Frequency (Cycles Per Second)	
10 and below	0.002
10 to 19	0.0015
20 to 29	0.001
30 to 39	0.0005
40 and above	0.0002

Sec. 26.04.4. *Odor.* The emission of noxious, odorous matter in such quantities as to be readily detectable at a point along any property line, when diluted in the ration of one (1) volume of odorous air to four (4) or more volumes of clean air, so as to produce a public nuisance or hazard beyond lot lines is prohibited.

Sec. 26.04.5. *Glare and Heat.* Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot lines, except during the period of construction of the facilities to be used and occupied.

Bare bulbs used in signs in or near a residentially used area shall be no greater than ten (10) watts. Within five hundred (500) feet of a residentially used area, bare bulbs which are visible in the residential area may not exceed fifteen (15) watts.

Sec. 26.04.6. *Fire and Safety Hazards.* The storage and handling of flammable liquids, liquefied petroleum gases, and explosives shall comply with all regulations of the Township of Comstock, Kalamazoo County, and with all State rules and regulations, and regulations as established by the Fire Prevention Act, Act 207, Public Acts of 1941, as amended. Further, all storage tanks for flammable liquid materials above ground shall be located at least one hundred and fifty (150) feet from all property lines, and shall be completely surrounded by earth embankments, dikes or other types of retaining wall which will contain the total capacity of all tanks so enclosed.

Bulk storage tanks of flammable liquids below ground shall be located not closer to the property line than the greater depth to the bottom of the buried tank.

Sec. 26.04.7. *Sewage Wastes.* No industrial sewage wastes shall be discharged into sewers that will cause chemical reaction, either directly or indirectly, with the materials of such pipe or other structure construction to impair the strength or durability of sewer structures; cause mechanical action that will destroy or damage the sewer structures; cause restriction of the hydraulic

capacity of sewer structures; cause placing of unusual demands on the sewage treatment equipment or process; cause limitation of the effectiveness of the sewage treatment process; cause danger to public health and safety; or cause obnoxious conditions inimical to the public interest.

Specific conditions controlling sewage wastes are as follows:

- a. The acidity or alkalinity shall be neutralized within an average PH range of between five and one-half (5½) to seven and one-half (7½) as a daily average on a volumetric basis, with a permissible temporary variation in PH of 4.50 to 10.0.
- b. The wastes shall contain no Cyanides. Wastes shall contain no Chlorinated solvents in excess of 0.1 p.p.m; no Flourides in excess of 10 p.p.m., no more than 5 p.p.m. of Hydrogen Sulphide; and shall contain no more than 10 p.p.m. of Chromates.
- c. The wastes shall not contain any insoluble substance in excess of 10,000 p.p.m., exceed a daily average of 500 p.p.m., fail to pass a No. 8 Standard Sieve; or have a dimension greater than one-half (½) inch.
- d. The wastes shall not have a Chlorine demand greater than 15 p.p.m.
- e. The wastes shall not contain Phenols in excess of 0.05 p.p.m.
- f. The wastes shall not contain any grease or oil or any oily substance in excess of 100 p.p.m. or daily average of 25 p.p.m.
- g. The discharge of Mercury from any single source shall be prohibited.

Sec. 26.04.8. *Reserved for future use.*

Sec. 26.04.9. *Gases.* The escape of or emission of any gas which is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated. SO 2 gas, as measured at the property line at ground elevation, shall not exceed an average of 0.33 p.p.m., H2 S likewise shall not exceed 1 p.p.m., Flourine shall not exceed 0.1 p.p.m., Nitrous fumes shall not exceed 5 p.p.m., and Carbon Monoxide shall not exceed 15 p.p.m., all as measured as the average intensity during any 24 hour sampling period.

Sec. 26.04.10. *Electromagnetic Radiation.* Applicable rules and regulations of the Federal Communications Commission in regard to propagation of electromagnetic radiation are hereby made a part of this Ordinance.

