

Clearwater Township Ordinance #22

The Zoning Ordinance

Enacted by the Clearwater Township Board, June 15, 2011

Effective July 15, 2011

[Amendments 1 through 7 incorporated into the text, January 3, 2022]

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CLEARWATER TOWNSHIP ZONING ORDINANCE #22

ZONING ORDINANCE CLEARWATER TOWNSHIP

An ordinance to establish zoning districts and regulations in the Township of Clearwater, County of Kalkaska and State of Michigan, in accordance with the provisions of Act 110 of the Public Acts of 2006, and Act 33 of the Public Acts of 2008, as amended; and to define certain terms used herein; to establish a Zoning Board of Appeals and define its duties and powers; to provide for the administration and enforcement; to provide for amendments; and to provide penalties for the violation of this Ordinance.

ARTICLE I SHORT TITLE

1.01 This Ordinance shall be known as "Clearwater Township Zoning Ordinance" and will be referred to herein as "this Ordinance".

ARTICLE II INTERPRETATION

2.01 PURPOSE

The fundamental purposes of this Ordinance are:

- A. To promote the public health, safety, peace, and general welfare of the inhabitants of Clearwater Township; and
- B. To provide for the protection and preservation of the high quality of our lakes, rivers, streams, and wells, to the end that the waters thereof shall continue to afford a safe and adequate water supply and optimum recreational enjoyment; and
- C. To encourage the use of lands in accordance with their character and adaptability; thereby conserving natural resources and property value and limiting the improper use of land; and
- D. To avoid the overcrowding of population; to lessen congestion on public streets and highways; to reduce hazards to life and property due to fire, flooding, erosion, pollution, excessive dust, fumes, noise, vibration, noxious odors or other hazards; and
- E. To prevent the overburdening of existing or available public services and utilities, to facilitate improvements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous use of land, resources and properties; and
- F. To provide for the orderly growth of the residential and economic attributes of the Township; and
- G. To provide only those restrictions of individual freedom and activity which are consistent with the fundamental purposes outlined in this Article.

2.02 SCOPE

It is not intended by this Ordinance to repeal, annul, or in any way impair or interfere with existing provisions of law or ordinance, except as hereinafter specifically repealed, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to law, relating to the use of buildings or premises, or with any private restrictions placed upon property by covenant or deed; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises than are imposed or required by such existing provisions of law or ordinance or by such rules,

regulations or permits or by such private restrictions, the provisions of this Ordinance shall control.

The purpose and intent of the Sections of this Ordinance pertaining to the regulation of sexually oriented businesses is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the township, and to minimize their negative secondary effects. It is recognized that sexually oriented businesses, because of their very nature, have serious objectionable operational characteristics which cause negative secondary effects upon nearby residential, educational, religious and other similar public and private uses. The regulation of sexually oriented businesses is necessary to ensure that their negative secondary effects will not contribute to the blighting or downgrading of surrounding areas and will not negatively impact the health, safety and general welfare of township residents. The provisions of this Ordinance are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this Ordinance to legitimize activities which are prohibited by Township ordinance, state or federal law. If any portion of this Ordinance relating to the regulation of sexually oriented businesses or references in those sections is found to be invalid or unconstitutional by a court of competent jurisdiction, the Township intends said portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law. The Township further states that it would have passed and adopted what remains of any portion of this Ordinance relating to regulation of sexually oriented businesses following the removal, reduction or revision of any portion so found to be invalid or unconstitutional.

ARTICLE III ZONING DISTRICTS

3.01 CLASSIFICATION

For the purpose of this Ordinance, the Township of Clearwater is divided into the following land use districts:

- A. Residential
 - R-1: Single-family Residential ([ARTICLE XIII](#))
 - R-2: Multifamily Residential ([ARTICLE XIV](#))
 - R-3: Forest Residential ([ARTICLE XV](#))
 - R-Vil: Village Residential ([ARTICLE XVI](#))
- B. Agricultural ([ARTICLE XVII](#))
- C. Recreational ([ARTICLE XVIII](#))
- D. Commercial
 - C-Vil: Village Commercial ([ARTICLE XX](#))
 - C-LI: Commercial-Light-Industry ([ARTICLE XXI](#))
- F. Mobile Home Park District ([ARTICLE XXIII](#))

The districts into which each parcel of land in the Township is placed are shown on the map which accompanies and is hereby made a part of this Ordinance. All proper notations on the map shall be as much a part of this Ordinance as though specifically described herein.

3.02 INTERPRETATION OF DISTRICT BOUNDARIES

Unless otherwise stated, all land use district boundaries are intended to follow lot lines, or the center lines of roads, streets, alleys, or section or sub-section lines as they exist on the date of enactment of this Ordinance.

3.03 EXACT LOCATION

The Zoning Board of Appeals shall determine, when required, the exact location of land use boundaries that may otherwise be in question.

3.04 REPLACEMENT OF OFFICIAL ZONING MAP

In the event that the official Zoning District Map of Clearwater Township is damaged, destroyed, lost, or in need of replacement because of difficulties interpreting due to scale, poor drafting technique or the nature or number of changes made thereto, the Township Board may by Resolution, authorize the preparation of a new official Zoning Map which shall accurately depict the zoning districts of Clearwater Township. The replacement map may correct drafting or other errors or omissions on the existing official map, but no corrections shall have the effect of amending the Zoning Ordinance or the official Zoning Map. Any difficulty encountered in determining zoning boundaries or district classifications shall be resolved by the Zoning Board of Appeals. The Township Board may take this action on the recommendation of the Planning Commission. A replacement Zoning Map shall take effect upon certification by the signatures of the Chairman of the Planning Commission and by each member of the Zoning Board of Appeals that it is an accurate reproduction of the official Zoning Map it replaces. The new official Zoning Map shall be identified by the signature of the Township Supervisor. Unless the official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved

together with all available records pertaining to its adoption or amendment.

3.05 COPY OF ORDINANCE

A copy of this Ordinance and any amendments thereto shall be kept on file, as a matter of public record, in the Office of the Township Clerk.

ARTICLE IV GENERAL PROVISIONS

4.01 CONFLICTING LAWS, REGULATIONS AND RESTRICTIONS

The provisions of this Ordinance shall be held to be the minimum requirements for promoting the public health, safety and general welfare. Whenever the requirements of this Ordinance conflict with other lawfully adopted rules, regulations or restrictions, or with existing easements, covenants, or other agreements between parties, the requirements imposing the higher standards shall govern. Compliance with the terms of this Ordinance in no way removes responsibility for obtaining any and all other permits and approvals required by local, state or federal law before commencing with any construction upon or use of land within the territory affected by this Ordinance.

4.02 UNLISTED PROPERTY USES

The Zoning Board of Appeals shall have the power upon written request of any property owner, the Zoning Administrator or the Planning Commission to classify a use not listed in the Ordinance. In determining the proper classification for an unlisted land use or structure, the Zoning Board of Appeals shall consider the characteristics of the use under consideration in relation to similar and comparable uses listed in this Ordinance. Once classified, the use is subject to all applicable regulations pertaining to similar uses in that district, including Special Use Permit considerations if classified as such by the Zoning Board of Appeals.

4.03 RIVER AND STREAM PROTECTION

Activities which are detrimental to the natural quality of watercourses in Clearwater Township are expressly prohibited. Such activities include, but are not limited to, pollution of water by the introduction of chemical or organic pollutants, and/or erosion of stream banks.

- A. No Land Use Permit shall be issued for construction on wetlands without PRIOR approval from the DNREQ.
- B. There shall be a natural vegetative strip, fifty (50) foot in depth, maintained along the river or water's edge.
 1. The vegetative strip shall contain native trees, shrub and other vegetation and natural materials. The purpose of this strip is to stabilize the river banks, prevent erosion, absorb nutrients in water runoff from adjacent lands, provide shading for the stream to maintain cool water temperatures and screening of adjacent man-made structures.
 2. The Zoning Administrator shall notify each applicant for a Land Use Permit of the purpose of this vegetative strip.

4.04 USES

Uses in all Districts are subject to requirements as listed in [ARTICLE IX](#) (Schedule of Regulations) and [ARTICLE XI](#) (Off-Street Parking and Loading).

4.05 LAND ALTERATION

No premises shall be so filled or graded so as to discharge surface runoff on abutting premises in such manner as to cause ponding or surface accumulation of such runoff thereon. No earth changing activities shall be undertaken except in compliance with the Natural Resources and Environmental Protection Act, Part 91 Soil Erosion and Sedimentation Control, (Public Act 451 of 1994, as amended), and only after obtaining a valid permit from the Kankaska County Soil Erosion officer.

4.06 UNDERGROUND STORAGE TANKS

Any person installing an underground storage tank used for storing any material other than water or used for sanitation purposes, shall register said storage tank in writing with the Clearwater Township Office.

4.07 OCCUPANCY PERMIT

No building shall be occupied until an Occupancy Permit has been issued by Kalkaska County Building Department.

4.08 SIDEWALKS

A. Maintenance

Any parcel of land or lot which contains a township-owned sidewalk, running parallel with a public thoroughfare, shall be maintained by the township. This shall include:

1. Snow removal
2. Dirt and debris.
3. Grass and weeds.
4. Replacement of cracked or broken portions, as necessary. The township is further responsible for the maintenance of the property lying between any township-owned sidewalk and the public thoroughfare.

B. Liability

The township shall be held responsible and liable for bodily injury and for property damage arising out of township-owned sidewalks that are in disrepair and unkept.

4.09 LITTER CONTROL

Property owner/tenant shall be responsible for maintaining area free of litter, food residue, and broken glass; and said area shall be maintained in a safe and sanitary condition.

4.10 USE OF YARD OR OPEN SPACE

Inoperative or Dismantled Cars, Trucks and Buses

The storage of one (1) unlicensed, intact vehicle is allowed per lot or parcel. The storage of dismantled, wrecked or inoperative vehicles within any District is expressly prohibited unless stored for financial security reasons or contained within an enclosed structure or provided said storage does not exceed one (1) month.

4.11 JUNKYARDS

Junkyards are not permitted in Clearwater Township.

4.12 GARAGE, YARD, AND OTHER SIMILAR PRIVATE SALES

Garage, yard, basement or other similar private sales shall be subject to the following limitations:

- A. No sale shall continue for a period of more than three (3) days.
- B. No more than twelve (12) such sales per year shall be held on the same premises.
- C. All merchandise being offered for sale shall not be stored outside except during hours of sale.
- D. No sale shall constitute a nuisance to the neighborhood due to noise, traffic or unsightly conditions caused by the nature of items for sale.
- E. Any and all signs referring to said sale shall comply with the requirements of [ARTICLE XII](#).

4.13 WIRELESS COMMUNICATION TOWERS AND ANTENNAS

An Ordinance to amend the Clearwater Township Zoning Ordinance to designate wireless telecommunication towers and antennas as permitted uses, uses subject to special use permit, and accessory structures; and to add and amend certain definitions.

A. PURPOSE

The purpose of this ordinance is to establish general guidelines for siting wireless telecommunication towers and antennas. The Township recognizes that it is in the public interest to permit the siting of wireless telecommunication towers and antennas within the Township. The Township also recognizes the need to protect the scenic beauty of Clearwater Township from unnecessary and unreasonable visual interference, and that wireless telecommunication towers and antennas may have negative aesthetic impacts upon adjoining and neighboring uses. As such, this ordinance seeks to:

1. Protect residential areas from potential adverse impact of towers and antennas;
2. Encourage the location of towers in nonresidential areas;
3. Minimize the total number of towers throughout the community;
4. Encourage the joint use of new and existing tower sites rather than the construction of additional towers;
5. Encourage developers of towers and antennas to configure them in a way that minimizes their adverse visual impact;
6. Enhance the ability of providers of telecommunication services to provide such services to the community quickly, effectively, and efficiently;
7. Consider the public health and safety of telecommunication towers; and
8. Avoid potential damage to adjacent property and injury to citizens from tower failure.

B PERMITTED USES

The following uses are specifically permitted in any Agricultural or Recreational District:

1. Telecommunication towers located on property owned, leased, or otherwise controlled by Clearwater Township provided a license or lease authorizing such telecommunication tower antenna has been approved by Clearwater Township.
2. Antenna co-located on telecommunications towers which have received a special use permit which included review of the standards set forth in ARTICLE XXIV of this ordinance.

4.14 PRIVATE ACCESS EASEMENTS

Private access easements shall be permitted provided that the access easement is established according to the requirements of this Ordinance.

A. Naming

All private access easements shall have names approved by the Clearwater Township Board and shall be consistent with and accepted by the Kankaska County Road Commission naming and requirements and Kankaska addressing system.

B. Easement and Maintenance Agreement

When a private access easement is proposed in conjunction with a land division subject to Public Act 591 of 1997, and the land division results or may result by future divisions reserved or conveyed under Section 109 (3) of PA 591 in the creation of five (5) or more parcels or lots, the applicant shall provide the Township Assessor or other designated official the following information:

1. A tentative parcel map or survey that indicates the location, width and dimensions of all private access easements.

2. A maintenance agreement binding on all current and future owners of property accessed by the private access easement. At a minimum, the maintenance agreement shall include the following elements:
 - a. A statement indicating that the access easement is private and not subject to the maintenance jurisdiction of Kankaska County or Clearwater Township. Further, that such access easement shall not be maintained or improved at the expense of Clearwater Township unless the maintenance or improvement is funded by a special assessment of the owners of property accessed by the easement.
 - b. Provisions to assure that the easement is maintained to allow passage by emergency and vice vehicles during all weather conditions that are reasonably expected in Clearwater Township.
 - c. A mechanism for equitably allocating the cost of construction and maintenance among current and future owners of property accessed by the easement.
 - d. A statement notifying all owners of property accessed by the easement that any prohibition, restriction, limitation or any other manner of interference with normal ingress and egress or use by other owners, their guests, tradesmen, vendors, delivery persons and emergency service personnel is prohibited.
3. The easement and maintenance agreement shall be recorded with the deed of all property accessed by the private access easement at the County Register of Deeds.

C. Easement Design Requirements

The following requirements shall apply to all private access easements:

1. A minimum easement width of 66 feet of right-of-way shall be provided, except in the following circumstances:
 - a. If fewer than five (5) parcels are created or may be created under the provisions of Section 109 (3) of PA 591, the minimum easement shall be 33 feet. In the event that a 33 foot easement is established, the deed shall be recorded with the following notation: Access easements of less than 66 feet may not be accepted for dedication to public use by the Kankaska County Road Commission and shall not be the responsibility of Clearwater Township.
2. Shall be posted with the Road name and its designation as a private access easement.

D. Permit Requirements

The Zoning Administrator shall issue a land use permit for building construction on property accessed by a private access easement provided that such easement meets the requirements of this Ordinance and all other applicable local, County and State Requirements

ARTICLE V DEFINITIONS

ACCESSORY BUILDING - a supplemental building or structure on the same lot or part of the main building occupied by or devoted exclusively to an accessory use.

ACCESSORY USE - A use customarily incidental and subordinate to the principal use or building located on the same lot as the principal use or building.

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

ADULT BOOKSTORE OR ADULT VIDEO STORE - means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

1. books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations or media which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or
2. instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises 35% or more of sales volume or occupies 35% or more of the floor area or visible inventory within the establishment.

ADULT CABARET - means a nightclub, bar restaurant, or similar commercial establishment that regularly features:

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

ADULT FOSTER CARE HOME - a "Living Unit" which is a distinct part of a facility which incorporates the arrangement of a family home and which at least contains a living room, bedrooms and bathrooms, food services and dining area for a group of residents in a family atmosphere.

ADULT MOTEL - means a hotel, motel, or similar commercial establishment that:

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

3. allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

ADULT MOTION PICTURE THEATER - means a commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction of Specified Sexual Activities or Specified Anatomical Areas.

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

ALTERATION - any modification, additions, or change in construction or type of occupancy; any change or rearrangement in the structural part of a building; any enlargement of a building, whether by extending a side or by increasing in height; or the moving from one location to another.

ALTERNATIVE TOWER STRUCTURE - man-made trees, clock towers, bell steeples, light poles and other similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

AMUSEMENT GAME/MACHINE - a coin-operated machine or device which, whether mechanical, electrical, or electronic, shall be ready for play by the insertion of a coin (or token) and may be operated by the public for use as a game, entertainment, or amusement. It shall include devices such as pinball machines or any device which utilizes a video tube to reproduce symbolic figures and lines intended to be representative of real games or activities.

ANTENNA - any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

APARTMENT HOUSE/MULTIPLE FAMILY DWELLING - a building used, and/or arranged for rental occupancy, or cooperatively owned by its occupants, having three or more family units, and with a yard, compound, service or utilities in common.

APPEAL - the right to have a decision reviewed before the appropriate board.

AUXILIARY LIVING SPACE: A building containing facilities for sleeping, eating, cooking, and disposal of wastes that is used primarily for housing family members or guests during vacation periods, or while a primary dwelling is under construction, and is not intended or used for extended occupation throughout much of the year. The use of auxiliary living space for more than 120 days in a calendar year is not considered approvable under this provision, unless an applicant is granted an extension for special circumstances, such as unmanageable construction delays.

BED AND BREAKFAST - an owner-occupied single-family residence in which sleeping and breakfast accommodations are offered to the public on a daily or weekly basis for compensation.

BUILDING - a structure erected on site, a mobile home or mobile structure, a pre-manufactured or pre-cut structure, above or below ground, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.

CAMPGROUND - A facility for outdoor camping using tents or recreational vehicles for protection from the elements. Such facilities shall have a private water supply and septic waste disposal system approved by the Health Department, shall have adequate means to prevent the spread of ground and forest fire, and shall have overnight on-site supervision to enforce reasonable safety and noise control standards.

CAMPS, PUBLIC AND PRIVATE – The principal purpose of such allowable camps and schools is the education and skills development of children and youth, and may include camps for developmentally disabled children and youth. Such camps and schools regularly have on-site administrative staff trained in education, safety, health and security who are responsible for the education and welfare of participants. They may be day camps or seasonal resident camps. Such establishments are exemplified in this region by the YMCA camp, the former Palaestrum Gymnastics Camp, the former Fairwood Camp for boys, and Boy Scout camps. This definition does not include nudist camps or colonies, which potentially may have undesirable secondary effects.

CONDOMINIUM PROJECT - a plan or project consisting of not less than two condominium units established and approved in conformance with the provisions of the Condominium Act, Public Act 59 of 1978, MCL 559.101 et seq.

CONDOMINIUM SUBDIVISION - a division of land on the basis of condominium ownership, which is not subject to the provisions of the Subdivision Control Act of 1967, Public Act 288 of 1967 as amended, MCL 506.101 et seq.

CONDOMINIUM UNIT - that portion of a condominium project which is designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use. In condominium projects where a condominium unit(s) will consist of a building site, the term "condominium unit" shall be equivalent to the term "lot", for purposes of determining compliance with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, maximum lot coverage, and the like.

COUNTRY LODGE - an owner-occupied dwelling unit, or a dwelling unit located on the site of the principle residence of the owner of said dwelling unit, that contains no more than eight (8) guest rooms accommodating no more than sixteen (16) guests, where short-term (21 days or less) lodging, with or without meals, is provided for compensation.

DENSITY - the number of dwelling units per acre that is allowed based on the total lot area without subtracting for setbacks for roads.

DISTRICTS - an area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements, and area limitations.

DOMESTIC PETS - dogs, cats and other animals customarily housed within a dwelling.

DRAIN FIELD - a sub-surface disposal system.

DWELLING - a single unit providing complete independent living facilities for one (1) family including permanent provisions for living, sleeping, eating and cooking.

SINGLE-FAMILY DWELLING - one (1) building that is a dwelling.

TWO-FAMILY DWELLING - one (1) building that comprises two (2) dwellings.

EASEMENT - a right afforded a person to make limited use of another's real property, such as the right-of-way.

ESCORT - means a person, who for consideration, agrees or offers to act as a companion, guide, or date for another person.

ESCORT AGENCY - means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

ESSENTIAL SERVICES - the erection, construction, alteration, or maintenance by public utilities, municipal departments or commissions, or any governmental agencies of underground or overhead gas,

electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, electric substations, telephone exchange buildings, gas regulator stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of utility service by such public utilities, municipal departments, commissions or any governmental agencies, or for the public health, safety, and welfare. Telecommunication towers, alternative tower structures and antennas are not considered essential services pursuant to this ordinance.

EXISTING BUILDING - a building existing or for which the foundations are in place or upon which there has been substantial work done prior to the effective date of this Ordinance or any amendment thereto.

EXISTING USE - a use of premises or buildings or structure actually in operation, openly, visibly and notoriously prior to the effective date of this Ordinance.

FAMILY - an individual or group of two or more persons related by blood, marriage or adoption including foster children, together with no more than one additional person not related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit.

FARM MARKET – An establishment which sells farm goods from a permanent structure located on or near a producing farm of this Township, which may be fully enclosed and within which customers may view and purchase produce, fruit, syrups, meats, eggs, pies, and other fresh and processed products of farming.

FOREST PRODUCT FABRICATION FACILITY - a facility for converting raw or peeled timber into finished products for sale. Such finished products may be so-called log homes or wooden components thereof, wooden furniture, wooden household articles, or the like. It is intended that this definition apply to the production and sale of raw lumber. It is not intended to allow the presence of showrooms or sales lots for the products at the same site.

GARAGE - PRIVATE - a detached accessory building or portion of a main building used for parking or storage of automobiles or light delivery or pick-up motor vehicles. Garage shall have a workable "garage type" door.

HIGH DENSITY - developments such as mobile home parks, multifamily apartments, condominium subdivisions, multiple family dwellings and other similar developments.

HIGHWAY - any public thoroughfare in Clearwater Township, including state roads and highways.

HOME OCCUPATION - any occupation carried on in a family dwelling or accessory building conducted only by members of a family residing on the premises, and with the assistance of not more than one (1) outside or non-residing person.

JUNKYARD - an open area where wastes or used or secondhand materials are bought, sold, exchanged, stored, processed or handled. Materials shall include, but are not limited to, scrap iron and other metals, paper, rags, tires, bottles, lumber, inoperative machinery or vehicles, and mobile and manufactured homes. The term junk yard shall exclude establishments which are licensed for the sale, purchase or storage of used cars, the processing or storage of used or salvaged materials as part of a bona fide manufacturing operation, and recycling centers.

KENNELS - any lot or premises used for keeping, boarding, or treatment of four (4) or more dogs, six (6) months of age or older.

LOT - a parcel of land excluding any portion in a street or other right-of-way, of at least sufficient size to meet all minimum zoning dimensional and use requirements and to provide such yards and setback area

and other open spaces as required by this Ordinance.

MANAGED VEGETATIVE STRIP - a natural vegetative area extending along both sides of rivers, streams or watercourses, containing native trees, shrubs and other vegetation and natural materials. The purpose of the managed vegetative strip is to stabilize the river banks, prevent erosion, shading for the stream to maintain cool water temperatures and screening of adjacent man-made structures.

MANUFACTURED HOME - a factory-built, single-family structure that meets the Federal Home Construction and Safety Standards Act of 1974 (which became effective July 15, 1976), commonly known as the HUD (Department of Housing and Urban Development) Code.

MANUFACTURED HOMES SALES ESTABLISHMENT - an establishment engaged in the sale of manufactured and mobile homes, including the accessory display and storage of such units.

MECHANICAL REPAIR FACILITY – a facility that engages in all automotive, farm implement, small engine and non-motor mechanical repair.

MOBILE HOME OR PRE-MANUFACTURED DWELLING UNIT - a structure, transportable in one (1) or more sections and designed to be used as a dwelling with a permanent foundation, when connected to utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. Mobile home does NOT include a recreational vehicle. (Original Definition)

MOBILE HOME - a transportable, factory built, single-family structure constructed prior to the enactment of the Federal Manufactured Home Construction and Safety Standards Act of 1974, which became effective July 15, 1976.

MOBILE HOME PARK - a parcel or tract of land under the control of a person or entity upon which three (3) or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incidental to the occupancy of a mobile home and which is not intended for use as a temporary trailer park. P.A. 1976 - No. 419.

MONUMENT OR MEMORIAL - Any structure erected to commemorate a famous or notable person or event; a statue or other structure placed in memory of the dead; a structure, or site that is of historical importance or interest. [Added per Amendment 6, adopted August 17, 2016, Effective September 1, 2016]

MOTEL - a building or group of buildings, whether detached or in connecting units, used or designed as individual sleeping units for transient automobile travelers and providing accessory off-street parking facilities. The term "motel" shall include buildings designed as "auto courts," "tourist courts," "motor courts," "motor hotels," and similar identification of integrated units of individual rooms under common ownership.

NONCONFORMING LOT – a lot, outlot, or parcel of land lawfully existing at the effective date of this Ordinance, or any amendments thereto, which does not conform to the land area or dimensional requirements of this Ordinance.

NONCONFORMING STRUCTURE – a structure, or portion of a structure, lawfully existing at the effective date of this Ordinance, or any amendments thereto, which does not conform to the dimensional requirements of this Ordinance.

NONCONFORMING USE – a use which lawfully occupied a structure, land, or land and structure in combination, which does not conform to the use requirements of the zoning district in which it is located.

NUDE MODEL STUDIO - means any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include an educational institution

funded, chartered, or recognized by the State of Michigan.

NUDITY OR A STATE OF NUDITY - means knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:

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

NURSERY – An establishment which sells living plants, shrubs, or trees to the public. Sales may be conducted in the open or in an enclosed structure. To qualify for a Special Use Permit, at least 40% of the goods offered for sale must be derived from material raised from seed or seedling or cutting on the premises or on other land in this Township owned by the proprietor of the Nursery. Plant-related products such as plant food, soil amendments, fertilizer, stakes, fencing material and the like may also be sold from an approved Nursery.

PERSON - means an individual, sole proprietorship, partnership, corporation, limited liability company, or association.

PLANNED UNIT DEVELOPMENT (PUD) - a self-contained development, usually with a mixture of housing types, in which subdivision and zoning regulations apply to the entire project rather than to separate lots. A PUD may also include mixed uses and can apply to commercial or office developments.

PLANNING COMMISSION - Clearwater Township Planning Commission.

PRACTICAL DIFFICULTY; A Practical Difficulty is a situation whereby, because of the unique character of the land, a property owner cannot establish a “minimum practical” legal use of a parcel, meeting all of the dimensional standards of the zoning district within which the lot is located. For example, in the rear of the lot, there may be a severe cliff whose margin extends into the lot to the extent that it would not be “practical” to situate a dwelling without moving it forward and thus invading the thirty foot front setback requirement. Situations occurring due to the owner’s desire to establish a use greater than the “minimum practical” standard or to enhance economic gain greater than associated with the “minimum practical” standard, or created by the owner subsequent to the effective date of this Ordinance, are not considered to meet the definition of Practical Difficulty.

