

Gaines Charter Township



Zoning Ordinance



Adopted:

December 10, 2007

Amended Through:

April 21, 2022

{THIS PAGE LEFT INTENTIONALLY BLANK}

Table of Contents

Chapter	Title
1	Intent and Authority
2	Rules of Use
3	Legal Provisions
4	General Provisions
5	Agricultural and Rural Residential Zoning Districts (A-B and A-R)
6	Low Density Residential Zoning Districts (RL-14 and RL-10)
7	Medium and High Density Residential Zoning Districts (R-3 and R-4)
8	Office and Commercial Zoning Districts (O-S, C-1 and C-2)
9	Industrial Zoning Districts (I-1 and I-2)
10	Planned Unit Development (PUD) Zoning Districts
11	PUD Review Standards
12	PUD-Mineral Removal
13	PUD-Large Scale Phased
14	PUD-Open Space Preservation
15	Parking and Loading Regulations
16	Landscaping Regulations
17	Signage Regulations
18	Lighting Regulations
19	Special Land Uses
20	Residential Accessory Uses
21	Nonconforming Lots, Structures and Uses
22	Private Streets and Driveways
23	Wireless Communication Facilities
24	Administration and Enforcement
25	Site Plan Review
26	Zoning Board of Appeals
27	Amendments
28	Definitions
Appendix I	List of Amendments
Appendix II	List of Interpretations
Appendix III	Index

CHAPTER 1

Intent and Authority

Section 1.1 Title

This Ordinance shall be known as the *Gaines Charter Township Zoning Ordinance* (“*Ordinance*”).

Section 1.2 Authority

This Ordinance is enacted pursuant to Public Act 110 of 2006 (MCL 125.3101 et seq.).

Section 1.3 Purpose

The purpose of this zoning ordinance, among other things, is to encourage the use of lands, waters, and other natural resources in the Township in accordance with their character and in a reasonable manner; to limit the improper use of land and resources; to provide for orderly development within the Township; to provide for adequate light, air, and health conditions in dwelling and buildings hereafter erected; to manage the impact on public roads and streets resulting from development; to protect and conserve natural recreational and residential areas; to facilitate the establishment of an adequate and economic system of transportation, sewage disposal, safe water supply, education, recreation and other public requirements; to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties; and to improve and protect the public health, safety, and general welfare of the Township and its residents.

Section 1.4 Scope

The provisions of this Ordinance shall apply to any and all uses and development of land within the municipal boundaries of the Township, unless expressly and specifically exempted or provided otherwise in this Ordinance. No use or development shall be undertaken or commenced without prior and proper approval or authorization pursuant to the terms of this Ordinance. All uses and development shall comply with the applicable terms, conditions, requirements, standards and procedures established in this Ordinance.

Except as hereinafter provided, no building, structure or land shall be used and no building or structure or part thereof shall be erected, constructed, reconstructed, altered, repaired, moved or structurally altered except in conformance with this Ordinance and also the regulations specified for the district in which it is located. Nor shall a yard, lot or open space be reduced in dimensions or area to an amount less than the minimum requirements set forth herein or increased to an amount greater than the maximum requirements set forth herein.

It is not intended by this Ordinance to repeal, abrogate, annul or in any other way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Ordinance, or of any private restrictions placed upon property by covenant, deed or other

private agreement; provided, however, that where any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations upon the erection or use of land and buildings, or upon the height of buildings and structures, or upon safety and sanitary measures, or requires larger yards or open spaces than are imposed or required by the provisions of any other law or ordinance, or any said rules, regulations, private restrictions, permits or easements, then the provisions of this Ordinance shall govern.

The requirements of this Ordinance are to be construed as minimum requirements, and shall in no way impair or affect any covenant or restriction imposing greater requirements.

Section 1.5 Districts

For the purposes of this Ordinance, Gaines Charter Township is divided into the following Zoning Districts:

Zoning Districts	
A-B	Agricultural/Agri-Business
A-R	Agricultural/Rural-Residential
RL-14	Single Family Residential
RL-10	Residential
R-3	Multiple Family Residential
R-4	Mobile Home
O-S	Office Service
C-1	Neighborhood Commercial
C-2	General Commercial
I-1	Light Industrial
I-2	Heavy Industrial
PUD	Planned Unit Development
PUD-MR	PUD – Mineral Removal
PUD- LSP	PUD – Long Site Phase
PUD-OS	PUD – Open Space

Section 1.6 Zoning Map

The locations and boundaries of the Zoning Districts are shown upon the official map, which is incorporated herein by reference. This map is designated as the *Zoning Map of Gaines Charter Township, Kent County, Michigan* (the Zoning Map). The Zoning Map and all the notations, references, and other information thereon shall be a part of this Ordinance. For any rezoning which occurs after the effective date of this Ordinance, the Zoning Map shall be deemed automatically amended and revised to reflect the rezoning (*i.e.*, the designation of the new zoning district or districts) for the property or properties involved, regardless of whether the rezoning references this Section 1.6 or the Zoning Map is physically changed to reflect the rezoning.