Sec. 26.04.11. *Drifted and Air-Borne Matter, General.* The drifting of air-borne transmission beyond the lot line of dust, particles or debris from any open stock pile shall be unlawful and shall be summarily caused to be abated.

(Ord. No. 487, § V, 3-20-17)

## ARTICLE 27.00

### 300.2700 - ADMINISTRATION AND ENFORCEMENT (Amended: Ord. No. 456, § IV, 9-17-12)

#### 300.2701 - Enforcement.

Sec. 27.01. The provisions of this Ordinance shall be administered by the Township Zoning Administrator, who shall be appointed by the Township Board of Comstock Charter Township for such term and subject to such conditions and at such rate of compensation as that Board shall determine. The Zoning Administrator may be assisted by any other Township employees and officials as he/she may delegate to enforce the provisions of this Ordinance. The duty of enforcement thereof shall rest with such administrative officials as shall be authorized therein by law, and such administrative officials shall for the purpose of this Ordinance have the power of public officers.

#### 300.2702 - Zoning compliance permits.

## Sec. 27.02.

- A. *Permit Requirements.* It shall be unlawful for any person to commence excavation for any building or structure or to commence the erection of or addition to any building, structure or parking area, erect new or modify existing exterior light fixtures at other than one- or two-family properties, and no land use shall be commenced until a zoning compliance permit for the same has been secured from the Zoning Administrator. No such zoning compliance permit shall be issued for any building, structure or use where the construction, addition, alteration or use thereof would be in violation of the provisions of this Ordinance. Each zoning compliance permit shall become null and void within one (1) year following the issuance of the permit unless the provisions of the permit have been utilized or unless re-application is made and approved by the Zoning Administrator. Exempted from this zoning compliance permit requirement are alterations and ordinary maintenance repairs made on any building or structure that does not affect the external dimension of the structure. Also exempted are fences and those projects that have been reviewed and approved through the site plan review procedures of Article 22 of this Ordinance and/or that require a building permit.
- B. *Zoning Compliance Permit Application.* Application for a zoning compliance permit shall be filed in writing with the Zoning Administrator on a form approved by the Township Board, signed by the person, firm, co-partnership or corporation requesting the same, or by the duly authorized agent of such person, firm, co-partnership or corporation. There shall be submitted with all applications for zoning compliance permits two (2) copies of a plot plan, giving accurate dimensions on either a scale drawing or a rough sketch. Scale drawings shall be required on all structures and shall contain the following information:
1. Existing or intended use of the structures.
  2. Lines and dimensions of the lots to be used.
  3. Location upon the lot of all existing and proposed structures and streets.
  4. Such other information with respect to the proposed structure, use, lot and adjoining property as may be required by the Zoning Administrator to determine compliance with this Ordinance.

One copy of both plans and specifications shall be filed in and retained by the office of the Zoning Administrator, and the other shall be given to the applicant when the Zoning Administrator has approved the application and issued the permit. In case of minor alterations, the Zoning Administrator may waive portions of the foregoing requirements obviously not necessary for determination of compliance with this Ordinance. Failure to obtain a zoning compliance permit shall constitute a violation of this Ordinance and shall subject each person or persons or corporation whose benefit the permit is required and the owner or owners of the premises involved to prosecution for such violation. The requirement of submission of a plot plan shall be waived for any use or structure requiring site plan approval under this Ordinance. Such site plan approval shall be obtained prior to the issuance of a zoning compliance permit.

- C. *Conformity To Approved Zoning Compliance Permit.* The property which is the subject of an approved zoning compliance permit shall be developed and used in strict compliance with the terms of the zoning compliance permit and any amendments thereto which have received the approval of the Zoning Administrator.

(Ord. No. 473, § XII, 11-16-15; Ord. No. 487, § VII, 3-20-17; Ord. No. 490, § II, 10-16-17)

## 300.2703 - Fees.

Sec. 27.03. Fees for inspection and the issuance of permits required or issued under the provisions of this Ordinance shall be collected by the Township Clerk or his/her designee in advance of the issuance of such permits.