PRIMARY OR PRINCIPAL USE - the main use to which the lot or premises are devoted.

PRIVATE ACCESS EASEMENT - a means of approach established by easement that provides access to two (2) or more parcels or lots, and which is constructed and maintained by the proprietors and is not dedicated for general public use.

PROPRIETOR - a natural person, firm, association, partnership, corporation or any combination of any of them that holds an ownership interest in land whether recorded or not. May also be referred to as the landowner or property owner.

PUBLIC PLACE - means any real property or an appurtenance to the real property which is owned by this state, any municipality of this state, a public agency, or by a college or university in this state and may include a structure, enclosure, facility, or complex, including a court, mall, park, or other area, feature, or element; a public place shall also mean a business or an educational, refreshment, entertainment,

recreation, health, or transportation facility, or institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

PUBLIC UTILITY - any public utility subject to the regulation and control of the Michigan Public Service Commission that owns or controls, or shares ownership or control of poles, ducts, or conduits used or useful, in whole or in part, for supporting or enclosing wires, cables, or other facilities or apparatus for the transmission of writing, signs, signals, pictures, sounds, or other forms of intelligence, or for the transmission of electricity for light, heat or power.

RIGHT-OF-WAY - a road, street, highway or other thoroughfare or easement permanently established for passage of persons or vehicles.

ROADSIDE STAND - a temporary structure for the display of agricultural products or other wares, with no space for customers within the structure itself.

SATELLITE TELEVISION RECEPTION DISH - a satellite television reception dish herein referred to as STRD, is a device which receives television or other very high frequency or ultra high frequency transmissions directly from a satellite in earth orbit. Such device consists of a dish receiver and does not include over-the-air television or radio transmissions.

SCENIC ATTRACTION - for the purpose of this Ordinance a scenic attraction is an area or structure set aside for the specific purpose of the public's enjoyment for which there is no set charge or fee.

SEPTIC TANK - a septic toilet, chemical closet, or any other water tight enclosure used for storage and decomposition of human excrement and domestic wastes. A watertight receptacle having an outlet and inlet receiving sewage and so designed to permit the separation of solids in suspension from such wastes and to permit such retained solids to undergo decomposition therein.

SETBACK - lines established parallel to a property line along a highway right-of-way or water edge for the purpose of defining limits within which no building or structure or any part thereof shall be erected.

SEXUAL ENCOUNTER CENTER - means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

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

SEXUALLY ORIENTED BUSINESS - means a business or commercial enterprise engaging in any of the following: (1) adult arcade; (2) adult bookstore or adult video store; (3) adult cabaret; (4) adult motel; (5) adult motion picture theater; (6) adult theater; (7) escort agency; (8) nude model studio; and (9) sexual encounter center.

SIGN – Any device, visible from the public vehicular roadway or pedestrian walkway, that is designed to attract attention or communicate a visual message.

TEMPORARY SIGN: a sign that is not intended to remain in place permanently.

SIGN, OFF PREMISES – Any sign relating to subject matter not conducted on the premises on which the sign is located. [Added per Amendment 2, Adopted November 20,2013,Effective December 6, 2013]

SIGN, ON PREMISES – Any sign relating in its subject matter to the premises on which it is located, or to products, accommodations, service, or activities on the premises. [Added per Amendment 2, Adopted November 20,2013,Effective December 6, 2013]

SITE - For the purpose of this article the land where an individual mobile home is located along with the surrounding yard area for that individual dwelling, shall be designated as the mobile home site.

SPECIFIED ANATOMICAL AREAS are defined as:

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

SPECIFIED SEXUAL ACTIVITIES - means and includes any of the following:

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

STORAGE SHED - an accessory building used primarily for storage. DOES NOT include mobile home.

STRUCTURE - anything constructed or erected, the use of which requires a permanent location on or beneath the ground, or attachment to something on or beneath the ground. [Amendment 7, Adopte August16, 2017, Effective September 1,2017]

TELECOMMUNICATION TOWERS AND FACILITIES OR TOWER - all structures and accessory facilities, including Alternative Tower Structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, personal communication services towers (PCS), and cellular telephone towers. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

TENTATIVE PARCEL MAP - a scale drawing showing the approximate dimensions of parcels, including area, public utility easements and accessibility.

TRAILERS, RECREATIONAL AND TRAVEL - recreational and travel trailers are vehicular-type structures primarily designed as temporary living quarters for recreational camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. They are distinguished from tents which are collapsible shelters of canvas or other fabric stretched and sustained by poles and used for camping outdoors. Motor homes and travel trailers shall be self-contained. Specifically,

A. A travel trailer is a vehicular portable structure mounted on wheels, of such size or weight as not to require special highway movement permits when drawn by a passenger vehicle, primarily designed and constructed to provide temporary living quarters for recreational, camping or travel use.

B. A camping trailer is a vehicular portable structure mounted on wheels and constructed with collapsible partial side walls of fabric, plastic or other pliable material which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping or travel use.

UNDERGROUND STORAGE TANKS - any tank or container wholly or partially located below grade, used for storage of any material, liquid or otherwise.

USE - the purpose for which land or a building is arranged, designed, or intended, or for which land or a building may be occupied.

VARIANCE

ZONING BOARD OF APPEALS

VARIANCE - a device which grants a property owner relief from certain provisions of a zoning ordinance when, because of the particular physical surroundings, shape, or topographical condition of the property, compliance would result in a practical difficulty, as distinguished from a mere inconvenience or a desire to make more money. A variance may be granted, for example, to reduce YARD or SETBACK requirements, or the number of parking or loading spaces, or to increase the permitted size of a sign. Township Zoning Board of Appeals MAY NOT grant Use Variances.

VIDEO ARCADE/CENTER - a business which derives its primary income from amusement games or other amusement machines.

WATER'S EDGE - for the purpose of this Ordinance, the water's edge is the ordinary high watermark of the water body which is that line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. On an inland lake which has a level established by law, it means the high established level. When water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high watermark.

WATERFRONT LOT - a lot with at least one side abutting a pond, lake, stream, river or other watercourse and on which any principal structure is usually placed in such a manner as to orient towards the water. Separate lot width and setback provisions are provided in this Ordinance in addition to other lot regulations for waterfront lots.

WELL - a supply or issue of water from earth.

YARD - a space open to the sky between a building and the lot lines of the premises on which located, unoccupied and unobstructed by any encroachment or structure except as otherwise provided by this Ordinance.

YARD, FRONT - a yard extending across the full width of the lot from the front line of the principal building to the front lot line, waterfront, or highway right-of-way line, as the case may be.

YARD, REAR - a yard extending across the full width of the lot from the rear line of the principal building to the rear lot line.

YARD, SIDE - a yard extending from the side lot line to the nearest side line of the building.

ZONING ADMINISTRATOR - appointed officer of the Clearwater Township to effect proper administration of this Ordinance.

ZONING BOARD OF APPEALS - Clearwater Township Zoning Board of Appeals

**ARTICLE VI
ESSENTIAL SERVICES**

6.01 PERMITTED ESSENTIAL SERVICES

Essential services, as defined herein, shall be permitted as authorized and regulated by law, public policy and specific zoning regulations in any district, it being the intention otherwise to exempt such erection, construction, alteration, and maintenance from the application of this ordinance when not in conflict with Article II of this Ordinance. When in conflict, the Zoning Board of Appeals shall have the power to determine reasonable conditions under which such facilities shall be erected.

6.02 SPECIAL USE PERMIT REQUIREMENTS

Other provisions of this Ordinance notwithstanding, a Special Use Permit shall be required of all Utilities and Public Services prior to the granting of a Land Use Permit for the construction of telephone exchange buildings, switching buildings, office buildings, gas separation facilities other than wellhead devices, water or sewer pumping stations, and other structures of a size or general appearance that may, in certain locations, be found incompatible with regularly allowed uses in the district where such a structure is proposed.

6.03 TELECOMMUNICATION TOWERS ARE NOT ESSENTIAL SERVICES

Telecommunication towers, alternative tower structures and antennas shall be regulated and permitted pursuant to this ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities.

ARTICLE VII
SANITATION REQUIREMENTS

7.01 COMPLIANCE

- A. The location of sanitation systems must comply with the requirements of the particular zoning districts.
- B. All provisions of the District Health Department No. 1 shall be complied with.
- C. All dwellings shall be connected to an approved electric, water, and subsurface disposal system.

ARTICLE VIII NONCONFORMITIES

8.01 PURPOSE

Nonconformities are lots, structures, uses, or any combination thereof that do not conform to one (1) or more of the requirements of this Ordinance, or subsequent amendments to this Ordinance, and that were lawfully established prior of the effective date of adoption or amendment of this Ordinance. The purpose of this Article is to specify the conditions under which a nonconformity is permitted to continue to exist, as well as the conditions under which a nonconformity must be discontinued. A nonconformity shall not be permitted to continue to exist if it was unlawful at the time it was established.

8.02 VESTED RIGHTS

Nothing in this Ordinance shall be determined to require a change of plans, construction, or designated use of any structure on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance. Actual construction shall include placement of construction materials in a permanent position.

8.03 CONTINUED USE OF NONCONFORMING USE OR STRUCTURE; CHANGE IN OWNERSHIP, MANAGEMENT, OR TENANCY

A nonconforming use or nonconforming structure may continue to be used after the effective date of adoption or amendment of this Ordinance, but cannot be enlarged, extended, or repaired, except as provided in this Article. There may be a change in ownership, management, or tenancy of a nonconforming use or structure, provided there is no enlargement or extension of the nonconforming use or structure, except as provided in this Article.

8.04 NONCONFORMING LOT

A. Single Lot of Record: A principal building and customary accessory buildings may be erected on a nonconforming lot, provided that all other applicable zoning requirements are met. If the variation of a setback or other zoning requirement is necessary in order to erect a structure on a nonconforming lot, then such structure shall only be permitted if a variance is granted by the Zoning Board of Appeals.

B. Two or More Contiguous Lots of Record in Single Ownership: If two (2) or more contiguous lots, parcels, or portions of lots or parcels are under the same ownership and do not individually meet the lot width, depth, and/or area requirements of this Ordinance, then those contiguous lots, parcels, or portions of lots or parcels shall be considered an undivided lot or parcel for the purposes of this Ordinance, and no portion of such undivided lot or parcel shall be used or divided in a manner that diminishes compliance with the lot width, depth, and/or area requirements established by this Ordinance.

C. The joining portions of contiguous platted lots is regulated by Section [9.07](#) of this Ordinance.

8.05 DESTRUCTION OR REMOVAL OF NONCONFORMING USE OR STRUCTURE; RECONSTRUCTION IN COMPLETE OR PARTIAL CONFORMANCE

In the event that a nonconforming structure, or a structure containing a nonconforming use is destroyed or removed by the property owner to an extent greater than fifty percent (50%) of the replacement cost of the existing nonconforming structure, as determined by the Township Assessor, the Planning Commission shall require that the structure be rebuilt or replaced in complete conformance with the requirements of this Ordinance, unless the property owner obtains a variance to continue the nonconformity under the

procedures and standards within [ARTICLE XXVI](#) of this Ordinance.

8.06 MAINTENANCE AND REPAIR OF NONCONFORMING STRUCTURES

Normal maintenance and incidental repairs, including repair or replacement of non-bearing walls, roofs, fixtures, wiring, or plumbing, may be performed on any nonconforming structure or structure containing a nonconforming use. In addition, a nonconforming structure or structure containing a nonconforming use, which is unsafe or unlawful due to lack of repairs or maintenance, as determined by the Zoning Administrator, County Building Official, or County Health Official, may be restored to a safe condition. Where enlargement or structural alteration is necessary to allow compliance with health and safety laws, the cost of such work shall not exceed fifty percent (50%) of the replacement cost of the existing structure, as determined by the Township Assessor. If the cost of such work exceeds fifty percent (50%) of the replacement cost of the existing structure, as determined by the Township Assessor, then the nonconforming structure or structure containing a nonconforming use shall be deemed destroyed and may be reconstructed only pursuant to the requirements of Section 8.05.

8.07 EXPANSION OR ENLARGEMENT OF NONCONFORMING USE OR STRUCTURE CONTAINING A NONCONFORMING USE

A. A nonconforming use or structure containing a nonconforming use may be expanded or enlarged, but only after review by the Planning Commission and final approval by the Township Board. The Planning Commission shall consider the request for the expansion or enlargement of the nonconforming use or structure containing a nonconforming use at a public hearing following the notice procedures for a request for a special use permit and shall recommend approval of the requested expansion or enlargement to the Township Board if it finds that all of the following standards have been met:

1. The existing nonconforming use or structure containing a nonconforming use does not adversely affect surrounding properties.
2. The expanded or enlarged nonconforming use or structure containing a nonconforming use will not change the essential character of the surrounding area.
3. The expanded or enlarged nonconforming use or structure containing a nonconforming use shall comply with all applicable standards for that type use, including but not limited to the standards of Section [24.03.C](#) if the nonconformity relates to a sexually oriented business.
4. The expanded or enlarged nonconforming use or structure containing a nonconforming use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the Township or the natural environment as a whole.
5. The expanded or enlarged nonconforming use or structure containing a nonconforming use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person.
6. The expanded or enlarged nonconforming use or structure containing a nonconforming use will be designed, constructed, operated, and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned.
7. The expanded or enlarged nonconforming use or structure containing a nonconforming use will not place demands on fire, police, or other public resources in excess of current capacity.

8. The expanded or enlarged nonconforming use or structure containing a nonconforming use will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.

B. The Planning Commission may recommend to the Township Board reasonable conditions to any approval granted under this section to assure compatibility of the nonconforming use or structure containing a nonconforming use with surrounding property uses.

C. After receiving a recommendation from the Planning Commission to approve or deny the request for the expansion or enlargement of the nonconforming use or structure containing a nonconforming use, the Township Board shall review the record of the Planning Commission's public hearing and shall do one (1) of the following:

1. Approve or deny the requested expansion or enlargement, including any recommended conditions, and adopt as its own the findings of fact made by the Planning Commission after the public hearing.
2. Approve or deny the requested expansion or enlargement, with or without conditions, and make its own findings of fact on the standards of subsection A from the information presented at the Planning Commission's public hearing.
3. Remand the matter back to the Planning Commission for an additional public hearing to obtain information on issues specified by the Township Board in its remand action.

D. At the remanded public hearing, the Planning Commission shall receive information on the issues specified by the Township Board and shall make additional findings of fact and additional recommendations as the new information warrants. The Planning Commission shall then forward this new information to the Township Board for final action.

8.08 EXPANSION OR ENLARGEMENT OF NONCONFORMING BUILDING

A. The Zoning Administrator can approve the expansion or enlargement of a nonconforming structure without the need for approval under Section 8.07 or a variance from the Zoning Board of Appeals, if all of the following are met:

1. The nonconformity only involves a nonconforming structure and does not involve a nonconforming use or a structure containing a nonconforming use.
2. The requested expansion or enlargement does not involve an addition located within any required setback.
3. The requested expansion or enlargement is for the purpose of conducting a land use authorized in the zoning district in which the property is located.
4. The requested expansion or enlargement will not create a nonconformity not already existing in connection with the structure.

B. If the Zoning Administrator cannot approve the expansion or enlargement of a nonconforming structure under subsection A above because of a dimensional requirement of this Ordinance, then the requested expansion or enlargement shall only be permitted if a variance is granted by the Zoning Board of Appeals.

C. If the Zoning Administrator cannot approve the expansion or enlargement of a nonconforming structure under subsection A above because the nonconforming structure also involves a nonconforming use, then the requested expansion or enlargement shall only be permitted if approval is obtained under Section 8.07 of this Ordinance.

8.09 SUBSTITUTION OF NONCONFORMING USES

A. A nonconforming use may be replaced by another nonconforming use but only after review by the Planning Commission and final approval by the Township Board. The Planning Commission shall consider the request for the substitution of a nonconforming use at a public hearing following the notice procedures for a request for a special use permit and shall recommend approval of the substituted nonconforming use to the Township Board if it finds that all of the following standards have been met:

1. The new nonconforming use will be more conforming to the zoning requirements of the zoning district in which the property is located.
2. The new nonconforming use will not adversely affect the enjoyment of the surrounding properties, and will not change the essential character of the neighborhood.
3. The new nonconforming use will not increase the extent or intensity of the nonconforming use on the property.
4. The new nonconforming use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the Township or the natural environment as a whole.
5. The new nonconforming use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person.
6. The new nonconforming use will be designed, constructed, operated, and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned.
7. The new nonconforming use will not place demands on fire, police, or other public resources in excess of current capacity.
8. The new nonconforming use will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.

B. The Planning Commission may recommend to the Township Board reasonable conditions to any approval granted under this section to assure compatibility of the new nonconforming use with surrounding property uses.

C. After receiving a recommendation from the Planning Commission to approve or deny the request for substituted nonconforming use, the Township Board shall review the record of the Planning Commission's public hearing and shall do one (1) of the following:

1. Approve or deny the substituted nonconforming use, including any recommended conditions, and adopt as its own the findings of fact made by the Planning Commission after the public hearing.
2. Approve or deny the substituted nonconforming use, with or without conditions, and make its own findings of fact on the standards of subsection A from the information presented at the Planning Commission's public hearing.
3. Remand the matter back to the Planning Commission for an additional public hearing to obtain information on issues specified by the Township Board in its remand action.

D. At the remanded public hearing, the Planning Commission shall receive information on the issues specified by the Township Board and shall make additional findings of fact and additional recommendations as the new information warrants. The Planning Commission shall then forward this new information to the Township Board for final action.

8.10 NO REVERSION TO PRIOR NONCONFORMING STATUS

When a nonconforming use or nonconforming structure becomes conforming, it shall thereafter continue to conform to the requirements of the zoning district in which the property is located and shall not revert to its prior nonconforming status. In addition, when a nonconforming use is replaced by a more conforming nonconforming use, it shall not thereafter revert to its prior nonconforming status.

8.11 ABANDONMENT OF A NONCONFORMING USE OR NONCONFORMING STRUCTURE

If a property owner has an intent to abandon a nonconforming use or structure and in fact abandons this nonconforming use or structure for a period of one (1) year or more, then any subsequent use of the property or structure shall conform to the requirements of this Ordinance. When determining the intent of the property owner to abandon a nonconforming use or structure, the Zoning Administrator shall consider the following factors:

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

**ARTICLE IX
SCHEDULE OF REGULATIONS**

9.01 SCHEDULE LIMITING HEIGHT, BULK, YARD SETBACKS, AND MINIMUM LOT SIZE BY ZONING DISTRICT

Maximum height of any structure is 35 feet or 2 ½ stories.
Dwelling width is measured in feet between exterior wall faces.

DISTRICT	Minimum Lot Size Sq. ft (5)	Minimum Lot Width Feet (1)	Minimum Dwelling Width Feet (9)	Minimum Structure Setback R-O-W Feet (2)	Minimum Structure Setback Property Lines Feet (6)	Minimum Distance Between Structures Feet
Residential						
R-Vil(8)	15,000	100	20	30	10	10
R-1	15,000	100	16	30	10	10
R-2	15,000	100	14	30	10	10
R-3	2 acres	165	16	30	10	10
Agriculture	5 acres	150	14	30	30	10
Recreational	5 acres	150	14	30	30	10
Commercial						
C-Vil	12,000	75	20	25 (3)	10	10
C-LI (4)	1 acre	150	14	40	10 side/30 rear	10
Mobile Home Parks (7)	5,500	---	13	50	---	---

- (1) Width is measured at the front setback line. In the event of a parcel of irregular shape, width may be measured at the front point of the structure nearest the front property line, provided that at that point the lot does meet the minimum standard for that district.
- (2) Corner lots must meet the required setback at both front and side R-O-W. Setbacks are measured from the road R-O-W or easement boundary or side/back lot line to the nearest part of a structure. Decks, sheds, and other appurtenant structures must meet setbacks.
- (3) No front parking is allowed at this setback distance. In the event of front parking, the structural setback must be 40 feet to allow vehicle turn-around for street re-entry.
- (4) It is the intent of Amendment 49 that any new Commercial or Light-Industry Districts created after January 27, 2001, shall follow the standards of this Commercial-Light-Industry District.
- (5) Access easements, utility easements, and road rights-of-way which overlay unplatted land parcels shall be included in the calculation of the minimum required land area. For example, given a 10 acre parcel, a portion of which contains a 66 foot access easement to reach an adjacent parcel, that 10 acre parcel may be divided into 2 qualifying 5 acre parcels, one or both of which may contain area belonging to the easement. This interpretation shall apply to unplatted parcels of any size. In the case of platted parcels, the area shall be calculated according to the individual lot dimensions recorded on the plat.
- (6) Amendment 10, December 6, 1989, which exempted unroofed decks from setback requirements, is deleted by this present Amendment.

(7) Mobile Home Parks must conform to State Mobile Home Park Regulations with respect to conformance with the HUD code, presentation of a Title reliably confirming date of manufacture, and roads and grounds and sanitation layout and approval. They also must conform to the standards of Article 13 of this Ordinance, which specifies a minimum living area of 800 sq. ft. and a minimum width of 13 feet, measured at exterior surfaces.

(8) Multiple-family units for general public use are allowable by Special Use Permit in Village Residential, Village Commercial, and Residential-2. Lot dimensions are regulated to allow for adequate off-street parking, snow removal, and common use grounds, according to Section 29.04. The minimum lot width shall be 200 ft. for structures containing 3-20 dwelling units, and subject to Planning Commission determination, upon Site Plan Review, for greater than 20 units. The minimum lot area for one- and two-family dwellings is 15,000 sq. ft. For single story, multifamily dwellings, the minimum lot area is 15,000 sq. ft. for the first 2 dwelling units, plus a minimum of 2,000 sq. ft. per dwelling unit for dwelling units 3 through 9. For 10 or more dwelling units, the lot area shall be increased by 1,600 sq. ft. per additional dwelling unit beyond 9. For upper story dwelling units, the lot area increase per dwelling unit shall be 600 sq. ft. less than the standards defined in the previous sentence, since the “footprint area” requirement of 600 sq. ft. shall have already been established by the ground floor units.

Subject to Planning Commission examination upon site plan review

9.02 SPECIAL REGULATIONS

Mobile Home Parks shall be regulated according to [ARTICLE XXIII](#).

Waterfront Lots: Waterfront lots shall have a minimum of 100 ft. of frontage measured at the Right-of-Way that is parallel to the watercourse.

Waterfront Setbacks: Structural setbacks from rivers, streams, and lakes shall be 50 feet from the High Water Mark.

9.03 SCHEDULE OF DWELLING DENSITY BY ZONING DISTRICTS

R-Vil One single-family dwelling per lot or land parcel by right	<p>One two-family or multifamily unit for general public use by Special Use Permit.</p> <p>Specialized (Senior) multi-resident units by Special Use Permit.</p> <p>All multiple unit Special Uses are INSTEAD of the use by right, not IN ADDITION TO that use. (See R-Vil, ARTICLE XVI, Sections 3 A & B)</p>
R-1 One single-family dwelling per lot	<p>One guest house (auxiliary living space) by Special Use Permit if total 30,000 sq. ft. land available.</p> <p>Specialized multi-resident units by Special Use Permit. (See R-Vil, ARTICLE XVI, Sections 3 A & B)</p>
R-2 One single-family dwelling or one two-family dwelling per lot or land parcel by right.	<p>One multifamily (more than two-family) unit by Special Use Permit. Specialized multi-resident units by Special Use Permit. (See R-Vil, ARTICLE XVI, Sections 3 A & B).</p> <p>One guest house (auxiliary living space) by Special Use Permit if total 30,000 sq. ft. land available.</p>
R-3 One single-family dwelling per lot or land parcel by right.	<p>One guest house (auxiliary living space) by Special Use Permit on 2 acre parcel.</p> <p>Specialized multi-resident units by Special Use Permit. (See R-Vil, ARTICLE XVI, Sections 3 A & B)</p>
Agriculture. One single-family dwelling per land parcel by right.	One Supplementary Dwelling by Special Use Permit.
Recreational: One single-family dwelling per land parcel by right.	One Supplementary Dwelling by Special Use Permit.
Village Commercial: One single-family dwelling unit per lot by right.	Duplexes, “flats,” multifamily dwellings by Special Use Permit as regulated in Village Residential.
Commercial-Light-Industry: One single-family dwelling per lot or land parcel	As regulated in Village Commercial for dwelling density.

9.04 DWELLING, MINIMUM SIZE – per chart in Section 9.01

9.05 PRACTICAL DIFFICULTY

If conditions unique to the land shall create a practical difficulty in complying with the regulations of this Article, the Zoning Board of Appeals may issue a variance following the procedures of [ARTICLE XXVI](#). Variances by reason of “Hardship” are not permitted.

9.06 SETBACKS

- A. Septic systems shall be in accordance with the county health department.
- B. Setbacks from an access easement shall be the same as from a road R-O-W.
- C. Waterfront septic setbacks shall be in accordance with the county health department.
- D. Waterfront structural setbacks – see Section [9.02](#).

9.07 PLATTED LOTS

No lot, outlot, or other parcel of land (hereafter call “Lots etc.”) in a recorded plat shall be further partitioned or divided, except by court order. However, the ownership and use of one or more Lots etc. may be allowed if the Planning Commission first determines that:

- A. Ownership of Lots etc. and portions of Lots etc. will be vested in the same person.
- B. The Lots etc. and portions of Lots etc. are contiguous and in the same district.
- C. The use is permitted under the Special Use Permits procedure of [ARTICLE XXIV](#), with particular emphasis upon the requirements, purposes and goals of this Ordinance, and the present uses and appearance of the subdivision.
- G. In all instances where Lots etc. are sought to be joined with portions of one or more other Lots etc., it shall be required that an appropriate instrument be recorded with the Kalkaska County Register of Deeds establishing the following restrictions:
 1. The land described herein consists of a lot, outlot, or other parcel of land in a recorded plat and a portion or portions of other lot(s), outlot(s), or other parcel(s) in the same subdivision;
 2. Such description represents a partition of platted land that has been approved by the Clearwater Township Planning Commission;
 3. Hereafter this described land may not be further subdivided or partitioned by any means whatsoever without the prior approval of the Clearwater Township Planning Commission in accordance with the Clearwater Township Zoning Ordinance; and
 4. This restriction shall run with the land.

9.08 EASEMENT/ACCESS TO WATERFRONT

In the event that any land having water frontage is used for easement/access or beach purposes by two or more individual non-riparian owners, then it shall have a minimum frontage on the water of not less than one hundred fifty (150) feet and a depth of not less than one hundred (100) feet. For each off-water lot, or lot containing a single-family dwelling which uses said easement/access, there shall be a minimum of lake or water frontage of twenty (20) feet.