CHAPTER 2 Rules of Use

Section 2.1 Rules of Instruction and Interpretation

- A. **Text:** In case of any difference of meaning or implication between the text of this Ordinance and any heading, drawing, table, or figure, the text shall control.
- B. **Computation of Time:** Periods of time defined by a number of days shall mean a number of consecutive calendar days, including all weekends days, holidays, and other non-business days; however, if the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded.
- C. **Delegation of Authority:** Whenever a provision requires the head of a department or another officer or employee of the Township to perform an act or duty, that provision shall be construed as authorizing the department head or officer or the Township Board to delegate the responsibility to subordinates, unless the terms of the provision specify otherwise.
- D. **Technical and Non-Technical Words:** Words and phrases not defined in this Ordinance shall be construed according to the common and approved usage of the language, but technical words and phrases not otherwise defined in this Ordinance that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
- E. **Mandatory and Discretionary Terms:** The word “shall” is always mandatory, and the words “may” or “should” are always permissive.
- F. **Conjunctions:** Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:
1. “And” indicates that all connected items, conditions, provisions, or events shall apply; and
 2. “Or” indicates that one or more of the connected items, conditions, provisions, or events shall apply.
- G. **Tense and Usage:** Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular shall include the plural, and the plural shall include the singular.
- H. **Interpretation of Zone District Boundaries:** Where uncertainty exists as to the boundaries of Zoning Districts as shown on the Zoning Map, the following rules shall apply:

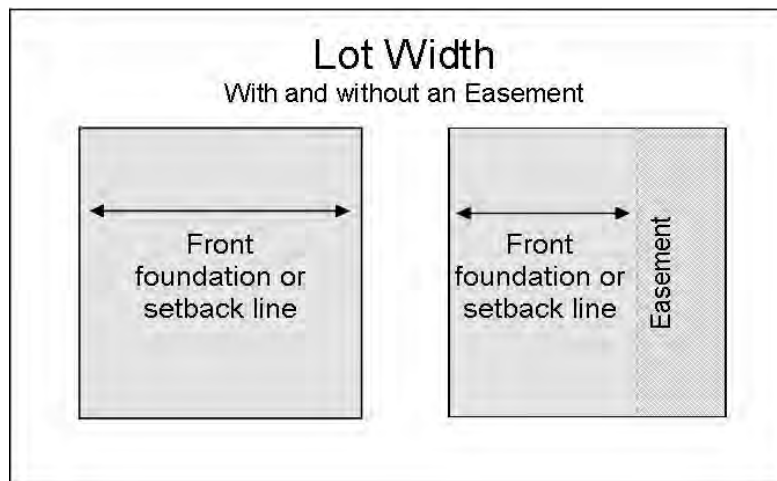
1. Boundaries indicated as appearing to follow the center line of streets or highways shall be construed as following such center lines.
2. Boundaries indicated as appearing to follow platted lot lines shall be construed as following such platted lot lines.
3. Boundaries indicated as appearing to follow Township boundary limits shall be construed as following Township boundary limits.
4. Boundaries indicated as approximately following the center lines of streams or other bodies of water shall be construed as moving with the actual body of water and follow the centerline.
5. When there is disagreement over the location of Zoning District boundaries, a decision on the correct location shall be rendered by the Zoning Administrator with any appeal from such a decision being made to the Zoning Board of Appeals. In making his or her decision, the Zoning Administrator shall consider the rules set forth in this subsection, the text and Land Use Plan of the Master Plan, adjacent and surrounding land uses, and if deemed necessary, an inspection of the area in dispute.

Section 2.2 Minimum Standards

Unless noted otherwise, the standards in this Ordinance are minimum standards.