## 300.2704 - Surety bonds.

Sec. 27.04. To insure compliance with this Zoning Ordinance and any conditions imposed thereunder by either the Planning Commission or the Board of Appeals, the Commission and Board may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township covering the estimated cost of improvements associated with the project for which site plan approval is sought be deposited with the Clerk of the Township to insure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project or in the case of projects where the time of year prevents completion of site improvements such as parking lot paving or landscaping, before a Certificate of Occupancy may be issued for the building.

As used in this Section, "improvements" means those features and actions associated with the project which are considered necessary to protect natural resources, or the health, safety, and welfare of the residents of the Township and future users or inhabitants of the project or project area including roadways, lighting, utilities, sidewalks, landscaping, parking areas screens, and drainage.

(Amended: Ord. No. 484, § XIII, 10-24-16)

### 300.2705 - Amendments to this Ordinance.

Sec. 27.05. This Township Board may, upon recommendations from the Planning Commission, amend, supplement or change the regulations or the district boundaries of this Ordinance pursuant to the authority and according to the procedures set forth in Act 110 of the Public Acts of 2006, as it may from time to time be amended. Whenever a petitioner requests a zoning district boundary amendment, he or she shall be the fee holder owner of the premises concerned or else have the fee holder owner also subscribe to his/her petition, and shall submit a petition for rezoning to the Township Clerk. Any applicant desiring to have any change made in this Ordinance shall, with his/her petition for such a change, deposit the required fee as established by the Township Board, which fee shall be paid over to the Township Clerk at the time the petition is filed to cover the administrative, publication and attendant miscellaneous costs involved with said petition, and same shall be deposited in the general fund of the Township.

In reviewing an application for the rezoning of land, whether the application be made with or without an offer of conditions, factors that should be considered by the Planning Commission and the Township Board include, but are not limited to, the following:

1. Whether the rezoning is consistent with the policies and uses proposed for that area in the Township's Master Land Use Plan;
2. Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area;
3. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning; and
4. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.

### 300.2706 - Imposition of conditions.

Sec. 27.06. Whenever, by the terms of this Ordinance, the Planning Commission or Board of Appeals is required to review requests for variances, special exception uses, planned unit developments or other land uses or activities or review site plans or undertake other discretionary action, then in that event, said Commission and Board shall be authorized to impose reasonable conditions on any approval of such requests made to it. The conditions may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increases in service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility of adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. The conditions imposed shall meet the standards imposed by Section 504(4) of 2006 PA 110, as amended.

The Board of Directors of KABA is hereby given the authority to establish by resolution at any public meeting a schedule of fees, rates and charges for the administration and enforcement of the Construction Code Act, the State Construction Code and this Ordinance, and for the conducting of various activities authorized by said Act/Code and this Ordinance; provided that the same shall be reasonable and bear a reasonable relationship to the cost and expense of such administration, enforcement and activity. The Board of Directors of KABA shall further have the right to amend by resolution the aforementioned schedule from time to time within the foregoing limits of reasonableness.

#### ARTICLE 27.50

#### 300.2750 - CONDITIONAL REZONING

##### 300.2751 - Intent.

Sec. 27.51. It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 16i of the Township Zoning Act (MCL 125.286i) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

(Added: Ord. No. 428, § II, 2-6-06)

##### 300.2752 - Application and offer of conditions.

##### Sec. 27.52

- A. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
- B. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
- C. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
- D. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
- E. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- F. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
- G. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- H. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the

Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

(Added: Ord. No. 428, § II, 2-6-06)

#### 300.2753 - Planning Commission review.

Sec. 27.53. The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Section 27.05 of this Ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

(Added: Ord. No. 428, § II, 2-6-06; Ord. No. 510, § V, 11-18-19.)