9.09 HEIGHT RESTRICTIONS

Height restrictions in this Article do not apply to telecommunication towers and facilities and alternative tower structures located in accordance with this Ordinance.

ARTICLE X
SATELLITE TELEVISION RECEPTION DISH

10.01 SETBACK

Satellite Television Reception Dishes (STRD) are required to have a minimum setback of ten (10) feet from any right-of-way and/or property lines.

10.02 ADVERTISING/PICTURES ON STRD

No STRD may contain any written or visual text, pictures, words or design other than a small metal plate attached to the antenna that identifies the manufacturer, model and serial number of STRD, and other specific information as may be required by law or to insure proper identification. If any written or visual text, pictures, words, or designs other than this basic information is included on a STRD, the antenna will be considered a sign.

**ARTICLE XI
OFF-STREET PARKING AND LOADING**

11.01 REQUIREMENTS FOR PARKING AREAS

- A. Each off-street parking space per vehicle shall have an area of not less than two hundred (200) square feet, exclusive of access drives or aisles, and shall be a minimum of ten (10) feet in width.
- B. All driveways and parking areas shall have surfaces consisting of gravel, asphalt or concrete and so graded and drained to dispose of all surface water accumulated within the area.
- C. If the parking area adjoins a residential zone, a greenbelt shall be provided and maintained between the parking area and the adjoining residential zone.

11.02 PARKING AREA DEFINED

Parking areas shall include access drives within the actual parking area and shall be located on the same tract of land with the building.

11.03 RESIDENTIAL OFF-STREET PARKING

- A. Single-family and two-family dwelling: One (1) off-street parking space shall be provided within the setback requirements for each dwelling unit.
- B. Multiple family dwellings: Two (2) off-street parking spaces shall be provided within the setback requirements for each dwelling unit.

11.04 NON-RESIDENTIAL PARKING

- A. For all uses permitted in the Commercial or Industrial Zones, off-street parking shall be provided at the rate of one space for every two people of anticipated occupancy.
- B. All places of public assembly including but not limited to theaters and churches shall provide a minimum of one (1) parking space for each four (4) seats.
- C. In the case of mixed uses occupying the same building or structure, the total requirements for off-street parking areas shall be the sum of the requirements of the various uses when occurring at simultaneous periods of usage.

11.05 REQUIRED OFF-STREET LOADING AND UNLOADING SPACE

In all zones, unless otherwise provided as a condition to the granting of a variance or special use, every building or part thereof occupied for a use requiring the receipt or distribution of vehicles, materials, or merchandise, shall provide and maintain on the same premises with such building off-street loading space as follows:

- A. One (1) space for each twenty thousand (20,000) square feet of floor area of building, provided that, each loading space shall be at least ten (10) feet in width, twenty-five (25) feet in length, and fourteen (14) feet in height.
- B. No off-street loading space shall be located closer than fifty (50) feet to any lot of any residential area unless wholly within a completely enclosed building or enclosed on all sides by a solid wall not less than six (6) feet in height.
- C. All such off-street loading space shall be located to the side or rear of any building.

ARTICLE XII SIGNS

PURPOSE: The purpose of regulating signs is to ensure the safety of pedestrian and vehicular traffic by preventing obstruction of vision or dangerous visual distraction. Such regulation also promotes the rural character of Clearwater Township, as described in its Master Plan. This section recognizes the legitimate needs of commerce, government, and the private sector to communicate with the public via signs. It is, however, a basic tenet of this ordinance that unrestricted signage does not benefit either the private sector or the community at large. Unless otherwise noted, all signs require a land use permit. For the purposes of this ordinance a two-sided sign is considered to be one sign.

SIGN LOCATION, GENERAL RULES: No signs shall be erected within ten (10) feet of a public road right-of-way, except those signs defined herein as “temporary,” which may be placed at or near the edge of the public road right-of-way.

12.01 SIGNS PERMITTED IN ALL DISTRICTS

The following signs shall be allowed in all districts without a land use permit:

- A. Names, addresses, personalized artwork usually found on rural mailboxes or on the face of buildings identifying the occupant.
- B. Flags which bear an official design of a national, state, municipality government organization.
- C. Traffic control signs which will conform to the requirements of the Michigan Manual of Uniform Traffic Control Devices.
- D. Directional signs pertaining to natural wonders, scenic and historic attractions which are required or authorized by law.
- E. Identification signs for churches, schools, libraries, hospitals, museums, parks, playgrounds, and all public property.
- F. Home occupation signs: One sign announcing the home occupation is permitted. It shall not be illuminated or exceed six (6) square feet. It may be freestanding or be attached to the front of the dwelling involved.
- G. Temporary signs that are no longer active, must be removed within fifteen days following completion of the purpose for which they were placed. [Amendment 5, Adopted April 20, 2016, Effective May 6, 2016]
 - 1. Yard sale, garage sale, estate sale, and auction signs.
 - a. Not to exceed four (4) square feet and shall not be attached to any utility pole.
 - b. Sign to contain the address and date of sale and shall not be displayed more than forty-eight (48) hours prior to sale.
 - 2. Construction Signs
 - a. Total surface display area not to exceed eight (8) square feet.
 - b. Overall sign height not to exceed eight (8) feet above average grade of frontage and shall be placed wholly within the property boundaries to which sign pertains.

- c. Sign shall not be erected prior to issuance of a building permit for construction and shall be removed upon issuance of occupancy certificate.
- 3. State and/or federally funded construction project sign requirements shall supersede any township requirements.
- 4. Temporary directional signs, placed by private citizens for such things as (including but not limited to) sales, graduation open-houses, family reunions, and other special events. Such signs are not to exceed four (4) square feet.
- 5. "For Sale" sign attached to vehicles shall not exceed four (4) square feet.
- 6. Election signs along the roadway shall comply with these MDOT rules:
 - a. Political candidates are responsible for obtaining approval from the adjacent property owner to place the signs.
 - b. Signs must be removed within 10 days following an election.
 - c. Signs must be more than 30 feet from the edge of the roadway (white line) for highways that do not have barrier-type curbs. For highways with barrier curbs, the signs must be more than three feet from the back of the curb.
 - d. Signs are not permitted within areas used for clear vision at intersections or commercial driveways, so they will not interfere with the sight distance of a driver. No signs may be placed within the limited access rights-of-way.
 - e. Any illegally placed signs will be removed. Signs removed by MDOT crews will be kept for seven days at a local MDOT office or maintenance garage, then discarded.
- 7. Real Estate Signs.
 - a. Those signs advertising the sale, lease, rental of property, premises, or parts thereof.
 - b. Total area not to exceed four (4) square feet for property, whether residential, commercial, or vacant land.
 - c. On-premise signs shall not exceed one per parcel. Those properties that have frontage on more than one public right-of-way (corner lot), or have water frontage, shall be allowed to display one additional sign.
 - d. One on-premises and two off-premises open house signs allowed and shall be removed at the end of the day for said open house.e.

H. Trespassing, safety, caution signs are not to exceed two (2) square feet.

12.02 SIGNS PROHIBITED IN ALL DISTRICTS

The following signs shall not be allowed in any district:

- A. Signs that are obsolete, that do not relate to existing business or products.
- B. Signs that are illegal under state laws or regulations.
- C. Signs that are not consistent with the standards of this ordinance.

- D. Signs located in, projecting into, or overhead within a public right-of-way or dedicated public easement, except those established and maintained by municipal, county, state, or federal governments, unless such sign has written authorization by the agency having jurisdiction over that right-of-way.
- E. Signs that project above the maximum height limitations of the use district in which they are located.
- F. Signs, other than utility company signs, affixed to utility poles or other utility structures.
- G. Any sign interfering with a clear vision area, which impairs a motorist or pedestrian's right to proceed safely, or which may confuse vehicular or pedestrian traffic.
- H. No sign shall be posted off the premises of the property it is intended to serve unless specifically allowed elsewhere in this ordinance.
- I. "Highway" and "billboard" signs.

12.03 SIGNS PERMITTED IN COMMERCIAL-LIGHT-INDUSTRY DISTRICT

Advertising Signs and Displays are permitted in Commercial-Light-Industry district provided the following conditions are met:

A. On-Premises Advertising and Display Signs

1. Signs pertain only to the uses permitted on the premises.
 - a. One (1) free-standing or monument sign is permitted per parcel, not to exceed thirty-two (32) square feet; this sign is not to be placed closer than ten (10) feet to the public road right-of-way.
 - b. One or more signs may be attached flat to the surface of the building. The total area of such signage is not to exceed thirty-two (32) square feet, regardless of the number of businesses in the building.
 - c. Inside advertisement signs, placed in or on the windows, are not included in the signage count.
2. No sign is to project more than ten (10) feet above the building roof line, and no sign is to stand taller than twenty-five (25) feet above the ground.
3. Signs are not to obstruct the view of traffic from sidewalks, roadways, and driveways.
4. Sign illumination must be directed toward the sign face, and must not shine, glare, or reflect directly onto adjacent property, or into the line of vision of vehicular traffic.

B. Off-Premises Advertising and Display Signs

1. The identified premises are within three (3) miles of the sign.
2. The area of the sign does not exceed fifteen (15) square feet.
3. The sign is no greater than fifteen (15) feet in height above the centerline of the adjacent roadway.
4. No more than two (2) off-premises signs are permitted.

5. Sign illumination must be directed toward the sign face, and must not shine, glare, or reflect directly onto adjacent property, or into the line of vision of vehicular traffic.

C. Maintenance

The owner of any conforming sign as defined and regulated by this Ordinance shall be required to properly maintain all parts and supports of said sign. An existing legal sign may be temporarily removed for maintenance and re-erected without requiring a new land use permit.

12.04 SIGNS PERMITTED IN VILLAGE COMMERCIAL DISTRICT

Village Commercial sign requirements are similar to the other commercial areas, with size and setback requirements adjusted to accommodate the size of Village Commercial lots.. Advertising Signs and Displays are permitted in the Village Commercial, district provided the following conditions are met:

A. On-Premises Advertising and Display Signs

1. Signs pertain only to the uses permitted on the premises.
 - a. One (1) free-standing or monument sign is permitted on a parcel large enough to accommodate such a sign. Such sign is not to exceed thirty-two (32) square feet in display area.
 - b. One or more signs may be attached flat to the surface of the building. The total area of such signage is not to exceed thirty-two (32) square feet, regardless of the number of businesses in the building.
 - c. Inside advertisement signs, placed in or on the windows, are not included in the signage count.
2. No portable A-frame signs are allowed on public sidewalks.
3. No sign is to project more than ten (10) feet above the building roof line, and no sign is to stand taller than twenty-five (25) feet above the ground.
4. Signs are not to obstruct the view of traffic from sidewalks, roadways, and driveways. Signs are to be ten (10) feet back from the edge of the public road, and must not protrude into the sidewalk area if any or the road right-of-way.
5. Sign illumination must be directed toward the sign face, and must not shine, glare, or reflect directly onto adjacent property, or into the line of vision of vehicular traffic.

B. Off-Premises Advertising and Display Signs

1. The identified premises are within three (3) miles of the sign.
2. The display area of the sign does not exceed fifteen (15) square feet.
3. The sign is located at least ten (10) feet from the public roadway and does not obstruct the view of traffic entering the public roadway.
4. The sign is no greater than fifteen (15) feet in height above the centerline of the adjacent roadway.
5. No more than two (2) off-premises signs are permitted.
6. Sign illumination must be directed toward the sign face, and must not shine, glare, or reflect directly onto adjacent property, or into the line of vision of vehicular traffic.

C. Maintenance

The owner of any conforming sign as defined and regulated by this Ordinance shall be required to properly maintain all parts and supports of said sign. An existing legal sign may be temporarily removed for maintenance and re-erected without requiring a new land use permit.

12.05 NONCONFORMING SIGNS

Nonconforming signs and outdoor advertising structures shall be gradually eliminated upon their replacement, structural changes, natural deterioration, or accidental destruction. The continuance of nonconforming signs and outdoor advertising structures within Clearwater Township shall be subject to the following conditions and requirements:

A. Structural changes: the structure, supports, or other parts of any nonconforming sign or advertising structure shall not be changed, altered, substituted, or enlarged unless the resultant changed, altered, substituted or enlarged sign or advertising structure conforms to the provisions of the section for the district in which it is located, except as otherwise provided for. Nothing shall prohibit the repair, reinforcement, alteration, improvement or modernizing of a lawful nonconforming sign or advertising structure, providing such repair does not exceed fifty (50) percent of the replacement cost. Signs to be replaced or requiring more than fifty (50) percent of the replacement cost will require approval of the Planning Commission.

B. No new illumination shall be added to any nonconforming sign.

12.06 SIGN MAINTENANCE

A. All signs and components thereof shall be kept in good repair and in safe, neat, clean and attractive condition.

B. Whenever the use of a building ceases or a building is vacated for more than one (1) year, the signage associated with the prior use shall be removed.

C. Any structural parts of a sign that remain unused for more than one (1) year shall be removed.

12.07 RESPONSIBILITY

A sign owner shall be held liable and responsible for bodily injury and property damage arising out of the erection, maintenance, repair, and replacement of the sign.

12.08 SIGNS PERMITTED FOR SEXUALLY-ORIENTED BUSINESSES

Any sign or signs proposed for a sexually-oriented business must comply with the provisions of this Article, and shall not include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination, and shall not exceed thirty-two (32) square feet in display area.

12.09 OFF PREMISES SIGNS FOR LOTS WITH NO ROAD FRONTAGE

[Added per Amendment 2, Adopted November 20, 2013, Effective December 6, 2013.]

Except for signs prohibited under Section 12.02 of this Ordinance, off-premises signs shall be permitted in connection with a lot under the terms and conditions of this section.

- A. The lot is located in any zoning district, except the Commercial-Light Industry District and the Village Commercial District.
- B. The lot does not have frontage on any public highway or private access easement developed under Section 4.14 of this Ordinance.
- C. The sign complies with all of the following:
 - 1. The identified premises are within three (3) miles of the sign.
 - 2. The display area of the sign does not exceed fifteen (15) square feet.
 - 3. The sign is located at least ten (10) feet from the public roadway and does not obstruct the view of the traffic entering the public roadway.
 - 4. The sign is no greater than fifteen (15) feet in height above the centerline of the adjacent roadway.
 - 5. No more than (2) off-premises signs are permitted in connection with activities on the same lot.
 - 6. Any sign illumination must be directed toward the sign face, and must not shine, glare, or reflect directly onto adjacent property, or into the line of vision of vehicular traffic.

ARTICLE XIII
SINGLE-FAMILY RESIDENTIAL DISTRICT R-1

13.01 PURPOSE

The purpose of providing this Residential District is to establish areas in Clearwater Township dedicated to single-family residential use in which each dwelling or accessory structure hereafter erected is located on an individual lot or premises adequate in size and shape to provide safe water and sewage disposal facilities, to minimize spread of fire, and which is set back from the public thoroughfare to facilitate safe exit from and entrance to the premises.

13.02 PERMITTED USES

No building or structure or any part thereof shall be erected, altered or used, or land or premises used, in whole or in part for other than one of the following specified uses:

A. One single-family detached dwelling on a minimum net lot size of fifteen thousand (15,000) square feet, said lot having a minimum width of one hundred (100) feet measured at the front setback line, and said dwelling meeting the following requirements:

1. The dwelling shall contain a minimum of (800) eight hundred square feet enclosed living area and shall comply with the county building code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with a federal or state standard or regulation for construction and where such regulation or standard is different from that imposed by the County Building Code, then, and in that event such federal or state standard or regulation shall apply.
2. The dwelling shall have a minimum width of at least (16) sixteen feet measured between the exterior surfaces of exterior walls.
3. The dwelling shall be firmly attached to a permanent foundation constructed on the site in accordance with the County Building Code, and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such material 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 set-up instructions and shall be secured to the premises by an anchoring system or device, and shall be set on a footing as required in the applicable building code with a masonry wall extending from perimeter to ground, or on a footing as required in the applicable building code, with fireproof supports, and shall have a continuous skirt extending from perimeter to the ground. Such skirt shall be of commercial quality or equivalent, and shall comply with the rules and regulations of the Michigan Mobile Home Commission, the Public Health Department, and HUD Regulations 24 CFR 3280, being the "Mobile Home Construction and Safety Standards."
4. In the event that a dwelling is a mobile home as defined herein, it shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage, or chassis.
5. The dwelling shall be connected to a public sewer and water supply or to such private facilities approved by the local health department in connection with the application for a Land Use Permit for installation of the dwelling.
6. The dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity. It shall have not less than two exterior doors, with the second door being either in the rear or on a side of the dwelling. It shall contain steps or porches connected to said door areas where a difference in elevation requires the same.

7. The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator 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 thirty (30) days from the receipt of notice of said Zoning Administrator's decision. Any determination of compatibility shall be based on 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 two thousand (2000) feet of the subject dwelling, where such area is developed on not less than 20% of the lots situated therein; 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, unique land contour, or relief from the common or standard designed home.
8. The dwelling shall contain no addition or rooms or other areas which are not constructed with similar quality workmanship of the original structure.
9. The dwelling shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing and electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to all state and federal requirements.
10. All construction required herein shall commence only after a building permit has been obtained in accordance with the applicable County Building Code provisions and requirements.

B. Churches, schools, public buildings and parks, and such adult care and child care facilities as may be required by State law.

C. Home Occupations subject to the following limitations:

1. The Home Occupation shall be operated and maintained in a manner that shall not change the residential character of the District,
2. Structures and additions to structures shall be externally no different than structures permitted throughout the Residential District,
3. Activities associated with a Home Occupation shall not constitute a hazard or nuisance to adjoining residents or others by reason of noise, smoke, odor, electrical disturbance, night lighting, or the creation of unreasonable traffic to the premises, and
4. Outward displays of any kind indicating the commercial, professional or non-residential aspects of the premises are not permitted except one sign or nameplate is permitted in accordance with [ARTICLE XII](#)

D. Accessory buildings such as a detached garage or boathouse for the storage of automobiles and boats, provided, however, that the same comply with setback restrictions and side yard requirements of the dwelling.

E. Docks and boat houses on lakes, ponds, streams or rivers provided they are built subject to all specifications of a permit issued by the Michigan Department of Natural Resources pursuant to the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, Part 301 Inland Waters, as amended.

F. The keeping of domestic pets, livestock, and poultry for personal, noncommercial use, provided that the same are maintained and housed so as not to be a public nuisance.

G. Truck gardening and crop farming within the standards established by the applicable GAAMPs, as provided for in Michigan's Right to Farm Act.

H. Travel trailers, motor homes, camping or recreational vehicles may be stored in a Residential District, as long as they are stored in a manner that meets the district setbacks. Such vehicles may be used as temporary housing while a permanent dwelling is being built on the property. Such vehicles must be self-contained with respect to wastes, which must be transported to an approved septic disposal system for removal. Storage is not permitted on a commercial or rental basis, and vehicles shall have tires mounted and not be skirted.

I. Mobile homes shall be in place no longer than forty-five (45) days without being affixed to a permanent foundation with wheels and tongue removed and skirting attached so that the undercarriage is enclosed. A mobile home must be connected to an approved electric, water, and sewage system within the stated forty-five (45) days.

J. Decks must meet minimum setbacks.

K. Bed and Breakfast establishments are permitted subject to the following limitations and conditions;

1. Bed and Breakfast operations shall be subject to the regulations found in PA 230 of 1972 and PA 92 of 2000, being MCL 125.1504b, 289.1105(d), and 289.1107(n), all as amended.
2. A Bed and Breakfast shall not display or create any external evidence of the non-private or non-residential aspect of the premises except for one unanimated, non-illuminated sign in accordance with [ARTICLE XII](#)
3. On-site well and septic systems shall be adequate for the maximum intended occupancy, and shall require written approval from the County Health Department.
4. Off-street parking shall be provided in accordance with [ARTICLE XI](#).

13.03 PERMITTED USES SUBJECT TO SPECIAL USE PERMIT, As provided by [ARTICLE XXIV](#)

A. Office Building

1. Schedule of Regulations as per [ARTICLE IX](#).
2. Off-road parking space shall be provided in accordance with [ARTICLE XI](#).
3. Signs shall be in accordance with [ARTICLE XII](#).

B. A Special Use Permit shall be required of all Utility and Public Services before obtaining a Land Use Permit for any structure or construction.

C. The use of one accessory building or guest house as a temporary, auxiliary living space may be allowed provided that:

1. The lot or land parcel contains sufficient land area that, in addition to 15,000 square feet allocated to the primary dwelling, there is at least 15,000 square feet more that may be allocated to the auxiliary living space, and that all required building dimensions and setback dimensions are met.
2. The living area in the auxiliary living space does not exceed the living area in the primary dwelling.
3. [Repealed per Amendment 4, Adopted March 16, 2016, Effective April 1, 2016]
4. A District Health Department permit specifically describing the use, and bearing the approval of the District Sanitarian, is presented with the application for the Special Use Permit.

D. Specialized multi-resident units for Seniors, such as Senior Group or Independent Living Residences, or Retirement Homes, or other Senior Citizen Complexes established for the purpose of providing housing accommodation solely for persons fifty (50) years of age or older, provided each one bedroom apartment contains not less than six hundred (600) square feet of living area, and each efficiency apartment contains not less than four hundred fifty (450) square feet of living area, and each nursing unit meets state specifications for living area and sanitary facilities. Such dwellings shall

otherwise meet the lot width, lot area, and parking area requirements set forth in Section [16.03](#), for the Village Residential District.

13.04 DIMENSIONAL REQUIREMENTS

A. Minimum setbacks shall be:

Front: Thirty (30) feet from road Right-of-Way

Corner Lots: Thirty (30) feet from near boundary of each Right-of-Way

Side: Ten (10) feet from property line

Rear: Ten (10) feet from property line

Buildings: Ten (10) feet between buildings on subject lot.

Septic: Septic tanks and fields shall be in accordance with the county health department.

B. The Schedule of Regulations in [ARTICLE IX](#) summarizes the minimum dimensional requirements provided for in this Article.

C. Parking shall be in accordance with [ARTICLE XI](#).

D. The maximum height of any building shall be thirty-five (35) feet or two and one-half stories, unless the Planning Commission shall grant, by Special Use Permit, a greater height.

13.05 BOUNDARIES

The Single-Family Residential District shall consist of:

Section 4;..... All except

(1) Corner of Crystal Beach Rd. & Rapid City Rd.

being Tax Parcel ID 40-004-004-014-00, and except

(2) E ½ of NE ¼ of NE ¼, being most of Tax Parcel ID 40-004-004-001-10 and except

(3) SE ¼ of NE ¼, being the remainder of Tax Parcel ID 40-004-004-001-10, and Tax Parcel IDs 40-004-004-001-00, 40-004-004-001-15, 40-004-004-001-20,

40-004-004-001-25, 40-004-004-001-30, 40-004-004-001-40,

40-004-004-002-00, 40-004-004-003-00, 40-004-004-004-00, and except

(4) E ½ of SE ¼ being Tax parcel IDs 40-004-004-058-00 and 40-004-004-064-00

Section 5;..... (1) S ½ of SW ¼

(2) SW ¼ of NW ¼

(3) NW ¼ of NW ¼

(4) NE ¼ of NW ¼ except Tax parcel IDs 40-004-005-008-00 and 40-004-005-009-00

(5) W ½ of NE ¼ except for the land lying south of the southerly boundary of the Plat of Crystal Beach, being Tax parcel IDs 40-004-005-007-00,

40-004-005-007-05, 40-004-005-007-11, 40-004-005-007-15,

40-004-005-007-20, and 40-004-005-007-30

(6) NE ¼ of NE ¼ except Tax parcel ID 40-004-005-002-00

Section 6;..... All except Block 1, lots 1-3 Persons Addition to Persons Harbor, being Tax Parcel IDs 40-004-475-001-00 and 40-004-475-002-00.

Section 7;..... All

Section 8;..... (1) N ½ of NW ¼

(2) NE ¼ except for that land in the S ½ of the NE ¼ lying west of the centerline of Aarwood Road, and except for the land lying north of the thread of the Rapid River.

- Section 9;..... (1) NW $\frac{1}{4}$ except for Tax parcel ID 40-004-009-029-00
(2) SW $\frac{1}{4}$ that land lying north of Aarwood Road and west of the centerline of the abandoned B&O railroad right-of-way.
(3) NE $\frac{1}{4}$
(4) SE $\frac{1}{4}$ that land lying north of the thread of the Rapid River.
- Section 15;..... (1) That portion of Section 15 lying between the centerlines of Valley Road and Wilhelm Road.
(2) The north 500 feet of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of section 15.
(3) Tax parcel ID 40-004-015-037-02
(4) Tax parcel ID 40-004-015-004-20.
- Section 16;..... (1) The S $\frac{1}{2}$ of the S $\frac{1}{2}$ of the NE $\frac{1}{4}$ of Section 16 (excepting Lot 1 of Patterson Acres elsewhere classified as Commercial-Light-Industry) , and the Plat of Orchard Acres,
- Section 18;..... (1) The Plat of Chaney Park (200)
(2) Tax parcel IDs 40-004-018-003-00 and 40-004-018-004-00.

**ARTICLE XIV
MULTIFAMILY RESIDENTIAL DISTRICT R-2**

14.01 PURPOSE

The purpose of providing this Residential District is to establish areas in Clearwater Township primarily dedicated to residential uses, including multifamily and multi-resident dwellings, in which each dwelling or accessory structure hereafter erected is located on an individual lot or premises adequate in size and shape to provide safe water and sewage disposal facilities, to minimize spread of fire, and which is set back from the public thoroughfare to facilitate safe exit from and entrance to the premises.

14.02 PERMITTED USES

No building or structure or any part thereof shall be erected, altered or used, or land or premises used, in whole or in part for other than one of the following specified uses:

A. One single-family or one two-family detached dwelling on a minimum net lot size of fifteen thousand (15,000) square feet, said lot having a minimum width of one hundred (100) feet measured at the front setback line, and said dwelling meeting the following requirements:

1. The dwelling shall contain a minimum of (800) eight hundred square feet enclosed living area and shall comply with the County Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with a federal or state standard or regulation for construction and where such regulation or standard is different from that imposed by the County Building Code, then, and in that event such federal or state standard or regulation shall apply.
2. The dwelling shall have a minimum width of at least (14) fourteen feet measured between the exterior surfaces of exterior walls.
3. The dwelling shall be firmly attached to a permanent foundation constructed on the site in accordance with the County Building Code, and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such material 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 set-up instructions and shall be secured to the premises by an anchoring system or device, and shall be set on a footing as required in the applicable building code with a masonry wall extending from perimeter to ground, or on a footing as required in the applicable building code, with fireproof supports, and shall have a continuous skirt extending from perimeter to the ground. Such skirt shall be of commercial quality or equivalent, and shall comply with the rules and regulations of the Michigan Mobile Home Commission, the Public Health Department, and HUD Regulations 24 CFR 3280, being the "Mobile Home Construction and Safety Standards."
4. In the event that a dwelling is a mobile home as defined herein, it shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage, or chassis.
5. The dwelling shall be connected to a public sewer and water supply or to such private facilities approved by the local health department in connection with the application for a Land Use Permit for installation of the dwelling.
6. The dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity. It shall have not less than two exterior doors, with the second door being either in the rear or on a side of the dwelling. It shall contain steps or porches connected to said door areas where a difference in elevation requires the same.
7. The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator 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 thirty (30) days from the receipt of notice of said Zoning Administrator's decision. Any determination of compatibility shall be based on 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 two thousand (2000) feet of the subject dwelling, where such area is developed on not less than 20% of the lots situated therein; 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, unique land contour, or relief from the common or standard designed home.