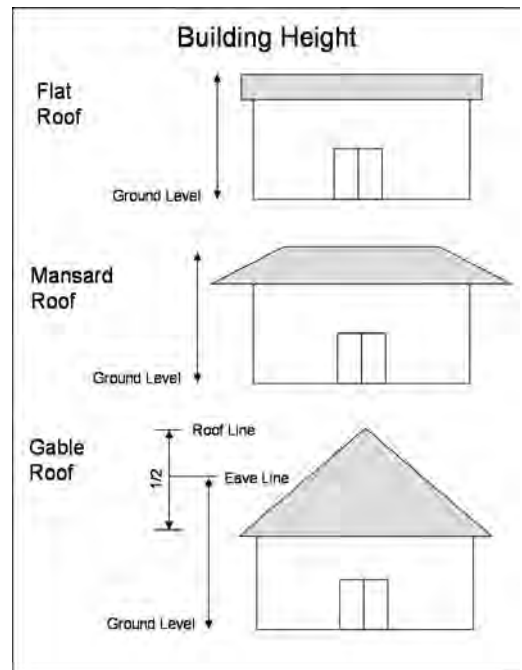
Section 2.3 General Rules of Measurement

- A. **Lot Area:** Lot Area shall refer to the amount of horizontal land area within lot lines, excluding public road rights-of-way and land under lakes.
- B. **Lot Width:** The width of a lot shall be measured at the front foundation of the principal building. If no buildings exist on the lot, the width shall be measured at the front setback line. Rights-of-way and public or private easements for ingress or egress are not included in the lot width measurement.



C. **Setbacks:**

1. *Measuring Setbacks:* Setbacks shall be measured as the distance between the nearest lot line and the furthest projection of a building or structure along a line at right angles to the lot line. Setbacks shall be unobstructed from the ground to the sky except that the following building features may be located within required setbacks:
 - a. Bay windows, chimneys, awnings and architectural design embellishments of dwellings that do not project more than 2 feet into the required setback, provided they do not encroach on public easements;
 - b. Roof overhangs that do not project more than 2.5 feet into the required setback;
 - c. Unenclosed decks and porch steps.
2. *Multiple Front yards:* For a lot or parcel bounded by two intersecting streets, there shall be a front yard setback along each abutting street and one side and one rear yard setback. The owner, builder, or other person with legal interest in the property may, after consultation and approval by the Zoning Administrator, designate which is the rear yard and which is the side yard. For a lot bounded by three intersecting street, there shall be three front yard setbacks and the remaining setback shall be a rear setback.
3. *Front Setbacks in General.* For any lot abutting or having frontage on a public road right-of-way or private road or access easement, the front lot line is the outer edge of the public road right-of-way, private road easement, or access easement, and relevant setbacks shall be measured from the edge of such right-of-way or easement.



- D. **Height:** The maximum height limitations imposed on buildings and structures within the various zoning districts shall be the lesser amount between the maximum number of stories permitted and the height in feet that is permitted.

1. *Measurement, Building Height:*
 - a. **Building Height Measured in Feet:** When measured in feet, building height shall be measured from the average of the finished ground level at the center of all walls of a building or structure to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the mean height level between eaves and ridge of a gable, hip or gambrel roof.

- b. **Building Height Measured in Stories.** In measuring the height of a building in stories the following measurement rules shall apply:
 - i. A balcony or mezzanine shall be counted as a full story when its floor area is in excess of one-third (1/3) of the total area of the nearest full floor directly below it.
 - ii. No story of a commercial or residential building shall have more than twenty-five (25) feet from floor to floor.

2. *Exemptions, Building Height:*

The following structures and features shall be exempt from the height requirements of this Zoning Ordinance:

- a. Chimneys, smokestacks or flues that cover no more than 5% of the horizontal surface area of the roof.
- b. Cooling towers, ventilators and other similar equipment that cover no more than 5% of the horizontal surface area of the roof.
- c. Elevator bulkheads and stairway enclosures.
- d. Water and fire towers.
- e. Utility poles and support structures.
- f. Belfries, spires and steeples.
- g. Monuments and ornamental towers.
- h. Solar energy systems.
- i. Parapet walls.

E. **Density**

1. *Gross Density* shall mean the number of dwelling units permitted per gross acre of land area contained in the development.
2. *Net Density* shall mean the number of dwelling units permitted per net acre of land. Net land area shall be the gross land area excluding street right-of-ways, easements, public open space, land under water, and certified wetlands and floodplains. Setbacks for wetlands and other sensitive areas and private open space shall not be excluded in calculating net density.