#### 300.2754 - Township Board review.

Sec. 27.54. After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in Section 27.05 of this Ordinance. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board shall, in accordance with Section 11 of the Township Zoning Act (MCL 125.281), refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

(Added: Ord. No. 428, § II, 2-6-06; Ord. No. 510, § V, 11-18-19.)

#### 300.2755 - Approval.

##### Sec. 27.55

- A. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.
- B. The Statement of Conditions shall:
  1. Be in a form recordable with the Register of Deeds of Kalamazoo County or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
  2. Contain a legal description of the land to which it pertains.
  3. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
  4. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
  5. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the Township with the Register of Deeds of Kalamazoo County.
  6. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
- C. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a

designation that the land was rezoned with a Statement of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.

- D. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the Register of Deeds of Kalamazoo County. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.
- E. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

(Added: Ord. No. 428, § II, 2-6-06)

#### 300.2756 - Compliance with conditions.

##### Sec. 27.56.

- A. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
- B. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

(Added: Ord. No. 428, § II, 2-6-06)

#### 300.2757 - Time period for establishing development or use.

Sec. 25.57. Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

(Added: Ord. No. 428, § II, 2-6-06)

#### 300.2758 - Reversion of zoning.

Sec. 27.58. If approved development and/or use of the rezoned land does not occur within the time frame specified under Section 27.57 above, then the land shall revert to its former zoning classification as set forth in MCL 125.286i. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

(Added: Ord. No. 428, § II, 2-6-06)

#### 300.2759 - Subsequent rezoning of land.



Sec. 27.59. When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Section 27.58 above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Register of Deeds of the County in which the land is located a notice that the Statement of Conditions is no longer in effect.

(Added: Ord. No. 428, § II, 2-6-06)

#### 300.2760 - Amendment of conditions.

Sec. 27.60.

- A. During the time period for commencement of an approved development or use specified pursuant to Section 27.57 above or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.
- B. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

(Added: Ord. No. 428, § II, 2-6-06)

#### 300.2761 - Township right to rezone.

Sec. 27.61, Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Township Zoning Act (MCL 125.271 et seq.)

(Added: Ord. No. 428, § II, 2-6-06)

#### 300.2762 - Failure to offer conditions.

Sec. 27.62. The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

(Added: Ord. No. 428, § II, 2-6-06)

### ARTICLE 28.00

#### 300.2800 - BOARD OF APPEALS

##### 300.2801 - Board established.

Sec. 28.01. There is hereby established a Board of Appeals, which shall perform its duties and exercise its powers as provided by Act 110 of the Public Acts of 2006, as it may from time to time be amended, in such a way that the objectives of this Ordinance shall be observed, public safety, morals and general welfare assured, and substantial justice done.

(Amended: Ord. No. 430, § VII, 6-19-06)

##### 300.2802 - Board membership.

Sec. 28.02. There is hereby established a Township Zoning Board of Appeals, which shall have such powers, duties and responsibilities as are granted or vested in it under the provisions of this Ordinance or under any applicable provision of any state statute or other law.

The Zoning Board of Appeals shall be composed of five regular members. The first regular member of the Board of Appeals shall be a member of the Planning Commission. The remaining regular members and any alternate members of the Township Zoning Board of Appeals shall be selected by the Township Board from the electors of the Township residing outside of incorporated cities and villages. The members selected shall be representative of the population distribution and of the various interests present in the Township. One regular member of the Township Zoning Board of Appeals may be a member of the Township Board

The Township Board may appoint not more than two alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called to serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals.

(Amended: Ord. No. 309, 5-4-92; Ord. No. 312, 7-20-92; Ord. No. 430, § VIII, 6-19-06)

#### 300.2803 - Board meetings.

Sec. 28.03. Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as the Board of Appeals may specify in its rules of procedure. All meetings of the Board of Appeals shall be open to the public in accordance with the Michigan Open Meetings Act. The Board of Appeals shall maintain a record of its proceedings which shall be filed in the office of the Township Clerk and shall be of public record.

#### 300.2804 - Jurisdiction and appeals.

Sec. 28.04.