8. The dwelling shall contain no addition or rooms or other areas which are not constructed with similar quality workmanship of the original structure.
9. The dwelling shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing and electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to all state and federal requirements.
10. All construction required herein shall commence only after a building permit has been obtained in accordance with the applicable County Building Code provisions and requirements.

B. Churches, schools, public buildings and parks, and such adult care and child care facilities as may be required by State law.

C. Home Occupations subject to the following limitations:

1. The Home Occupation shall be operated and maintained in a manner that shall not change the residential character of the District,
2. Structures and additions to structures shall be externally no different than structures permitted throughout the Residential District,
3. Activities associated with Home Occupation shall not constitute a hazard or nuisance to adjoining residents or others by reason of noise, smoke, odor, electrical disturbance, night lighting, or the creation of unreasonable traffic to the premises, and
4. Outward displays of any kind indicating the commercial, professional or non-residential aspects of the premises are not permitted except one sign or nameplate is permitted in accordance with [ARTICLE XII](#).

D. Accessory buildings such as a detached garage or boathouse for the storage of automobiles and boats, provided, however, that the same comply with setback restrictions and side yard requirements of the dwelling.

E. Docks and boat houses on lakes, ponds, streams or rivers provided they are built subject to all specifications of a permit issued by the Michigan Department of Natural Resources pursuant to the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, Part 301 Inland Waters, as amended.

F. The keeping of domestic pets, livestock, and poultry for personal, noncommercial use, provided that the same are maintained and housed so as not to be a public nuisance.

G. Truck gardening and crop farming within the standards established by the applicable GAAMPs, as provided for in Michigan's Right to Farm Act.

H. Travel trailers, motor homes, camping or recreational vehicles may be stored in a Residential District, as long as they are stored in a manner that meets the district setbacks. Such vehicles may be

used as temporary housing while a permanent dwelling is being built on the property. Such vehicles must be self-contained with respect to wastes, which must be transported to an approved septic disposal system for removal. Storage is not permitted on a commercial or rental basis, and vehicles shall have tires mounted and not be skirted

I. Mobile homes shall be in place no longer than forty-five (45) days without being affixed to a permanent foundation with wheels and tongue removed and skirting attached so that the undercarriage is enclosed. A mobile home must be connected to an approved electric, water, and sewage system within the stated forty-five (45) days.

J. Decks must meet minimum setbacks.

K. Bed and Breakfast establishments subject to the provisions of [ARTICLE XIII](#).

14.03 PERMITTED USES SUBJECT TO SPECIAL USE PERMIT, as provided by [ARTICLE XXIV](#).

A. Multiple Family Dwelling

1. Additional requirements;

- a. Multifamily dwellings for general public use, provided each one-bedroom apartment contains not less than six hundred (600) square feet of living area, and each efficiency apartment contains not less than five hundred (500) square feet of living area.
- b. Specialized multi-resident units, such as Senior Group or Independent Living Residences, or Retirement Homes, provided each one-bedroom apartment contains not less than six hundred (600) square feet of living area, and each efficiency apartment contains not less than four hundred fifty (450) square feet of living area. Each nursing unit shall meet State specifications for living area and sanitary facilities.
 - 1) For multifamily dwellings containing more than two dwelling units, the minimum lot width shall be two hundred (200) feet for structures containing three through twenty dwelling units, and shall be subject to Planning Commission determination upon Site Plan Review for more than twenty dwelling units.
 - 2) For single story, multifamily dwellings, the lot area shall be fifteen thousand (15,000) square feet for the first two dwelling units, plus a minimum of two thousand (2,000) square feet per dwelling unit for dwelling units three through nine. For ten or more single story dwelling units, lot area shall be increased by sixteen hundred (1,600) square feet per additional dwelling unit beyond the requirement for nine units. For upper story dwelling units, the lot area increase per dwelling unit shall be six hundred (600) square feet less than the standards defined above in this paragraph since the "footprint" area requirement of six hundred (600) square feet shall have already been established by the ground floor units.
 - 3) When evaluating Special Use applications, the Planning Commission will take into account the standards of Section (A) (1) (b) (2), which are based on an assumed living area of six hundred (600) square feet per unit, septic disposal area of four hundred (400) square feet per unit, parking area of four hundred (400) square feet per unit, and common area of six hundred (600) square feet per unit initially, reduced to two hundred (200) square feet per additional unit beyond the ninth unit. It is further assumed that common areas will give sufficient disposal area for snow removal.
- c. Multifamily and multi-resident site candidates shall be inspected by District Health Department to determine maximum number of occupants per living unit. Each limit per unit shall be listed in SUP and become part thereof.

B. PUD, As provided by Section [ARTICLE XXIV](#).

C. Office Building

1. Schedule of Regulations as per [ARTICLE IX](#).
2. Parking shall be in accordance with [ARTICLE XI](#).
3. Signs shall be governed by [ARTICLE XII](#).

D. A Special Use Permit shall be required of all Utility and Public Services before obtaining a Land Use Permit for any structure or construction

E. The use of one accessory building or guest house as a temporary, auxiliary living space may be allowed provided that:

1. The lot or land parcel contains sufficient land area that there is, in addition to 15,000 square feet allocated to the primary dwelling, at least 15,000 square feet more that may be allocated to the auxiliary living space, and that all required building dimensions and setback dimensions are met.
2. The living area in the auxiliary living space does not exceed the living area in the primary dwelling.
3. Neither the auxiliary living space nor the primary dwelling is offered for, or used for, rental purposes.
4. A District Health Department permit specifically describing the use, and bearing the approval of the District Sanitarian, is presented with the application for the Special Use Permit.

14.04 DIMENSIONAL, AREA AND BULK REQUIREMENTS

A. Dimensional Requirements shall be the same as in Section [13.04](#) (R-1 District), except where multifamily/multi-resident uses specify otherwise, according to Section [14.03](#).A.01.

B. The Schedule of Regulations in [ARTICLE IX](#) summarizes the minimum dimensional requirements provided for in this Article.

C. There shall be at least two (2) off-the-street parking spaces of two hundred (200) square feet per space for each individual dwelling unit.

D. The maximum height of any building shall be thirty-five (35) feet or two-and-one-half stories, unless the Planning Commission shall grant, by Special Use Permit, a greater height.

14.05 BOUNDARIES

The Multifamily Residential District shall consist of:

Section 8..... (1) S ½ all;

(2) S ½ of N ½, that land lying west of the centerline of Aarwood Road.

Section 9..... (1) E ½ of SE ¼, that land lying south of the Rapid River;

(2) NW ¼ of SE ¼, that land lying south of the Rapid River, bounded on the west by a line corresponding to the eastern boundary of Tax parcel ID 004-009-048-40, and on the south by the centerline of unopened Water Street; and that land comprising blocks E, F, G, and H, of Smith & Rickers Addition to Rapid City (being identified as the four blocks to the east of unopened Second Street all being part of group 628 and parcel 001-00).

Section 16..... (1) E ½ of NE ¼, except for Tax parcel IDs 004-016-012-00, 004-016-013-00, 004-016-014-00, 004-016-015-00, and 004-016-15-010;

(2) NW ¼ of NE ¼, the plat of Rapid City South, except for Tax parcel IDs 004-016-535-40, 004-016-535-41, and 004-016-535-42;

(3) the S 343.67 feet of the SW ¼ of SE ¼, EXCEPT the W 300 feet;

(2) the S 343.67 feet of the SE ¼ of SE ¼, being a part of Tax parcel ID 004-016-

054-00.

**ARTICLE XV
FOREST RESIDENTIAL DISTRICT R-3**

15.01 PURPOSE

This District is intended to provide single-family residential use in a forest setting, and thereby to promote the proper use, enjoyment, and conservation of a forest resource of the Township. It is a further purpose of this District, situated over a shallow water table in a residential area close to the valuable water resources of Torch Lake, Torch River, and Rapid River, to provide low density occupation, and thereby to reduce the risk of contamination of the ground water which communicates with the nearby lake and rivers.

15.02 PERMITTED USES

No building or structure shall be erected, altered, or used, or land or premises used, for any purpose other than the following specified uses:

- A. All uses permitted by right and as regulated in the single-family Residential District (R-1), except that the dwelling or main building shall be located on a parcel of land not less than two (2) acres in size. Said parcel of land shall have a frontage on a public road or private access easement of not less than one hundred sixty-five (165) feet measured at the front setback line, and if divided or created subsequent to the enactment of PA 591 of 1996 (The Land Division Act), as amended, shall meet the four-to-one maximum length-to-width ratio requirement of that Statute, unless granted relief by variance from this provision owing to a practical difficulty in the creation of new parcels from a parent parcel incapable of being divided in the required manner.
- B. Tree farms, forestry, and production of forest crops.
- C. Harvesting of any native or wild crop permitted by law.
- D. Publicly owned buildings, parks, and playgrounds.
- E. Small scale farming as an avocation or of a specialized nature that conforms to the idea of wilderness or forest recreation, such as the raising of fish or game or private forests.
- F. Township, county, or state-owned lands.

15.03 USES PERMITTED BY SPECIAL USE PERMIT

- A. All uses permitted by Special Use Permit and as regulated thereby in the single-family Residential District (R-1).

15.04 DIMENSIONAL REQUIREMENTS

- A. Minimum setbacks shall be:

Front: Thirty (30) feet from road Right-Of-Way.

Corner Lots: Thirty (30) feet from the near boundary of each Right-Of-Way.

Side: Ten (10) feet from the property line.

Rear: Ten (10) feet from the property line.

Buildings: Ten (10) feet between buildings on the subject lot.

Septic: Septic tanks and fields shall be in accordance with the county health department.

15.05 BOUNDARIES:

The Forest Residential District, R-3, shall consist of:

Section 5..... (1) E ½, that land lying south of the southerly boundary of the Plat of Crystal Beach, except for Tax parcel IDs ; 004-005-003-00, 004-005-004-00, 004-005-004-10, 004-005-005-00, and 004-005-006-00, all of which lie contiguous with

and south of the Plat of Crystal Beach;
(2)E ½ of W ½, that land lying between the southerly boundary of the Plat of Crystal Beach and the southerly boundary of Tax parcel ID 004-005-012-00, except that property lying within the Plat of Ladd's South Torch Woods (Tax group 350), and except that property lying within the Plat of Oakwood (Tax group 425);

Section 8..... (3) NE ¼, that land lying north of the thread of the Rapid River.

ARTICLE XVI
VILLAGE RESIDENTIAL DISTRICT - R-VIL

16.01 PERMITTED USES

No building or structure, or any part thereof, shall be erected, altered, or used, or land or premises used, in whole or in part, for other than one or more of the following specified uses:

A. One family detached dwellings on a minimum net lot size of fifteen thousand (15,000) square feet, said lot having a minimum width of one hundred (100) feet measured at the front setback line and meeting the following requirements:

1. The dwelling shall contain a minimum of eight hundred (800) square feet enclosed living area and shall comply with the County Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with a federal or state standard or regulation for construction and where such regulation or standard is different from that imposed by the county building code, then, and in that event such federal or state standard or regulation shall apply.
2. The dwelling shall have a minimum width of at least twenty (20) feet, measured between the exterior surfaces of exterior walls.
3. The dwelling shall be firmly attached to a permanent foundation constructed on the site in accordance with the County Building Code, and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such material 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 set-up instructions and shall be secured to the premises by an anchoring system or device, and shall be set on a footing as required in the applicable building code with a masonry wall extending from perimeter to ground, or on a footing as required in the applicable building code, with fireproof supports, and shall have a continuous skirt extending from perimeter to the ground. Such skirt shall be of commercial quality or equivalent, and shall comply with the rules and regulations of the Michigan Mobile Home Commission, the Public Health Department, and HUD Regulations 24 CFR 3280, being the "Mobile Home Construction and Safety Standards."
4. In the event that a dwelling is a mobile home as defined herein, it shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage, or chassis.
5. The dwelling shall be connected to a public sewer and water supply or to such private facilities approved by the local health department in connection with the application for a Land Use Permit for installation of the dwelling.
6. The dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity. It shall have not less than two exterior doors, with the second door being either in the rear or on a side of the dwelling. It shall contain steps or porches connected to said door areas where a difference in elevation requires the same.
7. The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator 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 thirty (30) days from the receipt of notice of said Zoning Administrator's decision. Any determination of compatibility shall be based on 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 two thousand (2000) feet of the subject dwelling, where such area is developed on not less than 20% of the lots situated therein; 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, unique land contour, or relief from the common or standard designed home.

8. The dwelling shall contain no addition or rooms or other areas which are not constructed with similar quality workmanship of the original structure.
9. The dwelling shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing and electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to all state and federal requirements.
10. All construction required herein shall commence only after a building permit has been obtained in accordance with the applicable County Building Code provisions and requirements.

B. Churches, schools, public buildings and parks, and such adult care and child care facilities as may be required by state law.

C. Home Occupations subject to the following limitations:

1. The Home Occupation shall be operated and maintained in a manner that shall not change the residential character of the District,
2. Structures and additions to structures shall be externally no different than structures permitted throughout the Residential District,
3. Activities associated with a Home Occupation shall not constitute a hazard or nuisance to adjoining residents or others by reason of noise, smoke, odor, electrical disturbance, night lighting, or the creation of unreasonable traffic to the premises, and
4. Outward displays of any kind indicating the commercial, professional or non-residential aspects of the premises are not permitted except one sign or nameplate is permitted in accordance with [ARTICLE XII](#).

D. Bed and Breakfast operations, subject to the provisions of [ARTICLE XIII](#)

16.02. USES ALLOWED BY SPECIAL USE PERMIT,
subject to lot and setback dimensions of this Article.

A. Two-family dwellings, provided each dwelling unit contains not less than eight hundred (800) square feet of living area.

B. Multifamily dwellings for general public use, provided each one-bedroom apartment contains not less than six hundred (600) square feet of living area, and each efficiency apartment contains not less than five hundred (500) square feet of living area.

C. Specialized multi-resident units, such as Senior Group or Independent Living Residences or Retirement Homes, provided each one-bedroom apartment contains not less than six hundred (600) square feet of living area, and each efficiency apartment contains not less than four hundred fifty (450) square feet of living area. Each nursing unit shall meet state specifications for living area and sanitary facilities.

D. Office Buildings.

1. Schedule of Regulations as per [ARTICLE IX](#).
2. Off-road parking space shall be provided in accordance with [ARTICLE XI](#)
3. Signs shall be in accordance with [ARTICLE XII](#)

ALL APPLICATIONS PURSUANT TO THIS SECTION SHALL BE SUBJECT TO THE PROVISIONS OF [ARTICLE XXVIII](#), SITE PLAN REVIEW; [ARTICLE XXIV](#), SPECIAL USE PERMIT STANDARDS AND PROCEDURES; AND SECTION 3 OF THIS ARTICLE (Section 16.03), SCHEDULE OF LOT

DIMENSIONS, PARKING REQUIREMENTS, AND BUILDING HEIGHTS FOR THE VILLAGE RESIDENTIAL DISTRICT.

16.03 SCHEDULE OF LOT DIMENSIONS, PARKING REQUIREMENTS, AND BUILDING HEIGHTS FOR VILLAGE RESIDENTIAL DISTRICT.

A. The minimum width of a lot, measured at the front setback line, shall be one hundred (100) feet for one- and two-family dwellings. For multifamily dwellings, the minimum width shall be two hundred (200) feet for structures containing 3-20 dwelling units and subject to Planning Commission determination, upon Site Plan Review, for greater than 20 dwelling units.

B. The minimum lot area shall be fifteen thousand (15,000) square feet for one- and two-family dwellings. For single story, multifamily dwellings, the lot area shall be 15,000 square feet for the first two dwelling units, plus a minimum of 2,000 square feet per dwelling unit for dwelling units 3 through 9. For 10 or more single story dwelling units, lot area shall be increased by 1,600 square feet per additional dwelling unit beyond the requirement for 9 units.

For upper story dwelling units, the lot area increase per dwelling unit shall be 600 square feet less than the standards defined in the preceding paragraph, since the “footprint” area requirement of 600 square feet shall have already been established by the ground floor units.

When evaluating Special Use applications, the Planning Commission will take into account the standards of Section 16.03.B, which are based on an assumed living area of 600 square feet, septic disposal area of 400 square feet, parking area in compliance with [ARTICLE XI](#), and common area of 600 square feet initially, reduced to 200 square feet per additional unit beyond the 9th unit. It is further assumed that common areas will give sufficient disposal area for snow removal.

C. The minimum setbacks shall be:

Front: Thirty (30) feet from near boundary of Right-of-Way.

Corner Lots: Thirty (30) feet from each Right-of-Way.

Side: Ten (10) feet from property line.

Rear: Ten (10) feet from property line.

Buildings: Ten (10) feet between buildings on the subject lot.

Septic: Septic tanks and fields shall be in accordance with the county health department.

D. Parking: Shall be in accordance with [ARTICLE XI](#).

E. Building Height: The maximum height of any building shall be thirty-five (35) feet or two-and-one-half stories, except that in the case of multifamily dwellings, greater heights may be allowed by Special Use Permit.

16.04 BOUNDARIES

The Village Residential District shall consist of:

- Section 9..... (1) W ½ of SW ¼, except for that land lying north of the centerline of Aarwood Road;
- (2) NW ¼, that land lying between the thread of the Rapid River and the centerline of the abandoned B&O railroad right-of-way, being Tax parcel ID 004-009-029-00.
- (3) NE ¼ of SW ¼, Tax parcel IDs 004-009-034-00 and 004-009-063-00
- (4) SE ¼ of SW ¼ except Little's First Addition to Rapid City, and the land lying between the centerline of Rapid City Road and the western boundary of the abandoned B&O railroad right-of-way

- (5) NW $\frac{1}{4}$ of the SE $\frac{1}{4}$, that land lying east of the centerline of Rapid City Road and south of the thread of Rapid River, bounded on the east by a line corresponding to the eastern boundary of Tax parcel ID 004-009-048-40, and on the south by the centerline of Water Street and its extension into the unopened portion;
- (6) Blocks C and D of Smith & Rickers Addition to Rapid City;
- (7) SW $\frac{1}{4}$ of SE $\frac{1}{4}$, Tax parcel IDs 004-016-054-00, 004-016-055-00, 004-016-056-00, 004-016-057-00, and 004-016-064-00.

ARTICLE XVII AGRICULTURAL DISTRICT

17.01 PURPOSE

The predominant land uses in this District are rural, and it is the purpose of the provisions of this Ordinance to conserve this character in a general way. As roads and highways are improved, and expressways extend into the District, further residential developments, including a limited number of commercial and other enterprises may be anticipated. While this Ordinance seeks to conserve the general rural character of this District, it also recognizes the importance of providing safe desirable standards for the newer incoming developments.

17.02 PERMITTED USES

No building or structure shall be erected, altered or used, or land or premises used, for any purpose other than one of the following specified uses:

A. One single-family or one two-family detached dwelling on a minimum lot size of five (5) acres. Said lot shall have a frontage on a public road or private access easement of not less than one hundred fifty (150) feet measured at the front setback line, and if divided or created subsequent to the enactment of PA 591 of 1996 (The Land Division Act), shall meet the four-to-one maximum length-to-width ratio required by that Statute, unless granted relief by variance from this provision owing to a practical difficulty in the creation of new parcels from a parent parcel incapable of being divided in the required manner.

1. Said dwelling shall contain a minimum of eight hundred (800) square feet enclosed living area and shall comply with the County Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with a federal or state standard or regulation for construction and where such regulation or standard is different from that imposed by the building code, then, and in that event such federal or state standard or regulation shall apply.
2. The dwelling shall have a minimum width of at least fourteen (14) feet measured between the exterior surfaces of exterior walls.
3. The dwelling shall be firmly attached to a permanent foundation constructed on the site in accordance with the County Building Code, and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such material and type as required in the applicable Building Code for single-family dwellings. In the event that the dwelling is a mobile home or manufactured home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's set-up instructions and shall be secured to the premises by an anchoring system or device, and shall be set on a footing as required in the applicable Building Code with a masonry wall extending from perimeter to ground, or on a footing as required in the applicable Building Code, with fireproof supports, and shall have a continuous skirt extending from perimeter to ground. Such skirt shall be of commercial quality or equivalent, and shall comply with the rules and regulations of the Michigan Mobile Home Commission, the Public Health Department, and HUD Regulations 24 CFR 3280, being the "Manufactured Home Construction and Safety Standards."
4. The dwelling shall be connected to a public sewer and water supply or to such private facilities approved by the local Health Department in connection with the application for a Land Use Permit for installation of the dwelling.
5. The dwelling shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing and electrical apparatus and insulation within and

connected to said mobile home shall be of a type and quality conforming to all state and federal requirements.

6. All construction required herein shall commence only after a Building Permit has been obtained in accordance with the applicable County Building Code provisions and requirements.
7. Accessory buildings such as detached garages, barns, sheds, and boathouses may be allowed by the determination of the Zoning Administrator that they meet the setback and height standards of this District. Such buildings may not serve as dwellings.

B. Churches, schools, public buildings and parks, and such adult care and child care facilities as may be required by State law.

C. Home Occupations subject to the following limitations:

1. The Home Occupation shall be operated and maintained in a manner that shall not change the agricultural and residential character of the District.
2. Structures and additions to structures visible from public roads shall be externally no different in appearance than structures permitted in throughout the Agricultural District.
3. Activities associated with the Home Occupation shall not constitute a hazard or nuisance to adjoining residents or others by reason of noise, smoke, odor, electrical disturbance, night lighting, or the creation of unreasonable traffic to the premises, and
4. Outward displays of any kind indicating the commercial, professional, or non-residential aspects of the premises are not permitted, except that one sign or nameplate is permitted in accordance with [ARTICLE XII](#).

D. Farming of all types.

E. Tree farms, forestry, and production of forest crops.

F. Harvesting of any native or wild crop permitted by law.

G. Township, county, or state-owned conservation lands.

H. Roadside stands, provided that the same shall not be closer than twelve (12) feet to any highway Right-of-Way.

I. Outdoor storage of a travel trailer, motor home, camping or recreational vehicle is permitted in an Agricultural District, provided that it is not lived in for more than 30 individual days in any calendar year. Storage is not permitted on a commercial or rental basis, and vehicles shall have tires mounted and not be skirted.

J. Farm Markets as regulated by the State "Right to Farm Act," as amended.

17.03 PERMITTED USES SUBJECT TO SPECIAL USE PERMIT

A. Riding Academies and Stables, Veterinarian Hospitals and Kennels, provided that no enclosure or space for the permanent housing of animals shall be located less than thirty (30) feet from any adjoining property line, not less than one hundred (100) feet from any public right-of-way.

B. Gravel pits and removal of topsoil, provided that when sand or gravel pit, or topsoil removal work has ceased, any unsightly bare ground, steep bank or deep hole shall be promptly graded and shall be restored in such a manner as to be harmonious with the surrounding terrain.

C. Cemeteries.

D. Mechanical repair services.

E. Landing fields.

F. Country Lodges, as defined in [ARTICLE V](#), may be permitted as a Special Use in an Agricultural District, subject to the following conditions;

1. The parcel shall have frontage on a paved county or state road and the parking lot shall be accessed from that same road.
2. Signage shall be limited to one sign not more than twenty (20) square feet in area. The sign shall be ground mounted and shall not exceed six feet in height. The sign shall not be internally illuminated, animated, or flashing.
3. Off-street parking shall be provided in accordance with [ARTICLE XI](#).
4. Off-street parking shall be visually screened from a public right-of-way or from adjacent existing residential units. Such screening may take the form of a berm (at least three feet in height) with plantings, or a dense evergreen screen at least four feet in height.
5. Building design shall be consistent with the principles of traditional residential architecture which is characterized by two story construction, pitched roof lines, and a single primary entrance.
6. On-site well and septic systems, whether existing or proposed, shall be adequate for maximum intended occupancy, and shall require written approval by the County Health Department.
7. No separate cooking facilities shall be provided for lodge guests.
8. Rental of snowmobiles, all terrain vehicles, boats, or other similar motorized recreational equipment shall be prohibited.
9. The location of all public or state property and snowmobile/ORV trails within a two mile radius shall be clearly identified for guests in order to mitigate the risk of trespass on private property. Such identification may take the form of a prominently displayed wall map, or of small maps that may be given to guests.
10. In order to protect the residential character of nearby properties and to minimize the possible adverse impact of activities associated with Country Lodges (snowmobile and off-the-road vehicle activity, cross-country skiing, and the like) a Country Lodge shall not be permitted on a parcel of less than five (5) acres.

G. PUD, as provided by Section [24.09](#).

H. A Special Use Permit shall be required of all Utility and Public Service Buildings or Structures (other than poles and lines).

I. Golf Courses.

J. Forest Product Fabrication Facilities.

K. Telecommunication towers and facilities and alternative tower structures.

L. Nurseries as defined herein.

M. Supplementary Dwelling, subject to the following provisions:

1. A single supplementary dwelling may be permitted for the purpose of housing members of the immediate family of the property owner, or to house workers employed to harvest farm or forest crops grown on the premises.
2. Said supplementary dwelling shall meet the standards of Section [17.02.A](#) and the standards of [ARTICLE XXIV](#).
3. In connection with a Special Use Permit application, applicant shall submit an affidavit attesting that the subject land parcel containing the primary dwelling and the supplementary dwelling will not subsequently be split or divided in a manner that results in a dwelling on a parcel of land that does not meet the area, frontage, and setback requirements of this Article.

- 4. In the event of approval of the Special Use, the applicant shall cause to be recorded the Special Use Permit including the affidavit of Section 17.03.M.03 above, which affidavit shall be identified as a deed restriction running with the land. A copy of this recorded instrument shall be conveyed to the Zoning Administrator by the applicant prior to the issuance of a Land Use Permit.

N. Camps, Public and Private, subject to the provisions of Section [18.03.K.01-03](#) and the Camp definition of [ARTICLE V](#).

17.04 DIMENSIONAL REQUIREMENTS

A. Minimum setbacks shall be:

Front: Thirty (30) feet from near road R-O-W or access easement.