- a. The Board of Appeals shall hear and decide all matters referred to it or upon which it is required to pass under this Ordinance. The concurring vote of a majority of the members of the Board of Appeals shall be necessary for the final disposition of any matter brought before the Board of Appeals. Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the Township, County or State.
- b. Such appeal shall be taken within such time as shall be prescribed by the Board of Appeals by general rules, by the filing with the officer from whom the appeal is taken and with the Board of Appeals of a written notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which action appeal was taken.
- c. An appeal shall stay all proceedings in furtherance of the action appealed 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/her that by reason of facts stated in the certificate, a stay would in his/her opinion, cause imminent peril to life or property in which case the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Circuit Court on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- d. The power or authority to alter or change the Zoning Ordinance or Zoning Map is reserved to the Township Board, as is provided by law.
- e. (Repealed per Ordinance # 312).

(Amended: Ord. No. 312, 7-20-92; Ord. No. 430, § IX, 6-19-06)

#### 300.2805 - Hearing open to public.

Sec. 28.05. The Board of Appeals shall make no recommendation in any specific case until after a public hearing conducted by the Board of Appeals has been held. The Board of Appeals shall fix a reasonable time for the hearing of the appeal and give notice thereof in accordance with the applicable requirements of the Michigan Zoning Enabling Act (2006 PA 110, as it may from time to time hereafter be amended). The Zoning Board of Appeals shall decide the appeal within a reasonable time. Upon the hearing, any party may appear in person or by duly authorized agent or by attorney.

(Amended: Ord. No. 430, § X, 6-19-06)

### 300.2806 - Powers of the Board of Appeals.

Sec. 28.06. The Board of Appeals shall have the following specified duties and powers:

Sec. 28.06.1. *Review:* The Board of Appeals shall have authority to hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with enforcement of any provisions of this Ordinance, except for decisions pertaining to special exception uses, planned unit developments, or site plan review.

Sec. 28.06.2. *Interpretation:* The Board of Appeals shall have the power to:

- a. Interpret the provisions of this Ordinance.
- b. Determine the precise location of the boundary lines between zoning districts.

Sec. 28.06.3. *Variances:* The Board of Appeals shall have the power to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the Zoning Ordinance or to any other nonuse-related standard in the Ordinance where there are practical difficulties in the way of carrying out the strict letter of this Ordinance so that the spirit of the Ordinance shall be observed, public health and safety secured, and substantial justice done. In making this determination, the standards set forth in the following section shall apply.

Sec. 28.06.4. *Standards:* In evaluating a variance request, the Zoning Board of Appeals shall consider the following:

- a. That the variance will not permit the establishment within a zoning district of any use which is not allowed as a permitted or special exception use within the district.
- b. That compliance with the strict letter of the Zoning Ordinance would unreasonably prevent the owner or occupant of the property from using the property for a permitted purpose, or would render conformity with the Zoning Ordinance unnecessarily burdensome.
- c. That a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the surrounding area, or, in the alternative, that a lesser relaxation than that applied for would give substantial relief to the owner or occupant of the property involved and be more consistent with justice to other property owners.
- d. That the hardship asserted by the applicant by way of justification for a variance is due to unique circumstances of the property.
- e. That the hardship asserted by way of justification for the variance is not self-created.
- f. That, in granting a variance, the Board of Appeals is insuring that the spirit of the Zoning Ordinance is observed, public safety secured, and substantial justice done.
- g. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent nature as to make it more reasonable and practical to amend the Ordinance.

Sec. 28.06.5. *Conditions to Variance:* In granting a variance, the Board of Appeals may specify, in writing, to the applicant such conditions in connection with the granting of the variance that will, in its judgment, secure substantially the objectives of the regulations or provisions to which the variance applies and assure satisfaction of the standards set forth above governing the granting of a variance.