Corner: Thirty (30) feet from near boundary of each Right-of-Way

Side: Thirty (30) feet from property line

Rear: Thirty (30) feet from property line

Buildings: Ten (10) feet between buildings on subject lot.

Septic: Septic tanks and fields shall be in accordance with the county health department.

B. The Schedule of Regulations in [ARTICLE IX](#) summarizes the minimum dimensional requirements for this Article.

C. Parking shall be in accordance with [ARTICLE XI](#).

D. The maximum height of any building shall be thirty-five (35) feet or two-and-one-half stories, unless the Planning Commission shall grant, by Special Use Permit, a greater height.

17.05 BOUNDARIES

The Agricultural District shall consist of those Sections and parts of Sections listed hereunder:

Sections 1, 2, 3, 10, 11, 12, 22, 23, 26, 31, 35, & 36; ALL

Section 4;..... (1) E ½ of NE ¼ of NE ¼
 (2) SE ¼ of NE ¼
 (3) E ½ of SE ¼

Sections 13, 24, & 25;.. All except land lying between Valley Road and Rapid River.

Section 14;..... All land lying South of Valley Road.

Section 15;..... (1) S ½ except that portion lying NE of Valley Road, and except the North 500 feet of the NW ¼ of the SW ¼.
 (2) Also except that part of the NW 1/4 of the SE 1/4 of Section 15, Town 28 North, Range 8 West described as: Commencing at the East 1/4 corner of said section 15; thence South 89 Deg 37'05". West along the East-West 1/4 line of said section and the centerline of Wilhelm Road 1660.56 feet to the point of beginning; thence South 00 Deg 44'10" East 1327.45 feet to a point on the South 1/8 line of Said section; thence South 89 Deg 41'57" West along said 1/8 line 727.36 feet; thence North 00 Deg 37'34" West 688.08 feet; thence North 89 Deg 37'05" East 173.68 feet; thence North 00 Deg 00'04" West 458.33 feet to a point on the East-West 1/4 line of said section and the centerline of Wilhelm Road; thence North 89 Deg 37'05" East along said section and centerline 546.21 feet to the point of beginning and containing 20.26 acres of land, being Parcel C, Tax ID 40-004-015-037-02.

- Section 16;..... (1) SE $\frac{1}{4}$ EXCEPT that described elsewhere as Commercial-Light-Industry, or Residential R-1 (Orchard Acres) and Residential R-2 (the S 343.67 feet of SW $\frac{1}{4}$ of SE $\frac{1}{4}$, EXCEPT the W 300 feet of same)
 (2) The NW corner of Rapid City and Schneider Roads, approx. 233'X440' bring Parcel Tax ID 40-004-016-047-00 (by administrative correction from Recreational)
 (3) Also except the S 343.67 feet of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ being parcel number 40-004-016-054-00.
- Section 21;..... (1) All land lying East of Rapid City Road
 (2) E $\frac{1}{2}$ of NW $\frac{1}{4}$, EXCEPT that strip between the abandoned railroad R-O-W & Rapid City Road, and Schneider Road and the north boundary of the DNR Skegemog trailhead, described elsewhere as Commercial-Light-Industry.
- Section 27;..... All EXCEPT that land lying South of Amidon Road and Hill Road.
- Section 28;..... That part of the NE $\frac{1}{4}$ that lies NE of Rapid City Road.
- Section 30;..... That part of the W $\frac{1}{2}$ lying South of Bagg's Landing #3 Sub.
- Section 32;..... (1) In the N $\frac{1}{2}$, that land lying between M-72 and abandoned railroad R-O-W.
 (2) SW $\frac{1}{4}$.
 (3) NW $\frac{1}{4}$ of SE $\frac{1}{4}$.
- Section 33;..... In the NW $\frac{1}{4}$, that land lying between McNulty Hill Road and abandoned railroad R-O-W.

**ARTICLE XVIII
RECREATIONAL DISTRICT**

18.01 PURPOSE

These districts are intended to promote the proper use, enjoyment and conservation of the forest, water, topographic, geologic, historic and other resources of the Township peculiarly adapted to forestry, forest industries, and recreational uses in general.

18.02 PERMITTED USES

No building or structure or any part thereof shall be erected, altered or used, or land or premises used, for any purpose other than one of the following specified uses:

A. One single-family or two-family detached dwelling on a minimum lot size of five (5) acres. Said lot shall have a frontage on a public road or private access easement of not less than one hundred fifty (150) feet measured at the front setback line, and if divided or created subsequent to the enactment of PA 591 of 1996 (The Land Division Act), shall meet the four-to-one maximum length-to-width ratio required by that Statute, unless granted relief by variance from this provision owing to a practical difficulty in the creation of new parcels from a parent parcel incapable of being divided in the required manner.

1. Said dwelling shall contain a minimum of eight hundred (800) square feet enclosed living area and shall comply with the County Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with a federal or state standard or regulation for construction and where such regulation or standard is different from that imposed by the Building Code, then, and in that event such federal or state standard or regulation shall apply.
2. The dwelling shall have a minimum width of at least fourteen (14) feet measured between the exterior surfaces of exterior walls.
3. The dwelling shall be firmly attached to a permanent foundation constructed on the site in accordance with the County Building Code, and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such material and type as required in the applicable Building Code for single-family dwellings. In the event that the dwelling is a mobile home or manufactured home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's set-up instructions and shall be secured to the premises by an anchoring system or device, and shall be set on a footing as required in the applicable Building Code with a masonry wall extending from perimeter to ground, or on a footing as required in the applicable Building Code, with fireproof supports, and shall have a continuous skirt extending from perimeter to ground. Such skirt shall be of commercial quality or equivalent, and shall comply with the rules and regulations of the Michigan Mobile Home Commission, the Public Health Department, and HUD Regulations 24 CFR 3280, being the "Manufactured Home Construction and Safety Standards."
4. The dwelling shall be connected to a public sewer and water supply or to such private facilities approved by the local Health Department in connection with the application for a Land Use Permit for installation of the dwelling.
5. The dwelling shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing and electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to all state and federal requirements.

6. All construction required herein shall commence only after a Building Permit has been obtained in accordance with the applicable County Building Code provisions and requirements.
7. Accessory buildings such as detached garages, barns, sheds, and boathouses may be allowed by the determination of the Zoning Administrator that they meet the setback and height standards of this District. Such buildings may not serve as dwellings.

B. Churches, schools, public buildings and parks, and such adult care and child care facilities as may be required by State law.

C.. Home Occupations subject to the following limitations:

1. The Home Occupation shall be operated and maintained in a manner that shall not change the environmental and residential character of the District.
2. Structures and additions to structures visible from public roads shall be externally no different in appearance than structures throughout the Recreational District.
3. Activities associated with the Home Occupation shall not constitute a hazard or nuisance to adjoining residents or others by reason of noise, smoke, odor, electrical disturbance, night lighting, or the creation of unreasonable traffic to the premises, and
4. Outward displays of any kind indicating the commercial, professional, or non-residential aspects of the premises are not permitted, except that one sign or nameplate is permitted in accordance with [ARTICLE XII](#).

D. The keeping of pets provided that all are maintained so as not to constitute a public nuisance.

E. Tree farms, forestry and production of forest crops.

F. Harvesting of any native or wild crop permitted by law.

G. Small scale farming as an avocation or of a specialized nature that conforms to the idea of wilderness or recreation such as the raising of fish or game or private forests or field or orchard crops.

H. Township, county, or state-owned conservation lands.

I. Roadside stands.

J. Outdoor storage of a travel trailer, motor home, camping or recreational vehicle is permitted in a Recreational District, provided that it is not lived in for more than 30 individual days in any calendar year. Storage is not permitted on a commercial or rental bases, and vehicles shall have tires mounted and not be skirted.

18.03 PERMITTED USES SUBJECT TO SPECIAL USE PERMIT

A. Riding Academies and Stables, Veterinarian Hospitals and Kennels, provided that no enclosure or space for the permanent housing of animals shall be located less than thirty (30) feet from any adjoining property line, nor less than one hundred (100) feet from any public right-of-way.

B. Gravel pits and removal of topsoil, provided that when the sand or gravel pit, or topsoil removal work has ceased, any unsightly bare ground, steep bank or deep hole shall be promptly graded and shall be restored in such a manner as to be harmonious with the surrounding terrain.

C. Archery and Shooting Ranges.

D. PUD, as provided by Section [24.09](#).

E. Adult Foster Care is a special category totally separate from Home Occupation, which

1. Allows 7-20 residents.
2. Requires a minimum of five (5) acres of land.

3. Requires a setback of 60 feet from the road right-of-way, with provision for ingress and egress of vehicles in a forward motion, and front yards remaining clear for landscape improvements and necessary drives and walks.
 4. Off-street parking will be provided in accordance with [ARTICLE XI](#).
- F. Utility and Public Service Buildings or Structures (other than poles and lines).
- G. Golf Courses.
- H. Country Lodges, subject to the conditions of Section [17.03.E](#).
- I. Forest Product Fabrication Facilities.
- J. Telecommunication towers and facilities and alternative tower structures.
- K. Campgrounds, provided:
1. campfire locations shall have adequate containment devices, and, in the judgment of the Planning Commission, which shall have received advice from the DNR or a qualified forester, there is no unreasonable increase in the risk of forest fire in the vicinity of the proposed use, and
 2. there is no unreasonable compromise of the land or water quality in the vicinity of the proposed use, in which judgment the Planning Commission shall have received advice from the DEQ, and/or the Soil Conservation Service, and/or the District Health Department.
 3. there is no unreasonable compromise, in the judgment of the Planning Commission, of the viewshed cited for protection in the Master Plan (e.g. M-72, South Rapid City Road, Valley Road, etc.) in the vicinity of the proposed use, and
 4. the density of campsites does not exceed sixty-five (65) per five acres of land, pursuant to minutes of September 18, 2000, of the then *Zoning Board* and
 5. the proposed use otherwise complies with the Campground definition of [ARTICLE V](#).
- L. Camps, Public and Private, subject to the provisions of Subsection [18.03.K.1-3](#) above and the Camp definition of [ARTICLE V](#).
- M. Supplementary Dwelling, subject to the following provisions:
1. A single supplementary dwelling may be permitted for the purpose of housing members of the immediate family of the property owner, or to house workers employed to harvest forest or farm crops grown on the premises.
 2. Said supplementary dwelling shall meet the standards of Subsection [18.02.A](#) and the standards of [ARTICLE XXIV](#).
 3. In connection with a Special Use Permit application, applicant shall submit an affidavit attesting that the subject land parcel containing the primary dwelling and the supplementary dwelling will not subsequently be split or divided in a manner that results in a dwelling on a parcel of land that does not meet the area, frontage, and setback requirements of this Article.
 4. In the event of approval of the Special Use, the applicant shall cause to be recorded the Special Use Permit including the affidavit of Section [18.03.N.03](#) above, which affidavit shall be identified as a deed restriction running with the land. A copy of this recorded instrument shall be conveyed to the Zoning Administrator by the applicant prior to the issuance of a Land Use Permit.
- N. Nurseries as defined herein.

18.04 DIMENSIONAL REQUIREMENTS

A. Minimum setbacks shall be:

Front: Thirty (30) feet from near boundary of R-O-W or access easement.

Corner: Thirty (30) feet from near boundary of each Right-of-Way

Side: Ten (10) feet from property line

Rear: Ten (10) feet from property line

Buildings: Ten (10) feet between buildings on subject lot.

Septic: Septic tanks and fields shall be in accordance with the county health department.

B. The Schedule of Regulations in [ARTICLE IX](#) summarizes the minimum dimensional requirements provided for in this Article.

C. Parking shall be in accordance with [ARTICLE XI](#).

D. The maximum height of any building shall be thirty-five (35) feet or two-and-one-half stories, unless the Planning Commission shall grant, by Special Use Permit, a greater height.

18.05 BOUNDARIES

The Recreational District shall consist of those Sections and parts of Sections listed hereunder:

Sections 17, 19, 20, 29, & 34; ALL

Sections 13, 24, & 25; .. that land lying between the thread of Rapid River and Valley Road.

Sections 14 & 15 that land lying North of Valley Road, except for Tax Pavel ID 40-004-015-004-20.

Section 16;..... W ½ EXCEPT a strip lying between Rapid City Road and the western boundary of the abandoned C&O railroad R-O-W, and EXCEPT Tax parcel IDs 004-016-035-11 and 004- 015-035-21

Section 18..... All except the Plat of Chaney Park (200) and tax parcel IDs 40-004-018-003-00 and 40-004-018-004-00.

Section 21;..... W ½ of NW ¼, and all of the S ½ that lies West of Rapid City Road. EXCEPT that two-acre portion of tax parcel ID 40-004-021-014-00 elsewhere defined as Village Commercial.

Section 27;..... All land lying South of Hill Road and Amidon Road.

Section 28;..... All, except land in NE ¼ that lies NE of Rapid City Road.

Section 30;..... All, except that land which lies directly South of Bagg’s Landing #3 Sub.

Section 32;..... That land lying North of the abandoned railroad R-O-W, and that land in the SE¼ except the NW ¼ of the SE ¼.

Section 33;..... All, except that land lying between McNulty Hill Road and the abandoned railroad R-O-W in the NW ¼.

19.01

ARTICLE XIX
MONUMENTS OR MEMORIALS

[Addedper Amendment 6, Adopted August17, 2016,Effective September 2, 2016]

19.01 PURPOSE.

Based on the findings which have been made by the Clearwater Township Board, the purposes of Article XIX are:

- A. To define Monuments or Memorials as permanent fixed structures, unique in structure and purpose (See Article V DEFINITIONS), and
- B. To differentiate these structures from signs, and exempt them from sign restrictions.

19.02. REGULATIONS.

- A. Construction of a Monument or Memorial requires a Special Use Permit. The Special Use Permit application shall be reviewed for compliance with setbacks, size, type and construction.
- B. Each request will be reviewed on an individual basis for compliance with the standards of [Article XXIV](#). SPECIAL USE PERMITS.

19.03. REMOVAL OF STRUCTURES NOT IN COMPLIANCE.

Any Monument or Memorial structure found to be in violation of any of the above conditions or restrictions, or any special conditions agreed upon prior to construction, must be remedied by the responsible party.

19.04. VIOLATIONS AND PENALTIES.

- A. Any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961 (being Sections 600.101-600.9939 of Michigan Compiled Laws), and shall be subject to fines established by the Township Board.
- B. Violations of Article XIX may be reported to the Clearwater Township Supervisor and/or to the Kalkaska County Sheriff's Department and/or Clearwater Township Zoning Administrator.

19.05. ENFORCEMENT OFFICIALS.

The Clearwater Township Supervisor, Clearwater Township Zoning Administrator and police officers of the Kalkaska County Sheriff's Department are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Article to appear in court.

19.06. SEPARATE COURT ACTION.

In addition to enforcing Article XIX through the use of a municipal civil infraction proceeding or a criminal prosecution, the Clearwater Township Supervisor may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Article.

19.07. NON-EXCLUSIVITY.

The regulations in Article XIX shall be in addition to, and not exclusive of, any other local police power ordinance or zoning ordinance or any other state law or regulation.

19.08. EFFECTIVE DATE.

This Article shall become effective eight (8) days after being published in a newspaper of general circulation within the Township.

**ARTICLE XX
VILLAGE COMMERCIAL DISTRICT C-VIL**

20.01 ALL USES MAY BE REQUIRED TO BE CONTAINED IN AN APPROVED ENCLOSURE AND MUST FURTHER COMPLY WITH SITE PLAN REVIEW PROCEDURES AS DEFINED BY [ARTICLE XXVIII](#) OF THIS ORDINANCE.

20.02 PERMITTED USES

SUBJECT TO THE ABOVE, no building or structure or any part thereof shall be erected, altered or used, or any land or premises used, in whole or in part for other than one or more of the following uses, viz.;

- A. Single-family dwellings, and private storage buildings, subject to the lot dimension standards of this Article, and the dwelling dimension, aesthetic, and building code standards of [ARTICLE XVI](#), Village Residential District. Such dwellings do not require Site Plan Reviews.
- B. Commercial Uses.
 1. Retail stores and shops; food, drug, variety, dry goods, clothing, music, book, hardware, crafts, antiques, gifts, produce stands, and other similar light retail uses.
 2. Personal service establishments which perform services on the premises such as: barber and beauty shops, shoe repairs, business services, printing, publishing, photo reproduction and related trades or arts.
 3. Offices, banks, and public buildings.
 4. Funeral homes.
 5. Restaurants and other food service establishments including those that may serve alcoholic beverages.
 6. Churches, schools, and public parks.

20.03 USES PERMITTED BY SPECIAL USE PERMIT

- A. Garages, other than for private use, used for servicing and/or storing vehicles or boats.
- B. Vehicle sales facilities.
- C. Fuel service stations.
- D. Hotels, motels, bed & breakfast and boarding house operations.
- E. Dwelling units which are part of a commercial unit, such as second story “flats” or duplex units.
- F. Multifamily dwellings.
- G. Efficiency apartments.
- H. Other uses of a light retail nature designed primarily to serve the residents of the area and the traveling public, and which are approvable by the Planning Commission as compatible with the mixed residential and retail uses of the Village District.

ALL USES PERMITTED BY THIS SECTION SHALL BE SUBJECT TO THE PROCEDURES AND REGULATIONS OF [ARTICLE XXVIII](#), SITE PLAN REVIEW, AND [ARTICLE XXIV](#), SPECIAL USE PERMITS.

20.04 SCHEDULE OF LOT DIMENSIONS, BUILDING HEIGHTS, AND PARKING REQUIREMENTS IN THE VILLAGE COMMERCIAL DISTRICT.

- A. The minimum width of a lot, measured at the front setback line, shall be seventy-five (75) feet.
- B. The minimum area of a lot shall be twelve thousand (12,000) square feet.

C. The minimum building setbacks shall be:

Front: Twenty-five (25) feet from the near boundary of the Right-of-Way. In the event of parking for commercial uses within the front setback line, that setback line shall be forty (40) feet from the Right-of-Way. Corner lots shall have a setback of at least twenty-five (25) feet from each Right-of-Way.

Side: Ten (10) feet from the property line.

Rear: Ten (10) feet from the property line.

Buildings: Ten (10) feet minimum distance between buildings on subject lot.

Septic: Septic tanks and fields shall be a minimum of ten (10) feet from any property line or building foundation.

D. Parking: Must comply with the requirements of [ARTICLE XI](#).

E. Building Height: The maximum height of a building shall be thirty-five (35) feet or two-and-one-half stories, unless the Planning Commission shall grant, by Special Use Permit, a greater height.

20.05 BOUNDARIES

The Village Commercial District (C-Vil) shall consist of:

Section 4..... Corner of Crystal Beach Rd. & Rapid City Rd.
(Tax Parcel No. 004-004-014-00);

Section 6..... Block 1, lots 1-3 Persons Addition to Persons Harbor, Tax Parcel Numbers 004-475-001-00 and 004-475-002-00;

Section 9..... (1) Plat of Village of Van Buren: Blocks 1 (tax group 825), 2 (tax group 826), 3 (tax group 8270, and 4 (tax group 828)
(2) Property numbers 004-009-039-00, 004-009-040-00, 004-009-041-01, and 004-009-041-05
(3) Plat of Rapid City;
(4) Blocks A (tax group 625) and B (tax group 66) of Smith & Rickers Addition to Rapid City;
(5) Lots 1-17 of Anderson’s Addition;
(6) Lots 1-7 of Foster’s Addition;
(7) Tax parcel IDs 004-009-051-10, 004-009-051-20, 004-009-051-30, 004-009-051-35, 004-009-051-40, 004-009-051-45, and 004-009-058-000;
(8) Smith’s Addition: Lots 1-8 and 29-54

Section 16..... (1) on the West side of Rapid City Road, that land between the centerline of Rapid City Road and the Western boundary of the abandoned C&O Railroad Right-of-Way and between the Northern boundary of Tax Parcel No. 004-016-017-10 and the Southern boundary of Tax Parcel No. 004-016-032-10;
(2) on the East side of Rapid City Road, that land comprising Tax Parcel IDs. 004-016-002-00, 004-016-001-20, 004-016-001-10, 004-016-003-00, 004-016-004-00, 004-016-020-00, 004-016-535-42, 004-016-535-41, 004-016-535-40, 004-016-011-30, the westerly 330 feet of 004-016-011-20, the westerly 330 feet of the untaxed 30 foot easement lying between Parcels 004-016-011-30 and 004-016-011-20, and the parcel not on the tax rolls which occupies the Southeast corner of Rapid City Road and South Street.

ARTICLE XXI
COMMERCIAL-LIGHT INDUSTRY DISTRICT C-LI

21.01 PURPOSE

The purpose of the Commercial-Light-Industry district is to provide areas primarily dedicated to a variety of establishments, including personal, professional and other services commonly associated with commercial and business centers; wholesale activities, warehousing, open-air storage, open-air selling of vehicles and manufactured homes, repair shops; light industry such as small part fabrication or assembly, packing, and shipping, processing raw material and semi-finished products, storage of raw material and industrial products;

It is the intent that the standards provided herein shall be applied to all Commercial or Light Industry Districts established subsequent to the adoption of this amendment, with the exception of those which may be established contiguous with, and with the express intention of extending the boundaries of, the Village Commercial District adopted as Amendment No. 44, of Ordinance #9, September 21, 1999.

21.02 SITE PLAN REVIEW

Site Plan Review, according to the Standards of [ARTICLE XXVIII](#), shall be required for all new uses or expansion of existing uses prior to the granting of a Land Use Permit. No use shall be allowed, the conduct of which shall constitute a nuisance to any prior existing permitted use on any adjacent premises. Findings of fact with respect to this issue shall be the responsibility of the Zoning Administrator in the case of uses permitted by right, and the responsibility of the Planning Commission in the case of uses requiring a Special Use Permit.

21.03 PERMITTED USES

No building or structure shall be erected, altered or used, or land or premises used, in whole or in part for other than one or more of the following specified uses:

- A. All uses permitted and as regulated in Residential District.
- B. All uses permitted and as regulated in the Village Commercial District.
- C. Garages.
- D. Gasoline service stations, as provided by Section 4.06.
- E. Roadside stands.
- F. Hotels and motels.
- G. Recreational enterprises, commercial, including bowling alleys.
- H. Clinics and hospitals.
- I. Civic, special and fraternal buildings not operated for profit.
- J. Used car lots, auto sales and rentals.
- K. Wholesale and storage warehouses.
- L. Warehouse outlet stores.
- M. Outdoor storage and maintenance of heavy equipment.
- N. Antennas, commercial.

- O. Accessory uses and minor buildings and structures customarily incidental in any of the preceding uses

21.04 USES PERMITTED, SUBJECT TO SPECIAL USE PERMIT

- A. All Special Uses permitted within the Village Commercial (C-Vil) District.
- B. Parking lots - commercial
- C. Equipment sales/service operations.
- D. Engine, vehicle, boat, appliance, tool, repair and/or sales shops.
- E. Auto body/boat repair and paint shops.
- F. Construction company facilities.
- G. Light manufacturing process or assembly work.
- H. Antennas not regulated by Section [4.13](#).
- I. Laundromats, laundries and clothes cleaning establishments.
- J. A Special Use Permit shall be required of all Utility and Public Services before obtaining a Land Use Permit for any structure or construction.
- K. Video Arcade Center
- L. Outdoor Storage, Maintenance and Parking of Heavy Equipment.
- M. Manufactured Home Sales Establishment, in compliance with all applicable county, State and Federal codes and regulations dealing with the sale of new and used manufactured homes as defined in this amendment, including, but not limited to, Michigan PA 96 of 1987, as amended, and Part 3280, Manufactured Home Construction and Safety Standards, Code of Federal Regulations, Housing and Urban Development. Evidence of compliance shall be made available on the site for inspection by the Zoning Administrator upon reasonable notice.
- N. Sexually oriented businesses, according to the definitions and standards described in [ARTICLE II](#), [ARTICLE V](#), [ARTICLE XI](#), and [ARTICLE XXIV](#) of this Ordinance.
- O. Other uses which, in the judgment of the Planning Commission, are considered compatible with the District Purpose and not harmful to the water, air, or land of the Township, nor to the quality of life of Township residents and visitors, and which otherwise meet the Standards of [ARTICLE XXIV](#).

21.05 PROHIBITED USES

The following uses are specifically prohibited in this district:

- A. Industry or business, the operation of which uses any product or by-product or other thing which may cause contamination to the water, air, or land of the area shall be prohibited unless adequate provision is made for the non-harmful disposition of such product, by-product, or waste which meets the approval of the Planning Commission, and which use or disposition shall not be offensive or objectionable, or in any way endanger public health, safety, or welfare. In its exercise of the authority of this section, the Planning Commission may seek, where appropriate, the advice of experts and regulators in the matters under consideration.
- B. Stockyards, feedlots, slaughterhouses, rendering plants or pelt processing establishments shall be prohibited.

- C. Establishments engaged in heavy industry, such as smelters, foundries, plating operations, stamping operations, and the like, shall be prohibited.
- D. Any other business or operation offensive or objectionable to public safety, health, or welfare shall be prohibited.

21.06 DIMENSIONAL, AREA, AND BULK REQUIREMENTS

The schedule of Regulations in [ARTICLE IX](#) provides the minimum requirements for height, bulk, yard setbacks, and minimum lot size per land use and maximum density which must be complied with in constructing any structure in this district.

21.07 STRUCTURE OCCUPANCY AREA

The total square footage of all structures shall not occupy more than forty (40%) percent of the lot size.

21.08 OFF-STREET PARKING AND DELIVERY ACCESS

Off-street parking as provided by ARTICLE XI

21.09 SIGNS

Signs shall be as provided for in [ARTICLE XII](#).

21.10 BOUNDARIES

The Commercial-Light-Industry District shall consist of:

- Section 16;..... (1) East 450 feet of NW ¼ EXCEPT:
 - the land lying between Rapid City Road and the Western boundary of the abandoned C&O Railroad R-O-W and between the Northern boundary of tax parcel ID 004-016-017-10 and the Southern boundary of tax parcel ID 004-016-031-01.
 - (3) NE ¼, Lot 1 of Patterson Acres
 - (4) SW ¼, the land lying between the centerline of Rapid City Road and the western boundary of the abandoned C&O Railroad R-O-W, EXCEPT for tax parcel 004-016-047-00.
 - (5) SW ¼, tax parcel IDs 004-016-035-11 and 004- 015-035-21
 - (5) SE ¼, tax parcels IDs 004-016-051-50, 004-016-051-00, & 004-016-051-45
 - (6) SE ¼, the land lying East of Rapid City Rd., between Orchard Acres & Schneider Rd. extending Eastward to a line coinciding with the Eastern boundary of Lot 1 of Patterson Acres. EXCEPT that land elsewhere defined in this Article as Residential, or Agricultural.
- Section 21;..... In the E ½ of NW ¼, that strip lying between the western edge of the abandoned railroad R-O-W & Rapid City Road, and Schneider Road and the north boundary of the DNR Skegemog trailhead.