(Amended: Ord. No. 181, 6-15-81; Ord. No. 312, 7-20-92; Ord. No. 430, § XI, 6-19-06; Ord. No. 409, § VI, 10-26-17)

### 300.2807 - Approval periods.

Sec. 28.07. Subject to the exception set forth below, no variance granted by the Board of Appeals shall be valid for a period longer than six months unless either (1) the use or structure made possible by the variance is established within the six-month period or (2) a building permit for the construction made possible by the variance is obtained within the six-month period and the construction is started and proceeds to completion in accordance with the building permit. EXCEPTION: Variances granted which render vacant lots that would otherwise be unbuildable under the terms of this Ordinance buildable (e.g., variances from lot area, lot width, road frontage, or lot depth-to-width ratio requirements) shall not be subject to the above six-month limitation.

(Amended: Ord. No. 312, 7-20-92)

Section 28.08 of the Comstock Township Zoning Ordinance, which section is entitled "SPECIAL EXCEPTIONS" is hereby repealed.

## ARTICLE 29.00

### 300.2900 - INTERPRETATION, SEVERABILITY, PENALTIES, RIGHTS AND REMEDIES, GENERAL RESPONSIBILITY, AND ENACTMENT

#### 300.2901 - Interpretation.

Sec. 29.01. In the interpretation and application, the provisions of this Ordinance shall be held to a minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare. Where this Ordinance imposes a greater restriction than is required by existing ordinances or by rules, regulations or permits, the provisions of this Ordinance shall control. Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

#### 300.2902 - Severability.

Sec. 29.02. This Ordinance and the various parts, sections, subsections, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby. The Township Board hereby declares that it would have passed this Ordinance, and each section, subsection, phrase, sentence and clause thereof, irrespective of the fact that any one or more sections, subsections, phrases, sentences or clauses be declared invalid.

#### 300.2903 - Violation and sanctions.

##### Sec. 29.03.

- a. *Nuisance Per Se.* Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or used, and any use of a lot or land which is begun, continued, or changed in violation of any term or provision of this Ordinance, is hereby declared to be a nuisance per se subject to abatement pursuant to MCL 125.3407 and as otherwise provided by law.
- b. *Violation.* Any person who violates, disobeys, neglects or refuses to comply with any provision of this Ordinance, any administrative decision made under the Ordinance, or any permit or approval issued under the Ordinance, including any conditions imposed thereon, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a

violation of this Ordinance. Any person responsible for a violation of this Ordinance whether as an owner (by deed or land contract), lessee, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.

- c. *Municipal Civil Infraction.* A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
-1st Offense	\$ 75.00	\$500.00
-2nd Offense	\$150.00	\$500.00
-3rd Offense	\$325.00	\$500.00
-4th or More Offense	\$500.00	\$500.00

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Charter Township of Comstock has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 be ordered.

- d. *Remedial Action.* Any violation of this Ordinance shall constitute a basis for injunctive relief or other appropriate remedy in any court of competent jurisdiction to compel compliance with this Ordinance and enforce the provisions thereof.

(Amended: Ord. No. 383, § I, 3-5-01; Ord. No. 430, § XII, 6-19-06)

300.2904 - Rights and remedies.

Sec. 29.04. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

300.2905 - General responsibility.

Sec. 29.05. The Township Board or its duly authorized representative is hereby charged with the duty of enforcing the within Ordinance and said Board is hereby empowered, in the name of said Comstock Township to commence and pursue any and all necessary and appropriate actions and/or proceedings in the Circuit Court of Kalamazoo 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. And it is further provided that any person aggrieved or adversely affected by such a non-compliance or violation may institute suit and/or join the Township Board in such a suit to abate the same.

300.5000 - APPENDIX

300.5000A - Illustrations of definitions.

- A.
  1. Basement and Story Definition
  2. Floor Area Terminology
  3. Floor Area Ratio
  4. Building Height Requirements
  5. Lot Terms
  6. Corner, Interior and Double Frontage Lots
  7. Non-Conforming Use
  8. Basic Structural Terms

9. Yard Requirements