**ARTICLE XXII
RESERVED FOR FUTURE USE**

**ARTICLE XXIII
MOBILE HOME PARK DISTRICT**

23.01 PURPOSE

It is the purpose of the Mobile Home Park District (MHPD) to provide for the development of mobile home parks in appropriate locations and in accordance with the regulations established by the Michigan Mobile Home Commission and Clearwater Township.

23.02 DEFINITIONS

SITE: For the purpose of this article the land where an individual mobile home is located along with the surrounding yard area for that individual dwelling, shall be designated as the mobile home site.

23.03 PERMITTED USES

- A. Mobile homes (manufactured homes used as residential units)
- B. Private parks and playgrounds for the use of residents of mobile home park.

23.04 DEVELOPMENT AND OPERATIONAL STANDARDS

All mobile home parks developed after the effective date of this ordinance shall comply with the code of the Michigan Mobile Home Commission.

A. Location Requirements

Mobile home parks shall be permitted in MHP Districts where suitable access exists in accordance with rule 920 (I) (B) of the Mobile Home Commission rules.

B. Space Requirements

1. The mobile home park shall be developed with sites averaging 5,500 square feet per mobile home unit. This 5,500 square feet for any one site may be reduced by 20 percent provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained from the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space. This open space shall be in addition to that required under R 125.1946, Rule 946 and R 125.1941, Rules 941 and 944 of the Michigan Administrative Code.
2. No mobile home shall be located closer than fifty (50) feet from the right-of-way line of public thoroughfare or fifty (50) feet from the mobile home park property line abutting a public right-of-way.
3. A manufactured home within a manufactured housing community/Mobile Home Park shall not contain less than eight hundred (800) square feet of living area as measured by its outside dimensions and not less than an outside width of thirteen (13) feet as manufactured. These provisions shall not apply to manufactured homes located within said community or Park as a continuing use lawfully in place prior to the adoption of this amendment.

C. Parking Provisions

1. Two parking spaces shall be provided for each mobile home site.

D. Plumbing, Heating and Electrical Installations

1. Utilities shall be underground.

23.05 ADDITIONAL REQUIREMENTS

A. Mobile home parks shall be landscaped as follows:

1. If the mobile home park abuts an existing residential development, the park shall be required to provide screening along the park boundary abutting the residential development.

2. If the park abuts a non-residential development, the park need not provide screening.
3. In all cases the park shall provide screening along the park boundary abutting a public right-of-way.

The landscaping shall consist of evergreen trees or shrubs a minimum of three feet in height, which are spaced to provide a continuous screen at maturity. Alternative screening devices may be utilized if it conceals the mobile home park as effectively as the required landscaping described above. Front and side yards adjacent to street shall be landscaped and the entire mobile home park shall be landscaped and the entire mobile home park shall be maintained in a neat, presentable manner.

B. The business of selling mobile homes as commercial operation in connection with the operation of a mobile home park is prohibited. Homes located on lots within the development to be used and occupied on that site may be sold by a licensed dealer and/or broker. This section shall not prohibit the sale of a used mobile home by a resident of a mobile home park.

C. Skirting must be installed within 90 days of the date the mobile home is sited.

D. No storage shall be allowed under mobile homes.

23.06 BOUNDARIES

To be established.

**ARTICLE XXIV
SPECIAL USE PERMITS**

24.01 PURPOSE

Special Uses are those uses of the land which are not essentially incompatible with the uses permitted in a zoning district, but require individual review and restriction in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this Article is to establish equitable procedures and criteria which shall be applied in the determination of requests to establish Special Use. The criteria for decision and requirements provided for under the provisions of this Article shall be in addition to those required elsewhere in this Ordinance which are applicable to the Special Use under consideration.

This Article hereby authorizes the Township Board to approve Special Use Permits, provided:

- A. The proposed use is one listed as a Special Use for that district in which said use is located.
- B. The Township Board insures before approving a Special Use Permit that both 1) the standards of the district in which the Special Use is to be located are fulfilled; and 2) the standards or other requirements of this Article are fully complied with.

24.02 APPLICATION PROCEDURES

An application for permission to establish a Special Use shall be submitted and acted upon in accordance with the following procedures:

A. APPLICANT

Any person owning or having an interest in the subject property may file with the Township Office an application for one or more Special Use Permits provided for in this Ordinance in the zoning district in which the land is situated.

B. APPLICATION

Applications for Special Use Permits shall be submitted through the Township Office to the Planning Commission. Each application shall be accompanied by such fee as deemed necessary by the Township Board to meet undue expenses provided that, in the opinion of the Township Board, such fee does not pose a hardship.

C. REQUIRED INFORMATION

One copy of an application for a Special Use Permit shall be presented to the Zoning Administrator and accompanied by the following documents and information:

1. A Special Use application form supplied by the Zoning Administrator which has been completed in full by the applicant. Said form shall:
 - a. State the name of the applicant and owner of premises;
 - b. Include a legally recorded description of the premises;
 - c. Include a description of the proposed use, including parking facilities, if required, and any health or traffic situation the use may occasion; and
 - d. Any other criteria and requirements provided elsewhere in this Ordinance.
2. A site plan, drawn to a readable scale, of the property involved and adjacent property which describes:
 - a. All property boundaries;
 - b. The location and use of all existing and proposed structures, types of buildings and their uses;
 - c. The location of all existing and proposed streets, parking lots and driveways;
 - d. The current zoning classifications;

- e. Type and location of sewage and waste disposal facilities and water supply facilities existent or proposed for installation.
3. A statement and other evidence or proof by the applicant of present and future compliance with the criteria required for approval in Section 24.03 and other criteria imposed by this Ordinance affecting the Special Use under consideration. This statement shall state the effect of the proposed use on the general development of the area in terms of the criteria in Section 24.03.

D. INCOMPLETE APPLICATION

An application which is incomplete or otherwise not in compliance with this Ordinance shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.

E. OTHERS HAVING INTEREST

Any person having an interest in any application for a Special Use Permit may present any petition or document supporting his/her personal position, or that of a group, for or against such application. All such documents shall be submitted to the Township Office no later than five (5) days before the Hearing at which the application will be considered.

F. PRELIMINARY REVIEW

The Planning Commission shall hold a meeting or meetings for a preliminary review of an application for Special Use Permit and any related information submitted or obtained.

1. Planning Commission may request additional information from various sources if deemed necessary to fully assess the impact of the proposed Special Use.

G. PUBLIC HEARING

After a preliminary review of an application for a Special Use Permit, the Planning Commission shall hold a Public Hearing or Hearings on the Special Use request. Notice shall be given not less than fifteen (15) days before the date of the hearing, and in accordance with PA 110 of 2006, as amended, specifically MCL section 125.3103.

H. REVIEW AND APPROVAL

Within a reasonable time following the Public Hearing, the Planning Commission shall review the application for a Special Use Permit, site plan, testimony received at the Public Hearing, and other materials submitted in relation to the request, and make a recommendation to the Township Board approving or denying the Special Use Permit application in accord with the criteria for approval stated in Section 24.03 and such other standards contained in this Ordinance which relate to the Special Use under consideration. The Planning Commission may request a report on any Special Use Permit application from the Zoning Administrator and/or any other County or State agency as appropriate. Such a report shall assess the conformance of a Special Use with the requirements of this Ordinance and the development objectives of the Township, and any other applicable County or State regulations concerned with the Special Use request.

I. ISSUANCE

Upon approval by the Township Board, the Zoning Administrator shall issue a Land Use Permit to the applicant. It shall be the responsibility of the Zoning Administrator to insure compliance with the terms, conditions and restrictions of any Special Use Permit.

J. APPEAL

1. Within fifteen (15) days following the date of decision of any special use permit, an applicant or any aggrieved party, including any governmental body or agency, may appeal the decision of the Township Board to the Zoning Board of Appeals. Upon the filing of an appeal, the application, all relevant documents and testimony, and the findings and decision of the

Planning Commission, and decision of the Township Board, shall be transmitted to the Zoning Board of Appeals.

2. Appeal to the Zoning Board of Appeals - Sexually Oriented Business.

If the Township Board denies a site plan, application for a special use permit, or both, for a sexually oriented business, the applicant shall be entitled to prompt review by the Zoning Board of Appeals upon written request to the Zoning Administrator within fifteen (15) days following the date of decision on any special use permit or site plan by the Township Board. The Zoning Board of Appeals shall review the record of the proceedings conducted before the Planning Commission and determine whether: 1) the Planning Commission's recommendation was based upon competent material and substantial evidence, and 2) the Township Board's decision complies with the procedural requirements of the Zoning Ordinance and with Michigan and federal law.

The Zoning Board of Appeals shall issue a written decision either affirming or reversing the Township Board's denial and stating the grounds thereof. If the Zoning Board of Appeals has not issued its written decision within thirty (30) days of the date of its review, the subject site plan or special use permit, or both, shall be deemed to have been approved. If the Zoning Board of Appeals affirms the Township Board's denial of a special use permit application to operate a sexually oriented business, the applicant has recourse to the circuit court, in accordance with Section 606 of PA 12 of 2008, being MCL 125.3606.

K. DECISIONS

All decisions of the Township Board relating to Special Use applications, including any findings supporting any decisions and/or conditions shall be recorded in written form and retained as permanent records on file with the Zoning Administrator and a copy in the Office of the Township Clerk.

24.03 BASIS OF DETERMINATIONS

Prior to approval of a Special Use application, the Planning Commission shall insure that the standards specified in this Section as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the Special Use under consideration.

A. GENERAL STANDARDS

The Planning Commission shall review the particular circumstances of the Special Use request under consideration in terms of the following standards, and shall recommend a Special Use only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:

1. The Special Use shall be designed, constructed, operated and maintained in a manner that shall not change the essential character of the surrounding area.
2. The Special Use shall not interfere with the general enjoyment of adjacent property.
3. The Special Use shall represent an improvement to the property under consideration.
4. The Special Use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, fumes or glare.
5. The Special Use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed Special Use shall be able to continually provide adequately for the services and facilities deemed essential to the Special Use under consideration, such as whether the proposed sewage disposal and water supply will be safe and adequate.
6. The Special Use shall not place demands on public services and facilities in excess of current capacity.

7. The Special Use shall be consistent with the intent and purpose of this Ordinance.
8. Side and/or rear boundaries abutting a residence or residential property shall be provided with screening from adjacent premises, which screening shall consist of either a solid uniformly finished and maintained wall or fence of durable material or by a well-maintained dense evergreen planting, which screening shall not be less than six (6) feet in height.

B. CONDITIONS

The Planning Commission may recommend that conditions be imposed with the approval of a Special Use which are necessary to insure compliance with the standards for approval stated in this Section and any other applicable standards contained in this Ordinance. The Planning Commission may recommend a time limit for compliance with conditions. Such conditions shall be considered an integral part of the Special Use Permit and shall be enforced by the Zoning Administrator.

Such portions of the SUP may be waived by the Planning Commission if, because of the nature of the proposed use, the same would be unnecessary and serve no useful purpose. Additionally, the Planning Commission may allow pre-application conferences on a proposed SUP and accept preliminary site plans before the Public Hearing.

The Planning Commission may recommend the requirement that a cash deposit, certified check, irrevocable bank letter of credit, surety bond or other financial guarantee acceptable to the Township, be furnished by the developer to insure compliance with such Special Use requirements. In fixing the amount of such financial guarantee, the Township Board shall take into account the size and scope of the proposed use, current prevailing cost of rehabilitating the premises upon default of 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.

C. STANDARDS FOR DECISIONS FOR SEXUALLY ORIENTED BUSINESSES

In evaluating a proposed special use permit for a sexually oriented business, the Planning Commission shall consider the following standards upon which to base their decision to approve or disapprove the permit in addition to the standards described in Section [24.03.A](#).

1. No sexually oriented business shall be permitted in a location in which any principal or accessory structure, including signs, is within one thousand feet (1000') of any principal or accessory structure of another sexually oriented business.
2. No sexually oriented business shall be established on a parcel which is within four hundred fifty feet (450') of any residence, park, school, child care organization, organization for the care and education of developmentally disabled individuals, or place of worship.
3. The distance between a proposed sexually oriented business and any residence, park, school, child care organization, organization for the care and education of developmentally disabled individuals, place of worship, or other sexually oriented business shall be measured in a straight line from the nearest property line upon which the proposed sexually oriented business is to be located to the nearest property line of the residence, school, child care organization, organization for the care and education of developmentally disabled individuals, place of worship, or other sexually oriented business.
4. The proposed use shall conform with all regulations of the zoning district in which it is located unless those regulations conflict with these standards, in which case these standards shall control.
5. The proposed use must meet all applicable written and duly promulgated standards of Clearwater Township and of other governments or governmental agencies having jurisdiction, and must, to the extent required, have the approval of these governments and/or governmental agencies or be reasonably assured of such approval.

6. Any sign or signs proposed for the sexually oriented business must comply with the provisions of [ARTICLE XII](#) of this Ordinance and shall not include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.
7. Entrances to the proposed sexually oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than two (2) inches in height that: 1) "Persons under the age of 18 are not permitted to enter the premises", and 2) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
8. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible from the nearest adjoining roadway or a neighboring property.
9. Hours of operation shall be limited to 8:00 a.m. to 2:00 a.m.
10. All off-street parking areas shall be illuminated during all hours of operation of the sexually oriented business, and until one hour after the business closes.
11. Any booth, room or cubicle available in any sexually oriented business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of Specified Anatomical Areas or Specified Sexual Activities shall:
 - a. Be handicap accessible to the extent required by the Americans with Disabilities Act;
 - b. Be unobstructed by any door, lock or other entrance and exit control device;
 - c. Have at least one side totally open to a public, lighted aisle so there is an unobstructed view at all times from the adjoining aisle of any occupant;
 - d. Be illuminated by a light bulb of wattage of no less than 25 watts;
 - e. Have no holes or openings in any side or rear walls not dedicated for use by a utility, or a heating, air conditioning or ventilation system.

24.04 EFFECTIVE DATE

The Special Use Permit shall become effective fifteen days after the application has been approved by the Township Board.

A. LAND USE PERMIT CONTINGENT ON SPECIAL USE PERMIT.

A Land Use Permit shall not be issued until approval of such Special Use Permit by the Township Board.

B. NO BUILDING WITHOUT A LAND USE PERMIT.

C. Until a Land Use Permit has been granted pursuant to the Special Use Permit, there shall be no construction or excavation on said land, nor shall use of the land be made toward the intended purpose of such Special Use Permit.

24.05 PERMIT VALIDITY

A. SPECIAL USE PERMIT VALID WITH CHANGE IN OWNERSHIP

Approval of a Special Use Permit shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by any subsequent owner.

B. IF CONSTRUCTION NOT BEGUN

In instances where development authorized by a Special Use Permit has not commenced within one (1) year from the date of approval by the Township Board, the Permit shall become null and void.

C. The Zoning Administrator shall review annually all Special Use Permits on file to insure compliance.

24.06 REQUIREMENTS FOR COMPLIANCE....PENALTIES

It shall be the duty and obligation of the owner(s) and occupant(s) or operator(s) under a Special Use Permit that the continued use of such land shall at all times be in compliance with the use requirements of this Ordinance, the requirements of Site Plan and other conditions attached to the approved Special Use Permit. Failure thereof shall be a violation of this Ordinance and subject to the penalties and remedies provided in [ARTICLE XXXII](#) and the continuance thereof is declared to be a nuisance per se.

A. Approved Special Use Permit with Site Plan and imposed conditions is an enforceable document requiring strict compliance. If construction and development do not conform to the approved plan, the Zoning Administrator shall cite the owner with violation notice, in writing, with order to cease all construction and all activities allowed under Special Use Permit on site other than for the purpose of correcting the violation. Such notice and order shall be posted upon the premises involved and mailed to the owner at owner's last known address.

B. Amendment to Site Plan can be made only by application to Planning Commission. Public Hearing required to amend Site Plan.

24.07 ONCE GRANTED A SPECIAL USE PERMIT, THE USE IS A PERMITTED USE

Any use for which a Special Use Permit may be granted shall be deemed a conforming use permitted in the district in which such use is located provided: 1) such permit was issued in conformity with the provisions of this Ordinance; and 2) such permit shall be deemed to affect only the lot or portion thereof and uses thereupon for which the Special Use Permit shall have been explicitly granted.

The foregoing general requirements are basic and apply to all Special Uses. The specific requirements in the following sections relating to particular use(s) are in addition to, and shall be required, in all applicable situations.

24.08 PLANNED UNIT DEVELOPMENT (PUD)

A. AUTHORIZATION

It is the purpose of the Section to permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout and type of structure constructed; achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; encourage useful open space; and provide better housing, employment and shopping opportunities particularly suited to the needs of the residents of this Township by providing for Planned Unit Developments, herein referred to as PUD's.

This Section hereby authorizes the Planning Commission to review and approve a PUD, provided:

1. The proposed use is one listed as Special Use for the district in which said use is located.
2. The Planning Commission insures before approving a PUD that both 1) the standards of the district in which the PUD is to be located are fulfilled; and 2) the standards or other requirements of this Section are fully complied with as well as those required elsewhere in this Article and Ordinance.

Every PUD established after the effective date of this Ordinance shall be permitted by Special Use Permit in any district which specifically authorizes a PUD as a Permitted Use Subject to Special Use Permit.

B. APPLICATION PROCEDURE

An application for consideration of a PUD site shall be submitted and acted upon in accordance with all requirements as provided in Section [24.02](#), as well as the following:

1. A topographic map showing contour lines at five (5) foot intervals.
2. A plot plan which shall show the following:

- a. The location of all proposed buildings.
 - b. All non-enclosed uses.
 - c. All drainage.
 - d. Parking.
 - e. Loading and traffic handling facilities.
 - f. All screening and landscaping.
 - g. All exterior lighting and signs.
 - h. Sewage disposable system.
3. A detailed statement of the proposed use or uses to be made of the land. The statement shall include a legend detailing the density of building, dwelling units, structures, and other amenities.
 4. Floor plans and elevation drawings showing architectural style of all buildings.
 5. Where the proposed development includes extraction of natural resources, the plans shall indicate the proposed final contours of the land and quantity of material to be removed.

Such portions of the development plan may be waived by the Planning Commission if, because of the nature of the proposed use, the same would be unnecessary and serve no useful purpose.

Additionally, the Planning Commission may allow pre-application conferences on a proposed PUD and accept preliminary site plans before the public hearing.

C. RIGHT TO RECOMMEND

At any public meeting, the Planning Commission shall have the right to recommend:

1. Such greenbelt as the Planning Commission shall deem necessary to protect the adjoining properties not to exceed one hundred (100) feet in width.
2. Such setback from the right-of-way not to exceed one hundred (100) feet as the Planning Commission shall deem necessary for the protection of the public health, safety and general welfare.
3. Such yards and open spaces as the Planning Commission deems necessary under the circumstances of the particular case to protect the health, safety and general welfare of the public.
4. Such area for parking motor vehicles on private property of the applicant not to exceed in area a ratio of three (3) square feet of parking area for each square foot of building area devoted to the specified unique use.
5. The location and size of signs as determined by standards set forth in [ARTICLE XII](#).
6. Paved or blacktop streets be provided.
7. All utilities be underground.
8. Adequate area lighting shall be provided.
9. Premises be connected to public sewer and water supply as each becomes available.
10. Such fence and/or other requirements it deems necessary and proper to prevent debris from littering the premises involved and/or neighboring property.
11. Such traffic control devices, including acceleration and deceleration lanes, as may be deemed advisable to protect the health, safety and general welfare of the public.

D. STANDARDS

1. All elements of the PUD site shall be harmoniously and efficiently designed in relation to the topography, size and type of land, and the character of the adjacent properties. The site will be developed so as not to impede the normal and orderly development or improvement of surrounding properties for uses permitted on such property.

2. The existing landscape shall be preserved in its natural state as much as possible, by minimizing tree and soil removal and by topographic modifications that result in maximum harmony with adjacent properties.
3. Within the project there shall be reasonable visual and sound privacy for all dwelling units. Fences, walks, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and the privacy of its occupants.
4. All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.
5. Where possible and practical, drainage shall be of a type utilizing grass-covered swales and otherwise recognizing existing natural drainage patterns on the site.
6. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets or pedestrian or bicycle pathways in the vicinity of the site. Streets and drives that are a part of an existing or planned street system serving adjacent developments shall be of an appropriate width to the volume of traffic they are planned to carry. (If required, shall have a dedicated right-of-way equal to that specified in the Township's comprehensive plan or a recognized source of reference.)
7. Appropriate measures shall be taken to insure that the removal of surface waters will not adversely affect adjoining properties. Provisions shall be made for the construction of storm water facilities, and the prevention of erosion and dust. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicles or pedestrian traffic and will not create ponding in paved areas.
8. Loading and unloading areas and outside refuse storage areas, or other storage areas and outside refuse storage from residential units in the PUD, from adjacent homes, or from public thoroughfares, shall be screened by an opaque wall or fence of effective height, but not less than six (6) feet.
9. Exterior lighting shall be so arranged that it is deflected away from adjoining properties and so that it does not impede vision of drivers along adjacent streets. Flashing or intermittent-type lighting shall not be permitted.

E. REZONING

If rezoning is involved, the proper procedures shall be followed provided by [ARTICLE XXIX](#) first.

F. QUALIFYING CONDITIONS

Any application for a Special Use Permit shall meet the following conditions to qualify for consideration as a PUD:

1. The PUD site shall be not less than twenty (20) acres in area, shall be under the control of one owner or group of owners, and shall be capable of being planned and developed as one integral unit. PROVIDED that the site size requirement may be reduced by the Planning Commission to a minimum of fifteen (15) acres if the Planning Commission determines that meaningful amounts of open space will be preserved either for residents of the development or residents of the Township in general.
2. The PUD site shall be located within the Residential, Recreational or Agricultural Districts.
3. It shall be mandatory that facilities be connected to community-type water and sewer facilities as they become available.
4. Maximum Number of Lots and Dwelling Units.

The density permitted in a PUD development shall not exceed that of the zoning district in which the PUD is proposed, EXCEPT that the Planning Commission may permit an increase over this density provided central water and sewer facilities are approved by the District Health

Department. However, in no event shall the density exceed an amount more than twice that of the zoning district in which the PUD is located.

G. PERFORMANCE GUARANTEE

The Township Board may require a performance guarantee by the applicant to insure completion of improvements associated with a development project. The improvements subject to the performance guarantee are those features or actions considered necessary by the Township Board to protect natural resources, or the health, safety and welfare of the residents of the Township, the project area, or the project itself. The performance guarantee is exclusive of those improvements that are guaranteed and deposited in accordance with the Subdivision Control Act. The performance guarantee shall be in an amount not to exceed four thousand (\$4,000.) dollars per acre affected nor less than one thousand (\$1,000.) dollars per acre affected. The performance guarantee will be deposited with the Township Treasurer prior to the Special Use Permit issuance.

H. FEES

Each application shall be accompanied by such fee as deemed necessary the Township Board to meet undue expenses provided that, in the opinion of the Township Board, such fee does not pose a hardship.

I. TIME LIMIT

Every application for PUD, together with all recommendations made under Section [24.09](#) when approved by the Township Board, either as submitted or resubmitted in modified form, shall constitute a binding agreement by the applicant that the use permitted under this Article shall be made, completed and operated as shown on the development plan as part of the project in accordance with the provisions of this Article and that the area which has been approved PUD shall lose that status and revert to and be resumed to its former use classification upon the happening of any of the following events:

1. If the construction of the approved buildings and improvements shall not be undertaken within one (1) year of the approval or within such additional time extension as may be authorized by the Township Board.
2. If, as a result of voluntary sale or conveyance, or any other transfer of ownership whatsoever, the area shall cease to be held, in its entirety, in single or common ownership.

24.09 ADDITIONAL STANDARDS APPLICABLE TO PARTICULAR USES

In addition to the standards set forth in a particular zone and the standards set forth in Section [24.03](#) of the Ordinance, the uses below must meet the following additional standards:

A. TELECOMMUNICATION TOWER

1. Application. The applicant must indicate that no existing tower, alternative tower structure or alternative technology not requiring the use of towers or alternative tower structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other alternative towers or alternative technology. Evidence submitted to demonstrate that no existing tower, alternate tower structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
 - a. No existing towers or alternative tower structures are located within the geographic area which meet applicant's engineering requirements.
 - b. Existing towers or alternative tower structures are not of sufficient height to meet applicant's engineering requirements.
 - c. Existing towers or alternative tower structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

- d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or alternative tower structures, or the antenna on the existing towers or alternative tower structures would cause interference with the applicant's proposed antenna.
 - e. The applicant presents evidence that fair market value offers have been made to co-locate their antennae on any existing tower in the Township that would meet applicant's geographical and engineering requirements, and that such offers have been refused by the owners/operators of such existing towers, after such owners have been advised by the applicant that co-location is the policy of the Township and that the Township, in support of that policy, expects that no offer shall be unreasonably refused by the owner/operator of an existing suitable tower.
 - f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
2. Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the Planning Commission may reduce the standard setback requirements if the goals of this ordinance would be better served thereby.
 - a. Towers must be set back a distance equal to at least one hundred percent (100%) of the height of the tower from any adjoining lot line.
 - b. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
 3. Security Fencing. Towers and attendant accessory structures shall be enclosed by security fencing not less than six feet (6') in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the Planning Commission may waive such requirements, as it deems appropriate.
 4. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Planning Commission may waive such requirements if the goals of this ordinance would be better served thereby.
 - a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet (4') wide outside the perimeter of the compound.
 - b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
 - c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
 5. State or Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
 6. Aesthetics. Towers and antennas shall meet the following requirements:

- a. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
- b. Where a feasible alternative exists, towers, alternative towers structures and supporting structures shall not utilize a power source which generates noise able to be heard by a person of normal aural acuity at adjoining property lines or public property; however, this section shall not be construed as limiting the use of temporary generators or similar devices used to create power during periods of interruption of the primary power source.
7. Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
8. Compliance with Codes. Antenna and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical connections and wiring and as to structural integrity with all applicable state and local building codes and the applicable standards for towers published by the Electronic Industries Association, as amended from time to time.
9. Interference with Residential Reception. Towers shall be located so that they do not interfere with television and radio reception to neighboring residential areas.
10. Signs. Towers shall bear no signage, other than such small signs as may properly convey information identifying the owners and their emergency maintenance phone numbers, and such warning signs as may be useful to protect the public from contact.
11. Spacing-Residences. A tower shall not be located within two hundred feet (200') or three hundred percent (300%) of the height of the tower, whichever is greater, of a park or public right of way, or of a single-family or multiple family dwelling unit, church, school, or other structure normally used and actually used for the congregation of persons. Distance for the purpose of this section shall be measured from the base of the tower structure to the lot line of the park, right of way, single-family or multiple family dwelling unit, church, school, or other structure normally used and actually used for the congregation of persons.
12. Removal of Abandoned Antennas and Towers. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Township notifying the owner of such abandonment. Along with said removal, said owner shall restore the site of said antenna or tower to its original condition prior to location of the antenna or tower subject to reasonable wear and tear. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The Planning Commission may require the applicant to file a bond equal to the reasonable cost of removing the tower, antenna, alternative tower structure or other supporting structure(s) as a condition of a special use permit given pursuant to this section.
13. Collapsibility. Towers shall be designed to internally collapse in the face of natural forces.
14. Emergency Access. There shall be access to the tower sufficient to allow service by emergency vehicles.
15. Emergency Contact. Special Use Permit applications shall contain addresses and phone numbers sufficient to reach owners and maintenance personnel in the event of emergency, and such phone numbers shall be displayed on signs at the tower site.

**ARTICLE XXV
ADMINISTRATION**

25.01 ZONING ADMINISTRATOR: APPOINTMENT

A Zoning Administrator shall be appointed by and on such terms as shall be determined by the Township Board; provided that the Zoning Administrator shall not be a member of the Township Board, the Planning Commission nor the Zoning Board of Appeals. He shall perform such duties as the Township Board may prescribe in addition to any duties of this Ordinance.

If the Zoning Administrator is unable to perform his duties due to illness or absence, the Township Board shall appoint a temporary Zoning Administrator.

25.02 ZONING ADMINISTRATOR: ELIGIBILITY

To be eligible for appointment, the Zoning Administrator shall be generally informed on good building construction, on good practice in fire prevention and the proper installation of safety, health and sanitary facilities. He shall be in good health and physically capable of fulfilling his duties.

25.03 ZONING ADMINISTRATOR: DUTIES

- A. Issue all Land Use Permits and insure compliance with the Zoning Ordinance and maintain records thereof.
- B. Conduct inspections of all buildings and structures, and the use of all land subject to the provisions of this Ordinance to determine compliance.
- C. Investigate all applications for variances and Special Use Permits and report any discrepancies to the Jurisdictional agency.
- D. Investigate all complaints of any illegal act or violation of this Ordinance, and initiate appropriate action to correct such illegal act or violation.
- E. Review annually all Special Use Permits on file to insure compliance.

25.04 ZONING ADMINISTRATOR: COMPENSATION

Compensation for the Zoning Administrator shall be established by the Township Board.

25.05 LAND USE PERMITS

- A. In order to receive a Land Use Permit a copy of the instrument of Real Property Conveyance for the subject property must be presented.
- B. Any individual, Corporation, Associate, Officer, Department, Board or Bureau Of The State, County or Township, planning to erect or move a structure or alter any existing structure for any premises in any land use district, shall file an application in writing with the Zoning Administrator for a Land Use Permit. Said Zoning Administrator shall issue a Land Use Permit if such planned building or structure or land use is in compliance with the provisions of this Ordinance. The application shall be on a form approved by the Township Board. A Land Use Permit must be obtained prior to applying for a County building permit. Land Use Permits are REQUIRED for all construction.

25.06 LAND USE PERMITS: DENIAL

The Zoning Administrator shall promptly inform the applicant of the denial of a Land Use Permit if such planned building or structure or land use does not comply with the provisions of this Ordinance.

25.07 LAND USE PERMITS: FEES

The fees, if any, for Land Use Permits shall be established by the Township Board.

ARTICLE XXVI
ZONING BOARD OF APPEALS

[Recreated in its entirety per Amendment 3, Adopted November 18, 2015, Effective December 3, 2015]

26.01 CREATION

There shall be a Township Zoning Board of Appeals consisting of no fewer than three (3), nor more than five (5) members.

- A. The first member of the Zoning Board of Appeals shall be a member of the Planning Commission.
- B. The remaining members of the Zoning Board of Appeals shall be selected from the electors of the Township of Clearwater residing outside of the incorporated cities and villages, and shall be representative of the population distribution and interests present in the Township.
 - 1. One member may be a member of the Township Board, but that member may not serve as chairman of the Zoning Board of Appeals.
 - 2. An employee or contractor of the Township Board may not serve as a member of the Zoning Board of Appeals.

26.02 TERM OF OFFICE

The term of each member shall be three (3) years except that of the members first appointed; two (2) shall serve for two (2) years and the remaining members for three (3) years.

- A. The Township Board is required to appoint a successor within one (1) month after the expiration of the term of the preceding member, and
- B. Any vacancy in office shall be filled for the remainder of the unexpired term.

26.03 REMOVAL FROM OFFICE

Any member of the Zoning Board of Appeals may be removed by the Township Board for non-performance of duty or misconduct in office, but only after written charges are made and a public hearing is held.

- A. Any member who has a conflict of interest on any matter before the Zoning Board of Appeals shall disqualify himself/herself from voting thereon, and failure to do so constitutes misconduct in office.

26.04 OFFICERS

The Zoning Board of Appeals must elect a chairman and secretary from among its members and any other officers or committees as necessary.

- A. Officer elections must be at least every two (2) years.

26.05 COMPENSATION

The Township Board must appropriate annually in advance the total to be paid to the members of the Zoning Board of Appeals. Each member is to receive such per diem compensation and actual expenses incurred in the discharge of duties as may be determined by the Township Board.

26.06 QUORUM

The Zoning Board of Appeals may not conduct any business unless a majority of its membership is present.

- A. A majority vote of the total membership is necessary to reverse any administrative decision or grant a variance or make a decision in favor of an applicant.

26.07 MEETINGS [Amendment 1 Adopted January 16, 2013, Effective February 1, 2013]

- A. Meetings of the Zoning Board of Appeals shall be:

1. Held at the call of the chairman and at such other times as the Zoning Board of Appeals in its rules or procedure may specify.
2. Open to the public.

B. The order of business for public hearings shall be as follows: All public hearings held by the ZBA must be held as part of a regular or special meeting of the ZBA. The following rules of procedure shall apply to public hearings held by the ZBA. [All steps of these rules of procedure shall apply to hearings on a request for a dimensional variance. However, in the case of a hearing for an appeal of an administrative decision, or a hearing concerning interpretation of the zoning ordinance or map, not all steps shall apply.]:

1. Chairperson opens public hearing and announces the subject.
2. Pledge of Allegiance.
3. Roll call: members and township officials.
4. Approval of agenda.
5. Chairperson calls for disclosure by all members of the ZBA of any actual or potential conflicts of interests concerning any item on the agenda.
6. Approval of minutes.
7. Chairperson summarizes procedures/rules to be followed during the hearing.
8. Applicant presents request/notice of appeal to be reviewed.
9. Township zoning administrator presents a summary or analysis of the request.
10. Persons wishing to comment on the request are recognized. [Public comments should be directed to the chairperson and not to the applicant or people in the audience.]
11. Chairperson closes public hearing (or announces the continuation of the public hearing at another specified time and date if additional pertinent information must be obtained).
12. Chairperson reads each standard, pertinent findings of fact are presented and discussed, and a roll call vote is taken on whether or not the requested variance meets the standard.
13. If each standard is determined to be met by a majority vote, the variance is approved; otherwise, the variance is denied.
14. Chairperson is responsible for completing ZBA decision form within thirty (30) days and making copies available to the township office and the appellant.
15. Statement of next meeting or hearing.
16. Adjournment.

To ensure that everyone has the opportunity to speak, the ZBA may elect to limit the time permitted for each person to speak, except that the applicant may be permitted additional time as the chairperson allows. The chairperson may also elect to allow persons to speak only once, until all persons have had the opportunity to speak, at which time the chairperson, in his/her discretion, may permit additional comments.

C. The Zoning Board of Appeals shall maintain a record of its proceedings which shall be filed in the office of the Township Clerk and shall be a public record. Minutes shall be available for review by the public as follows:

1. Proposed minutes: Not more than eight (8) business days after the meeting.
2. Approved minutes: Not more than five (5) business days after the meeting at which they were approved.

26.08 DUTIES; POWERS; AND APPEALS

A. The Zoning Board of Appeals shall act upon all questions as they may arise in the administration of this Ordinance, including the interpretation of the Zoning Map and Text, and may fix rules and regulations to govern its procedures sitting as Zoning Board of Appeals.

B. It shall hear and decide:

1. Appeals from any order, requirement, decision or determination made by the Zoning Administrator charged with enforcement of this Ordinance, excepting any issuance or prosecution of a municipal civil infraction citation, notice, or action.
2. All matters referred to it or upon which it is required to pass under this Ordinance.
3. All appeals from any Special Use Permit.
4. Appeals for variances from the provisions of this Ordinance.

C. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of administrative official, or to decide in favor of an applicant any matter upon which they are required to pass under this Ordinance.

D. An appeal may be filed by any person aggrieved or by an office, department, board or bureau of the Township, County, or State.

E. The grounds for every determination shall be stated in the motion voted upon in reaching that determination.

F. The Zoning Board of Appeals CANNOT rezone property or amend the Zoning Ordinance.

G. Township Zoning Board of Appeals MAY NOT grant Use Variances.

H. Individual members of Zoning Board of Appeals shall acquaint themselves with all relevant information for making a determination including individual on-site inspection prior to meeting.

26.09 STAY PENDING APPEAL

An appeal to the zoning board of appeals stays all proceedings in furtherance of the action appealed. However, if the body or officer from whom the appeal is taken certifies to the zoning board of appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, proceedings may be stayed only by a restraining order issued by a circuit court. (MCL 125.3604(3))

26.10 HEARINGS AND DETERMINATION OF APPEALS; DETERMINATION NOT FINAL

A. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeals and give due notice thereof to the parties and decide the same within a reasonable time. Not less than ten (10) days notification, by mail, of the time and place of the meeting shall be given to:

1. The owners of real property within three hundred (300) feet of the subject property;
2. Residents of all one and two-family dwellings within three hundred (300) feet of the subject property;
3. The Zoning Administrator; and
4. The applicant.

B. Upon the hearing, any party may appear in person or by agent or by attorney.

26.11 STANDARDS FOR REVIEW OF A NON-USE (DIMENSIONAL) VARIANCE APPLICATION

[Amendment 1 Adopted January 16, 2013, Effective February 1, 2013]

The standards for review are intended to ensure that variances are granted in only those circumstances where truly unusual conditions are present on a property. To obtain a variance, the applicant must prove that a unique aspect of the property itself creates a *practical difficulty* (there is no *hardship* test for non-use variances) in complying with the ordinance and must provide reasonable evidence that all of the following conditions exist to establish the *practical difficulty*:

- A. The property is subject to exceptional or extraordinary circumstances or conditions that do not apply generally to other properties in the same zoning district (e.g., unique dimensional, topographical, and/or structural conditions) thus presenting the possibility of a *practical difficulty* for this particular property.
- B. The requested variance is necessary to alleviate a situation which qualifies as a *practical difficulty*; i.e., without the variance the owner is deprived of a minimum practical legal use of his/her property such as is possessed by residents of other properties in the same zoning district. (The possibility of increased financial return is of itself not sufficient to warrant a variance.)
- C. The requested variance is the minimum variance necessary to mitigate the condition on which the claim of *practical difficulty* is based.
- D. The condition on which he/she bases the claim of *practical difficulty* was not created by any action of the current property owner.
- E. The requested variance will not be detrimental to adjacent property and the surrounding neighborhood.

CONDITIONS

The Board of Appeals may impose conditions on a variance that may make the difference in meeting one of the standards. For example, fencing or landscaping may reduce the potential negative impact of permitting a building closer to an adjacent property line.

26.12 APPEALS

All appeals over which the Zoning Board of Appeals has jurisdiction shall be filed in writing at the township office at least thirty (30) days prior to the appeal hearing date. An appeal can be heard at either: 1) a regularly scheduled Zoning Board of Appeals meeting, or 2) a specially-scheduled meeting pre-arranged among the applicant, the Zoning Board of Appeals chair, and the zoning administrator. The fee shall be determined by the Township Board.

Any appeal from an administrative decision must be made within thirty (30) days from the date of the decision constituting the basis for the appeal. Upon hearing the appeal, the Zoning Board of Appeals may affirm or modify the ruling, decision, or determination, or, in lieu thereof, make such other or additional determination as it shall deem proper under the circumstances.

The Zoning Board of Appeals shall return its decision in writing within thirty (30) days after a request or appeal has been heard, unless additional time is agreed upon by all parties concerned..

26.13 APPEALS REGARDING SEXUALLY ORIENTED BUSINESSES

All appeals to the Zoning Board of Appeals which relate to sexually oriented businesses will be processed pursuant to this Article to the extent the provisions of this Article do not conflict with [ARTICLEXXIV](#), Section [24.02.J](#). If any provision of this Article does conflict with [ARTICLEXXIV](#), Section [24.02.J](#), the latter shall control.

26.14 DETERMINATION NOT FINAL

A decision of the Zoning Board of Appeals may not be overturned by the Township Board or any other township agency or official. Any party aggrieved by a decision of the Zoning Board of Appeals may appeal the decision within thirty (30) days to the appropriate circuit court. (MCL 125.3605 and 125.3606).

ARTICLE XXVII
PLANNING COMMISSION

27.01 PLANNING COMMISSION

The Planning Commission shall be established as provided for in **Clearwater Township Ordinance 21 – the Planning Commission Ordinance**; adopted May 19, 2009 by the Clearwater Township Board under the authority of P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act (M.C.L. 125.3801 *et seq.*); published June 3, 2009; and effective 63 days later on August 5, 2009.

**ARTICLE XXVIII
SITE PLAN REVIEW REGULATIONS**

28.01 PURPOSE

Site plan review is to ensure the standards of this Zoning Ordinance are complied with as each property is developed.

28.02 COMPLIANCE

Site plan review shall be required with all applications for land use permits in the following districts: Village-Commercial and Commercial-Light-Industry.

28.03 PROCEDURE

Applicant shall submit a site plan drawn to readable scale and related documentary requirements.

- A. The Zoning Administrator and two members of the Planning Commission shall meet with the applicant for a preliminary site plan review. This preliminary review is to insure that the applicant has all necessary permits and related documents in hand, and that the application is complete, before proceeding to the public formal site plan review by the full Planning Commission.
- B. The Zoning Administrator shall 1) review site plan and related information to ensure the proposed development complies with the standards of this Ordinance; 2) monitor development to ensure it proceeds in accordance with the approved site plan; and 3) keep copies on file of the approved site plan, related documents, and land use permits.
- C. The site plan must be approved by the Planning Commission before a land use permit is issued.

28.04 REVIEW OF CONDOMINIUM DEVELOPMENTS

A. Planning Commission Review

- 1. Prior to the recording of a master deed and exhibits for a new condominium subdivision, the developer shall submit the master deed and exhibits for review and approval by the Planning Commission.
- 2. Prior to the conversion or expansion of an existing condominium subdivision, the developer shall submit the master deed and exhibits for review and approval by the Planning Commission.
- 3. Further, these documents may be submitted for review and approval by the Township Attorney and Township Planner, if there is one, to verify compliance with local Ordinances and State law.

B. Required Plan Information: All condominium subdivision plans shall include the information required by Section 66 of the Condominium Act, Public Act 59 of 1978, as amended, being MCL 559.166, which follows, as well as the applicable information required by Ordinance.

559.166 Condominium subdivision plan; preparation; signature and seal; contents; recording; structures and improvements to be completed by developer.

Sec. 66. (1) The condominium subdivision plan for each condominium project shall be prepared by an architect, land surveyor, or engineer licensed to practice and shall bear the signature and seal of such architect, land surveyor, or engineer. The condominium subdivision plan shall be reproductions of original drawings.

- (2) A complete condominium subdivision plan shall include all of the following:
 - (a) A cover sheet.
 - (b) A survey plan.
 - (c) A floodplain plan, if the condominium lies within or abuts a floodplain area.
 - (d) A site plan.

- (e) A utility plan.
 - (f) Floor plans.
 - (g) The size, location, area, and horizontal boundaries of each condominium unit.
 - (h) A number assigned to each condominium unit.
 - (i) The vertical boundaries and volume for each unit comprised of enclosed air space.
 - (j) Building sections showing the existing and proposed structures and improvements including their location on the land. Any proposed structure and improvement shown shall be labeled either "must be built" or "need not be built". To the extent that a developer is contractually obligated to deliver utility conduits, buildings, sidewalks, driveways, landscaping and an access road, the same shall be shown and designated as "must be built", but the obligation to deliver such items exists whether or not they are so shown and designated.
 - (k) The nature, location, and approximate size of the common elements.
 - (l) Other items the administrator requires by rule.
- (3) Condominium subdivision plans shall be numbered consecutively when recorded by the register of deeds and shall be designated Kalkaska county condominium subdivision plan number _____.
- (4) The developer shall complete all structures and improvements labeled pursuant to subsection (2)(j) "must be built".

C. Conformation to Ordinance Requirements: All principal buildings and/or accessory structures within a condominium subdivision shall comply, to the extent applicable, with all other local ordinances.

D. Public and Private Road Requirements: All private roads shall be designed and built in accordance with the requirements of the Clearwater Township Private Access Easement Ordinance. All public roads shall be designed and built in accordance with the requirements of the Kalkaska County Road Commission.

E. Dedication of Public Utility Easements: The condominium subdivision shall provide for the dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains and other installations of similar character for the purpose of providing public utility services, including conveyance of sewage, potable water and storm water runoff across, through and under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations. Easements dedication documentation may be reviewed by the Township Attorney.

F. Required Final Documents: The condominium development developer or proprietor shall furnish the Zoning Administrator with the following: one copy of recorded Master Deed, one copy of all restrictive covenants and two copies of an "as built survey".

28.05 REQUIRED INFORMATION

Applications for a land use permit shall be accompanied by the following documents and information.

- A. Site plan illustrating existing conditions and proposed improvements to a lot or illustrations of existing conditions shall include but not be limited to information about soils, slopes, vegetation, hydrology, wildlife, lakes.
- B. Information regarding location and size of interior and exterior areas and structures to be used for storage, use, loading/unloading, recycling or disposal of hazardous substances.
- C. Location of all underground and above ground storage tanks for use uses as fuel storage, waste oil holding tanks, chemical storage, hazardous waste storage, collection of contaminated storm water or wash water, and all similar uses.
- D. Location of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store or transport storm water or waste water. The point of discharge for all drains and pipes shall be specified on the site plan.

- E. Delineation of area on the site which are known as suspected to be contaminated, together with a report on the status of site cleanup.
- F. Submission of the "State/County Environmental Permits Checklist".

28.06 STANDARDS FOR GRANTING SITE PLAN APPROVAL

Each site plan shall conform to all applicable provisions of this Ordinance and the standards listed below. Compliance with applicable County and State requirements is a prerequisite for site plan approval.

- A. Sites at which hazardous substances are stored, used, or generated, shall be designed to prevent spills and discharges to the air, ground, groundwater, lakes, streams, rivers, or wetlands. Secondary containment for above ground areas where hazardous substances are stored or used shall be provided and shall be sufficient to store the substances for the maximum anticipated period of time necessary for the recovery of any released substances.
- B. General purpose floor drains must meet all applicable county building code requirements.
- C. 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 under Michigan law PA 451 of 1994, Part 111 Hazardous Waste Management, MCL 324.11101 et seq. and federal law CFR 49 Parts 171 and 174..
- D. Storm water and soil erosion control shall be in compliance with the Natural Resources and Environmental Protection Act, Part 91 Soil Erosion and Sedimentation Control, (Public Act 451 of 1994, as amended), and any necessary permits shall be obtained from the Kalkaska County Soil Erosion officer.
- E. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.
- F. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened by a vertical screen consisting of structural or plant material no less than six feet in height.

ARTICLE XXIX AMENDMENTS

29.01 INITIATION OF AMENDMENTS

- A. The regulations and provisions stated in the text of this Ordinance and the boundaries of Zoning Districts shown on the Zoning District Map of Clearwater Township may be amended pursuant to PA 110 of 2006 (Michigan Zoning Enabling Act), as amended.
- B. An amendment can be initiated by either the Township Board, the Planning Commission, or an individual property owner.
- C. A request for an amendment shall be filed in writing at the Township Office accompanied by such fee as deemed necessary by the Township Board to meet undue expenses provided that, in the opinion of the Township Board, such fee does not pose a hardship.

29.02 PUBLIC HEARINGS

The Planning Commission shall conduct at least one (1) Public Hearing on each petition for amendment. Notice shall be given in compliance with PA 110 of 2006 (Michigan Zoning Enabling Act), as amended:

- A. Notice of the hearing shall be published in a newspaper of general circulation in the local unit of government not less than 15 days before the date of the hearing.
- B. Notice required under this act shall be given as provided under subsection C. to the owners of property that is the subject of the request. Notice shall also be given as provided under subsection C. to all persons to whom real property is assessed within 300 feet of the property that is the subject of the request and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. Notification need not be given to more than 1 occupant of a structure, except that if a structure contains more than 1 dwelling unit or spatial area owned or leased by different persons, 1 occupant of each unit or spatial area shall be given notice. If a single structure contains more than 4 dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
- C. The notice under subsection B. is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than 15 days before the date the request will be considered. If the name of the occupant is not known, the term “occupant” may be used for the intended recipient of the notice.
- D. A notice under this section shall do all of the following:
 - 1. Describe the nature of the request.
 - 2. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 - 3. State when and where the request will be considered.
 - 4. Indicate when and where written comments will be received concerning the request.

29.03 FACT FINDING

In reviewing any petition for a zoning amendment, the Planning Commission shall identify and evaluate

factors relevant to the petition and shall report its findings in full, along with its resulting recommendations (including any recommended modifications to the petition) for the proper disposition of the petition to the Township Board. Facts to be considered by the Planning Commission shall include, but shall not be limited to the following:

- A. What, if any, conditions related to the petition have changed which justify the amendment?
- B. What, if any, error in judgment, procedure, or administration was made in the original Ordinance which justifies the amendment?
- C. Would the approval or denial of this petition set a precedent? If so, what possible effects might result from this?
- D. If approved, what impact would the amendment have on the ability of the Township and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future?
- E. On a rezoning petition, how would it affect the environmental conditions or value of the surrounding property if approved?
- F. Are there any significant negative environmental impacts which would reasonably occur if the petitioned zoning change were approved and the resulting allowed structures were built? Such as:
 1. Surface water drainage problems;
 2. Waste water disposal problems;
 3. Adverse effect on surface or subsurface water quality; and
 4. The loss of valuable natural resources such as forest, wetlands, historic sites, wildlife, mineral deposits or valuable agricultural land.

29.04 SUBMISSION

After recommendation of an amendment by the Planning Commission, the amended Ordinance including the Zoning Map, if applicable, shall be submitted to the Kankaska County Zoning and Planning Commission for review, comments, and suggestions. This Commission is required to advise its recommendation within thirty (30) days after it receives the Planning Commission's recommendation and if it does not do so, then the Township Board may assume that the recommendation is in support of the proposal and proceed to act.

- A. The Planning Commission shall transmit copies of the proposed Zoning Ordinance, a summary of comments received at the Public Hearing, and its recommendation with respect to the Zoning Ordinance to the Township Board. This occurs AFTER the recommendation of the Kankaska County Zoning and Planning Commission has been received OR thirty (30) days have elapsed since submitting the Ordinance to the County.

29.05 TOWNSHIP BOARD PUBLIC HEARING

If any property owner, affected by the Zoning Amendment, requests a hearing on some provisions of the Ordinance, the Township board must grant the public hearing before the Ordinance is adopted.

29.06 CHANGING THE TEXT

If the Township Board wishes to change the Zoning Ordinance text or map recommended by the Planning Commission, it will take one of two actions:

- 1) return the Ordinance to the Planning Commission with the desired changes specified, and request a further report from the Planning Commission within a specified time; or
- 2) hold its own public hearing on the matter before making its decision.

**ARTICLE XXX
APPLICATION**

30.01 All districts are subject to the general provisions and regulations of this Ordinance unless specifically exempted by amendment or by the Board of Appeals.

**ARTICLE XXXI
SEPARABILITY**

31.01 VALIDITY

If any clause, sentence, sub-sentence, paragraph, section or part of this Ordinance be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not effect, impair, or invalidate the remainder thereof , but shall be confined in its operation to the clause, sentence, sub-sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

**ARTICLE XXXII
VIOLATIONS AND ENFORCEMENT**

32.01 NUISANCE PER SE

Any land, dwellings, buildings, or structures, including tents and trailer coaches, used, erected, altered, razed, moved or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.

32.02 PENALTIES

A. Any person, partnership, limited liability company, corporation, or association who creates or maintains a nuisance per se as defined in Section 32.01 above, or who violates or fails to comply with any provision of this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction. Every day that such violation continues shall constitute a separate and distinct offense under the provisions of this Ordinance. Nothing in this section shall exempt the offender from compliance with the provisions of this Ordinance.

B. The Township Supervisor and the Township Zoning Administrator are hereby designated as the authorized Township officials to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

C. Prior to taking enforcement action pursuant Section 32.02.A, an authorized Township official shall issue a notice in writing to the offending party describing:

1. The nature of the violation;
2. The section of this Ordinance, regulation, condition, permit or other right issued pursuant to this Ordinance violated; and
3. A date, being thirty (30) days from the date of said notice, by which the described violation must be resolved.

This subsection shall not apply upon written certification to the Township Clerk by an authorized Township official that a violation pursuant to Section 32.02.A, above, constitutes an immediate threat to the health, safety or welfare of any person or property.

D. In addition to enforcing this Ordinance as a municipal civil infraction, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

32.03 FAILURE TO OBTAIN A LAND USE PERMIT – PENALTIES

Any person or entity who fails to obtain a land use permit shall be liable for penalties at the discretion of the Township Board.

**ARTICLE XXXIII
REPEAL**

33.01 Clearwater Township Ordinance No. 9 and all amendments thereto are hereby repealed as of the effective date of this Ordinance.

**ARTICLE XXXIV
EFFECTIVE DATE**

34.01 This Ordinance shall take effect thirty (30) days after passage by the Township Board.

THIS ORDINANCE WAS PASSED BY THE TOWNSHIP BOARD ON JUNE 15, 2011; IT BECAME EFFECTIVE 30 DAYS LATER, ON JULY 15, 2011

[History, **Amendment 1**, Adopted January 16, 2013, Effective February 1, 2013; **Amendment 2**, Adopted November 20, 2013, Effective December 6, 2013; **Amendment 3**, Adopted November 18, 2015, Effective December 3, 2015; **Amendment 4**, Adopted March 16, 2016, Effective April 1, 2016; **Amendment 5**, Adopted April 20, 2016, Effective May 6, 2016; **Amendment 6**, adopted August 17, 2016, Effective September 2, 2016; **Amendment 7**, Adopted August 16, 2017, Effective September 1, 2017.]

Effective 2/1/13

**Amendment 1 to Clearwater Township Ordinance 22, the Zoning Ordinance,
Article XXVI – Zoning Board of Appeals**

The following amendment was adopted at a regular meeting of the Clearwater Township Board on January 16, 2013:

This amendment to Article XXVI will modify Sections 26.07, 26.11, 26.14, and 26.16.

Section 26.07 – Rationale for Modification: The Michigan Zoning and Enabling Act of 2006 (PA 110 of 2006, as amended), states in MCL 125.3604(7) that “The ordinance shall establish procedures for the review and standards for approval of all types of variances.” In Clearwater Township, Kalkaska County, only dimensional variances are permitted. To meet this requirement, we propose to adopt language that will expand the current section called that discusses meetings, and to revise the language for the section on standards for review.

Resolved that Section 26.07 of Ordinance 22 be repealed and replaced with the following:

26.07 MEETINGS

A. Meetings of the Zoning Board of Appeals shall be:

1. Held at the call of the chairman and at such other times as the Zoning Board of Appeals in its rules or procedure may specify.
2. Open to the public.

B. The order of business for regular meetings and public hearings shall be as follows:

1. Meetings – The order of business for meetings shall be as follows:

- i. Chairperson calls the meeting to order and announces the subject of the meeting: quarterly, variance, interpretation or administrative decision.
- ii. Pledge of Allegiance.
- iii. Roll call: members and township officials.
- iv. Approval of agenda.
- v. Chairperson calls for disclosure by all members of the ZBA of any actual or potential conflicts of interests concerning any item on the agenda.
- vi. Approval of minutes.
- vii. Public comment and open discussion for issues not on the agenda.
- viii. Other matters to be reviewed by the ZBA.
- ix. Report of planning commission representative and zoning administrator.
- x. Next meeting or hearing.
- xi. Adjournment.

2. Public Hearings – All public hearings held by the ZBA must be held as part of a regular or special meeting of the ZBA. The following rules of procedure shall apply to public hearings held by the ZBA. [All steps of these rules of procedure shall apply to hearings on a request for a dimensional variance. However, in the case of a hearing for an appeal of an administrative decision, or a hearing concerning interpretation of the zoning ordinance or map, not all steps shall apply.]:

- i. Chairperson opens public hearing and announces the subject.
- ii. Pledge of Allegiance.
- iii. Roll call: members and township officials.

- iv. Approval of agenda.
- v. Chairperson calls for disclosure by all members of the ZBA of any actual or potential conflicts of interests concerning any item on the agenda.
- vi. Approval of minutes.
- vii. Chairperson summarizes procedures/rules to be followed during the hearing.
- viii. Applicant presents request/notice of appeal to be reviewed.
- ix. Township zoning administrator presents a summary or analysis of the request.
- x. Persons wishing to comment on the request are recognized. [Public comments should be directed to the chairperson and not to the applicant or people in the audience.]
- xi. Chairperson closes public hearing (or announces the continuation of the public hearing at another specified time and date if additional pertinent information must be obtained).
- xii. Chairperson reads each standard, pertinent findings of fact are presented and discussed, and a roll call vote is taken on whether or not the requested variance meets the standard.
- xiii. If each standard is determined to be met by a majority vote, the variance is approved; otherwise, the variance is denied.
- xiv. Chairperson and secretary sign and date ZBA decision form and the chairperson assigns appeal number.
- xv. Statement of next meeting or hearing.
- xvi. Adjournment.

To ensure that everyone has the opportunity to speak, the ZBA may elect to limit the time permitted for each person to speak, except that the applicant may be permitted additional time as the chairperson allows. The chairperson may also elect to allow persons to speak only once, until all persons have had the opportunity to speak, at which time the chairperson, in his/her discretion, may permit additional comments.

C. The Zoning Board of Appeals shall maintain a record of its proceedings which shall be filed in the office of the Township Clerk and shall be a public record. Minutes shall be available for review by the public as follows:

1. Proposed minutes: Not more than eight (8) business days after the meeting.
2. Approved minutes: Not more than five (5) business days after the meeting at which they were approved.

Sections 26.11 and 26.16 – Rationale for Modification: The ZBA, at its meeting of July 9, 2012, reviewed and revised the language for its standards of review. The Planning Commission has considered the revised language and concurs with the ZBA.

Resolved that Sections 26.11 and 26.16 be repealed and replaced by the following:

26.11 STANDARDS FOR REVIEW OF A NON-USE (DIMENSIONAL) VARIANCE APPLICATION

The standards for review are intended to ensure that variances are granted in only those circumstances where truly unusual conditions are present on a property. To obtain a variance, the applicant must prove that a unique aspect of the property itself creates a *practical difficulty* (there is no *hardship* test for non-use variances) in complying with the ordinance and must provide reasonable evidence that all of the following conditions exist to establish the *practical difficulty*:

- A The property is subject to exceptional or extraordinary circumstances or conditions that do not apply generally to other properties in the same zoning district (e.g., unique dimensional, topographical, and/or structural conditions) thus presenting the possibility of a practical *difficulty* for this particular property.
- B The requested variance is necessary to alleviate a situation which qualifies as a *practical difficulty*; i.e., without the variance the owner is deprived of a minimum practical legal use of his/her property such as is possessed by residents of other properties in the same zoning district. (The possibility of increased financial return is of itself not sufficient to warrant a variance.)
- C The requested variance is the minimum variance necessary to mitigate the *practical difficulty*.
- D The *practical difficulty* resulting in the need for the requested variance was not created by any action of the current property owner.
- E The requested variance will not be detrimental to adjacent property and the surrounding neighborhood.

CONDITIONS

The Board of Appeals may impose conditions on a variance that may make the difference in meeting one of the standards. For example, fencing or landscaping may reduce the potential negative impact of permitting a building closer to an adjacent property line.

Section 26.14 – Rationale for Modification: As this Section stands, an applicant could resubmit his or her variance request repeatedly, which violates sections 605 and 606 of the MZEA (PA 110 of 2006), being MCL 125.3605 and 125.3606. Once a variance request has been denied by the ZBA, the applicant has recourse only to the circuit court, not to a rehearing of the same matter by the ZBA.

Resolved that Section 26.14 be repealed in its entirety.

Amendment #1 to Ordinance #22 The Zoning Ordinance was enacted at a regular meeting of the Clearwater Township Board, at which time a quorum was present, on January 16, 2013. This amendment becomes effective eight days after publication in a newspaper of general circulation within the Township

Larry Niederstadt, Supervisor

Julie Vance, Clerk

Published 1/24/13 in Elk Rapids News
 Effective date 3/1/13
 Pat Gray
 Deputy Clerk

**AMENDMENT #2 TO CLEARWATER TOWNSHIP ORDINANCE #22, THE ZONING ORDINANCE
ARTICLE XII - SIGNS AND ARTICLE V – DEFINITIONS**

The following amendment was adopted at a regular meeting of the Clearwater Township Board on November 20, 2013.

An Amendment to Article XII of the Clearwater Township Zoning Ordinance #22 to permit off premises signs for lots without road frontage in all districts other than the Commercial-Light Industry and the Village Commercial Districts.

THE TOWNSHIP OF CLEARWATER ORDAINS:

Section 1. Amendment of Article V

Article V of the Clearwater Township Zoning Ordinance is hereby amended to add the following definitions of “On Premises Sign” and “Off Premises Sign”, which definitions shall read in their entirety as follows:

SIGN, OFF PREMISES – Any sign relating to subject matter not conducted on the premises on which the sign is located.

SIGN, ON PREMISES – Any sign relating in its subject matter to the premises on which it is located, or to products, accommodations, service, or activities on the premises.

Section 2. Amendment of Article XII

Article XII of the Clearwater Township Zoning Ordinance is hereby amended to new Section 12.09, which shall read in its entirety as follows:

12.09 OFF PREMISES SIGNS FOR LOTS WITH NO ROAD FRONTAGE

Except for signs prohibited under Section 12.02 of this Ordinance, off-premises signs shall be permitted in connection with a lot under the terms and conditions of this section.

- A. The lot is located in any zoning district, except the Commercial-Light Industry District and the Village Commercial District.
- B. The lot does not have frontage on any public highway or private access easement developed under Section 4.14 of this Ordinance.
- C. The sign complies with all of the following:
 - 1. The identified premises are within three (3) miles of the sign.

2. The display area of the sign does not exceed fifteen (15) square feet.
3. The sign is located at least ten (10) feet from the public roadway and does not obstruct the view of the traffic entering the public roadway.
4. The sign is no greater than fifteen (15) feet in height above the centerline of the adjacent roadway.
5. No more than (2) off-premises signs are permitted in connection with activities on the same lot.
6. Any sign illumination must be directed toward the sign face, and must not shine, glare, or reflect directly onto adjacent property, or into the line of vision of vehicular traffic.

Section 4. Severability.

If any section, clause, or provision of this Ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

Section 5. Effective Date.

Amendment #2 to Ordinance #22, The Zoning Ordinance, was enacted at a regular meeting of the Clearwater Township Board, at which time a quorum was present, on November 20, 2013. This amendment becomes effective eight (8) days after being published in a newspaper of general circulation with the Township.

Larry Niederstadt, Supervisor

Julie Vance, Clerk

Published 12/28/2013 in the Elk Rapids News

CLEARWATER TOWNSHIP

Amendment 3 to Ordinance 22 The Zoning Ordinance

At a regular meeting of the Clearwater Township Board, held on November 18, 2015, the following amendment was enacted:

An amendment to Article 26 (Zoning Board of Appeals), of Ordinance 22 (The Zoning Ordinance), to bring the language of the Article into fuller compliance with the MZEA (PA 110 of 2006 as amended). This amendment modifies Sections 26.07 (MEETINGS), 26.09 (STAY PENDING APPEAL), 26.10 (HEARINGS AND DETERMINATION OF APPEALS), deletes existing Sections 26.12 (APPLICATION) and 26.13 (LIMITATIONS), and replaces them with Sections 26.12 (APPEALS) and 26.13 (APPEALS REGARDING SEXUALY ORINETED BUSINESSES), and adds Section 26.14 (DETERMINATIONS NOT FINAL). The full text of the resulting Article 26 (ZONING BOARD OF APPEALS) is herewith presented.

ARTICLE XXVI ZONING BOARD OF APPEALS

26.01 CREATION

There shall be a Township Zoning Board of Appeals consisting of no fewer than three (3), nor more than five (5) members.

A. The first member of the Zoning Board of Appeals shall be a member of the Planning Commission.

B. The remaining members of the Zoning Board of Appeals shall be selected from the electors of the Township of Clearwater residing outside of the incorporated cities and villages, and shall be representative of the population distribution and interests present in the Township.

1. One member may be a member of the Township Board, but that member may not serve as chairman of the Zoning Board of Appeals.
2. An employee or contractor of the Township Board may not serve as a member of the Zoning Board of Appeals.

26.02 TERM OF OFFICE

The term of each member shall be three (3) years except that of the members first appointed; two (2) shall serve for two (2) years and the remaining members for three (3) years.

A. The Township Board is required to appoint a successor within one (1) month after the expiration of the term of the preceding member, and

B. Any vacancy in office shall be filled for the remainder of the unexpired term.

26.03 REMOVAL FROM OFFICE

Any member of the Zoning Board of Appeals may be removed by the Township Board for non-performance of duty or misconduct in office, but only after written charges are made and a public hearing is held.

A. Any member who has a conflict of interest on any matter before the Zoning Board of Appeals shall disqualify himself/herself from voting thereon, and failure to do so constitutes misconduct in office.

26.04 OFFICERS

The Zoning Board of Appeals must elect a chairman and secretary from among its members and any other officers or committees as necessary.

- A. Officer elections must be at least every two (2) years.

26.05 COMPENSATION

The Township Board must appropriate annually in advance the total to be paid to the members of the Zoning Board of Appeals. Each member is to receive such per diem compensation and actual expenses incurred in the discharge of duties as may be determined by the Township Board.

26.06 QUORUM

The Zoning Board of Appeals may not conduct any business unless a majority of its membership is present.

- A. A majority vote of the total membership is necessary to reverse any administrative decision or grant a variance or make a decision in favor of an applicant.

26.07 MEETINGS

A. Meetings of the Zoning Board of Appeals shall be:

1. Held at the call of the chairman and at such other times as the Zoning Board of Appeals in its rules or procedure may specify.
2. Open to the public.

B. The order of business for public hearings shall be as follows: All public hearings held by the ZBA must be held as part of a regular or special meeting of the ZBA. The following rules of procedure shall apply to public hearings held by the ZBA. [All steps of these rules of procedure shall apply to hearings on a request for a dimensional variance. However, in the case of a hearing for an appeal of an administrative decision, or a hearing concerning interpretation of the zoning ordinance or map, not all steps shall apply.]:

1. Chairperson opens public hearing and announces the subject.
2. Pledge of Allegiance.
3. Roll call: members and township officials.
4. Approval of agenda.
5. Chairperson calls for disclosure by all members of the ZBA of any actual or potential conflicts of interests concerning any item on the agenda.
6. Approval of minutes.
7. Chairperson summarizes procedures/rules to be followed during the hearing.
8. Applicant presents request/notice of appeal to be reviewed.
9. Township zoning administrator presents a summary or analysis of the request.
10. Persons wishing to comment on the request are recognized. [Public comments should be directed to the chairperson and not to the applicant or people in the audience.]
11. Chairperson closes public hearing (or announces the continuation of the public hearing at another specified time and date if additional pertinent information must be obtained).

12. Chairperson reads each standard, pertinent findings of fact are presented and discussed, and a roll call vote is taken on whether or not the requested variance meets the standard.
13. If each standard is determined to be met by a majority vote, the variance is approved; otherwise, the variance is denied.
14. Chairperson is responsible for completing ZBA decision form within thirty (30) days and making copies available to the township office and the appellant.
15. Statement of next meeting or hearing.
16. Adjournment.

To ensure that everyone has the opportunity to speak, the ZBA may elect to limit the time permitted for each person to speak, except that the applicant may be permitted additional time as the chairperson allows. The chairperson may also elect to allow persons to speak only once, until all persons have had the opportunity to speak, at which time the chairperson, in his/her discretion, may permit additional comments.

C. The Zoning Board of Appeals shall maintain a record of its proceedings which shall be filed in the office of the Township Clerk and shall be a public record. Minutes shall be available for review by the public as follows:

1. Proposed minutes: Not more than eight (8) business days after the meeting.
2. Approved minutes: Not more than five (5) business days after the meeting at which they were approved.

26.08 DUTIES; POWERS; AND APPEALS

A. The Zoning Board of Appeals shall act upon all questions as they may arise in the administration of this Ordinance, including the interpretation of the Zoning Map and Text, and may fix rules and regulations to govern its procedures sitting as Zoning Board of Appeals.

B. It shall hear and decide:

1. Appeals from any order, requirement, decision or determination made by the Zoning Administrator charged with enforcement of this Ordinance, excepting any issuance or prosecution of a municipal civil infraction citation, notice, or action.
2. All matters referred to it or upon which it is required to pass under this Ordinance.
3. All appeals from any Special Use Permit.
4. Appeals for variances from the provisions of this Ordinance.

C. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of administrative official, or to decide in favor of an applicant any matter upon which they are required to pass under this Ordinance.

D. An appeal may be filed by any person aggrieved or by an office, department, board or bureau of the Township, County, or State.

E. The grounds for every determination shall be stated in the motion voted upon in reaching that determination.

F. The Zoning Board of Appeals CANNOT rezone property or amend the Zoning Ordinance.

G. Township Zoning Board of Appeals MAY NOT grant Use Variances.

H. Individual members of Zoning Board of Appeals shall acquaint themselves with all relevant information for making a determination including individual on-site inspection prior to meeting.

26.09 STAY PENDING APPEAL

An appeal to the zoning board of appeals stays all proceedings in furtherance of the action appealed. However, if the body or officer from whom the appeal is taken certifies to the zoning board of appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, proceedings may be stayed only by a restraining order issued by a circuit court. (MCL 125.3604(3))

26.10 HEARINGS AND DETERMINATION OF APPEALS

A. The Zoning Board of Appeals shall fix a reasonable time for the hearing of an appeal and give due notice thereof to the parties and decide the same within a reasonable time. Not less than fifteen (15) days notification, by mail, of the time and place of the meeting shall be given to:

1. The owners of real property within three hundred (300) feet of the subject property;
2. Residents of all one and two-family dwellings within three hundred (300) feet of the subject property;
3. The Zoning Administrator; and
4. The applicant.

B. Upon the hearing, any party may appear in person or by agent or by attorney.

26.11 STANDARDS FOR REVIEW OF A NON-USE (DIMENSIONAL) VARIANCE APPLICATION

The standards for review are intended to ensure that variances are granted in only those circumstances where truly unusual conditions are present on a property. To obtain a variance, the applicant must prove that a unique aspect of the property itself creates a *practical difficulty* (there is no *hardship* test for non-use variances) in complying with the ordinance and must provide reasonable evidence that all of the following conditions exist to establish the *practical difficulty*:

- A. The property is subject to exceptional or extraordinary circumstances or conditions that do not apply generally to other properties in the same zoning district (e.g., unique dimensional, topographical, and/or structural conditions) thus presenting the possibility of a *practical difficulty* for this particular property.
- B. The requested variance is necessary to alleviate a situation which qualifies as a *practical difficulty*; i.e., without the variance the owner is deprived of a minimum practical legal use of his/her property such as is possessed by residents of other properties in the same zoning district. (The possibility of increased financial return is of itself not sufficient to warrant a variance.)
- C. The requested variance is the minimum variance necessary to mitigate the *practical difficulty*.
- D. The *practical difficulty* resulting in the need for the requested variance was not created by any action of the current property owner.

E. The requested variance will not be detrimental to adjacent property and the surrounding neighborhood.

CONDITIONS

The Zoning Board of Appeals may impose conditions on a variance that may make the difference in meeting one of the standards. For example, fencing or landscaping may reduce the potential negative impact of permitting a building closer to an adjacent property line.

26.12 APPEALS

All appeals over which the Zoning Board of Appeals has jurisdiction shall be filed in writing at the township office at least thirty (30) days prior to the appeal hearing date. An appeal can be heard at either 1) a regularly scheduled Zoning Board of Appeals meeting, or 2) a specially-scheduled meeting pre-arranged among the applicant, the Zoning Board of Appeals chair, and the zoning administrator. The fee shall be determined by the Township Board.

Any appeal from an administrative decision must be made within thirty (30) days from the date of the decision constituting the basis for the appeal. Upon hearing the appeal, the Zoning Board of Appeals may affirm or modify the ruling, decision, or determination, or, in lieu thereof, make such other or additional determination as it shall deem proper under the circumstances.

The Zoning Board of Appeals shall return its decision in writing within thirty (30) days after a request or appeal has been heard, unless additional time is agreed upon by all parties concerned.

26.13 APPEALS REGARDING SEXUALLY ORIENTED BUSINESSES

All appeals to the Zoning Board of Appeals which relate to sexually oriented businesses will be processed pursuant to this Article to the extent the provisions of this Article do not conflict with ARTICLEXXIV, Section 24.02.J. If any provision of this Article does conflict with ARTICLEXXIV, Section 24.02.J, the latter shall control.

26.14 DETERMINATIONS NOT FINAL

A decision of the Zoning Board of Appeals may not be overturned by the Township Board or any other township agency or official. Any party aggrieved by a decision of the Zoning Board of Appeals may appeal the decision within thirty (30) days to the appropriate circuit court. (MCL 125.3605 and 125.3606)

Approved November 20, 2015

Effective December 10, 2015

**AMENDMENT #4 TO CLEARWATER TOWNSHIP ORDINANCE #22, THE ZONING ORDINANCE
ARTICLE XIII**

The following amendment was adopted at a regular meeting of the Clearwater Township Board on March 16, 2016 regarding Article XIII.

Amendment 4 strikes the existing Section 13.03.C3 in its entirety, removing the requirement that “neither the auxiliary living space nor the primary dwelling is offered for, or used for, rental purpose” from the conditions regulating the issuance of a special use permit for an accessory building or guest house to be used as temporary, auxiliary living space.

The notice was published March 24, 2016 in the Elk Rapids News in compliance with the MZEA (Public Act 110 of 2006 as amended). This amendment became effective eight (8) days after publication.

Kathy Eldridge
Clearwater Township Clerk

**AMENDMENT #5 TO CLEARWATER TOWNSHIP ORDINANCE #22, THE ZONING ORDINANCE
ARTICLE XII (Signs)**

At its regular meeting on April 20, 2016, the Clearwater Township Board enacted Amendment #5 to Ordinance 22 (the Zoning Ordinance) regarding Article XII (Signs).

The rationale for the amendment is to standardize the township time-limit rules for removal of temporary signs, so as to meet the constitutionality standards of regulating signs on their form and purpose, and not on the content of their message. The standard time-limit is fifteen days following completion of the purpose for which they were in place.

This notice is published in compliance with the MZEA (Public Act 110 of 2006 as amended). This amendment becomes effective eight (8) days after publication in a newspaper of general circulation within the township.

Kathy Eldridge
Clearwater Township Clerk

CLEARWATER TOWNSHIP

Amendment 6 to Ordinance 22 The Zoning Ordinance

At a regular meeting of the Clearwater Township Board, held on August 17, 2016, the following amendment was enacted:

An amendment to Ordinance 22 (The Zoning Ordinance), to provide for regulation of monuments or memorial structures within the township. This amendment modifies Article V by adding a definition for monuments or memorials, and inserts Article XIX (Monuments or Memorials). The full text of the amendment is herewith presented.

Article V DEFINITIONS

MONUMENT OR MEMORIAL - Any structure erected to commemorate a famous or notable person or event; a statue or other structure placed in memory of the dead; a structure, or site that is of historical importance or interest.

Article XIX MONUMENTS OR MEMORIALS

To regulate monuments or memorials within the township.

19.01 PURPOSE.

Based on the findings which have been made by the Clearwater Township Board, the purposes of Article XIX are:

- A. To define Monuments or Memorials as permanent fixed structures, unique in structure and purpose (See Article V DEFINITIONS), and
- B. To differentiate these structures from signs, and exempt them from sign restrictions.

19.02. REGULATIONS.

- A. Construction of a Monument or Memorial requires a Special Use Permit. The Special Use Permit application shall be reviewed for compliance with setbacks, size, type and construction.
- C. Each request will be reviewed on an individual basis for compliance with the standards of Article XXIV SPECIAL USE PERMITS.

19.03. REMOVAL OF STRUCTURES NOT IN COMPLIANCE.

Any Monument or Memorial structure found to be in violation of any of the above conditions or restrictions, or any special conditions agreed upon prior to construction, must be remedied by the responsible party.

19.04. VIOLATIONS AND PENALTIES.

- A. Any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961 (being

Sections 600.101-600.9939 of Michigan Compiled Laws), and shall be subject to fines established by the Township Board.

- B. Violations of Article XIX may be reported to the Clearwater Township Supervisor and/or to the Kalkaska County Sheriff's Department and/or Clearwater Township Zoning Administrator.

19.05. ENFORCEMENT OFFICIALS.

The Clearwater Township Supervisor, Clearwater Township Zoning Administrator and police officers of the Kalkaska County Sheriff's Department are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this Article to appear in court.

19.06. SEPARATE COURT ACTION.

In addition to enforcing Article XIX through the use of a municipal civil infraction proceeding or a criminal prosecution, the Clearwater Township Supervisor may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Article.

19.07. NON-EXCLUSIVITY.

The regulations in Article XIX shall be in addition to, and not exclusive of, any other local police power ordinance or zoning ordinance or any other state law or regulation,

19.08. Effective Date.

This Article shall become effective eight (8) days after being published in a newspaper of general circulation within the Township.

CLEARWATER TOWNSHIP

AMENDMENT #7

to Ordinance No. 22, the Zoning Ordinance

To amend the definition of STRUCTURE as provided in Article V.

The Township of Clearwater ordains: inasmuch as the current definition of STRUCTURE in the Zoning Ordinance has been found to be too vague to be consistently applied even-handedly, a new more precise definition shall be adopted.

The current definition of the term STRUCTURE, "any production or piece of material artificially built up or composed of parts joined together in some definite manner; any construction, including dwellings, garages, buildings, mobile homes, signs and sign boards, towers, poles, antennae, stand pipes or other like objects, but not including fences," shall be amended to read as follows:

"STRUCTURE - anything constructed or erected, the use of which requires a permanent location on or beneath the ground, or attachment to something on or beneath the ground."

This amendment shall become effective eight (8) days after being published in a newspaper of general circulation within the Township.

Kathy Eldridge
Clearwater Township Clerk

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CLEARWATER TOWNSHIP

**AMENDMENT #9
to Ordinance No. 22, the Zoning Ordinance
Amendment to Articles XVIII and XX**

The Township of Clearwater ordains: The boundaries sections of Articles XVIII and XX shall be amended as follows:

Add this language to Article XX Village Commercial District C-VIL, Section 20.05
Boundaries:

Section 21 That portion of Parcel Tax ID No. 001-01-014-00, described as: That part of the Northwest 1/4 of the Southeast 1/4 of Section 21, Town 28 North, Range 8 West, described as; Commencing at the South 1/4 corner of said Section 21; thence North 00°00'08" West along the North--South 1/4 line of said Section as monumented 1330.72 feet to the Southwest corner of the Northwest 1/4 of the Southeast 1/4 of said Section; thence continuing North 00°00'08" West along said 1/4 line 1330.72 feet to the center of said Section as monumented; thence South 89°42'46" East along the East-West 1/4 line of said Section as monumented 337.05 feet to a point in the centerline of Rapid City Road; thence South 37°06'12" East along said centerline 1139.74 feet to the point of beginning; thence continuing South 37°06'12" East along said centerline 508.40 feet to a point on the East 1/8 line of said Section as monumented; thence South 00°06'54" East along said 1/8 line 14.26 feet to the Southeast corner of the Northwest 1/4 of the Southeast 1/4 of said Section; thence South 89°59'13" West along the South 1/8 line of said Section as monumented 230.39 feet; thence North 37°06'12" West 380.85 feet; thence North 52°53'48" East 192.35 feet to the point of beginning; and containing 2.00 acres of land.

Add the boldfaced language to Article XVIII Recreational District, Section 18.05
Boundaries:

Section 21; W ¼ of NW ¼, and all of the S ½ that lies West of Rapid City Road. **Less that 2.00-acre portion of Parcel Tax ID No. 004-021-01-00 elsewhere designated as being within the Village Commercial District (20.05 Boundaries).**

This amendment shall become effective eight (8) days after being published in a newspaper of general circulation within the Township.