CHAPTER 3

Legal Provisions

Section 3.1 Administrative Liabilities

No officer, agent, employee or member of the Planning Commission, Township Board or Zoning Board of Appeals shall render himself or herself personally liable for any damage that may accrue to any person as the result of any act, decision or other consequence or occurrence arising out of the discharge of his or her duties and responsibilities pursuant to this Ordinance.

Section 3.2 Severability

This Ordinance and the various parts, sections, subsections, paragraphs, sentences, phrases and clauses thereof, are hereby declared to be severable. If any part, section, subsection, paragraph, sentence, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

Section 3.3 Nonwaiver; Rule of Nonestoppel

If any provision of this Ordinance is not enforced against a particular lot, parcel, or property or throughout the Township in general, that shall not be deemed to be a waiver (or constitute laches) regarding the ability of the Township to enforce that provision (or any other provision) of this Ordinance against a particular lot, parcel, or property involved or throughout the Township in general. Furthermore, should any Township official, body or commission render any zoning approval or opinion, or undertake (or not undertake) any other action pursuant to this Ordinance, and it is determined that any such opinion, interpretation, approval, action or inaction was done in error, in an *ultra vires* or other mistaken fashion, that shall not preclude the Township from reversing, revoking, or revising any such zoning approval, interpretation, opinion, action, or inaction which was done in error and to thereafter enforce the provision or provisions of this Ordinance involved. The Michigan common law “rule of municipal nonestoppel” shall benefit the Township, as well as its officials, officers, bodies and commissions.

Section 3.4 Codification

It is the intention of the Township Board that the provisions of this Ordinance shall become and be made a part of a Gaines Charter Township Municipal Code; and that sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code is accomplished, sections of this Ordinance may be renumbered or relettered, and typographical errors which do not affect the intent, may be corrected by the Township Board without need of a Public Hearing, by filing a corrected or recodified copy of same with the Township Clerk and publishing such changes in a newspaper of general distribution within the Township within fifteen (15) days of such authorization.

Section 3.5 Repeal

This Ordinance shall be deemed to repeal, supersede and replace the existing *Gaines Charter Township Zoning Ordinance* (first adopted by the Township Board on September 17, 1979 and became effective on October 1, 1979) in its entirety. In addition, all other ordinances and parts thereof, which are in conflict in whole or in part with any of the provisions of this Ordinance, are repealed as of the effective date of this Ordinance.

Section 3.6 Effective Date

This Ordinance was adopted by the Gaines Charter Township Board on December 10, 2007 and became effective seven days after the notice of adoption appeared in the *Southwest Advance* and *Southeast Advance* (which effective date was December 25, 2007).

CHAPTER 4

General Provisions

Section 4.1 Intent and Purpose

The general regulations contained in this Chapter shall apply to all Zoning Districts except as otherwise expressly indicated. The regulations apply to multiple Zoning Districts and are not repeated within the individual chapters.

Section 4.2 Yard, Area and Lot Regulations

- A. No lot, parcel, yard, setback area, court, parking area, or other space shall be reduced to less than the minimum required under this Ordinance. No lot, parcel, or other area shall be further reduced if already less than the minimum.
- B. Property and bottomlands located under a lake shall be excluded from lot area or dimension calculations for purposes of determining minimum lot area and dimension requirements pursuant to this Ordinance.
- C. Where property is located on opposite sides of a public road or public street right-of-way and is in common ownership, the property shall not be considered to be one (1) lot or parcel but shall be deemed separate lots or parcels. Furthermore, the land on each side of the public road or street shall meet all applicable requirements specified by this Ordinance or an individual lot or lots.
- D. No more than one (1) main building may be erected on a lot and no more than one (1) principal use shall occur on a lot, unless such lot is appropriately zoned and used for Multiple Family Dwellings, mobile home parks, commercial or industrial purpose, or unless the same is expressly authorized in an approved Planned Unit Development in accordance with this Ordinance. Agricultural buildings which are regulated as a principal uses may be erected on an appropriately zoned lot in addition to one (1) dwelling otherwise permitted on such a lot.
- E. In determining lot, land, yard, parking area or other open space requirements, no area shall be ascribed to more than one (1) main building or use, and no area necessary for compliance with the space requirements for one (1) main building or use shall be included in the calculation of the space requirements for any other building, structure or use.
- F. All parcels or lots must have a minimum frontage of twenty-five (25) feet on an approved and constructed public road, private street, or shared driveway.

- G. No lot or parcel (platted or unplatted) shall be divided, split, or subdivided unless said action meets this Ordinance and all other applicable Township ordinances.
- H. No accessory use or accessory building may occur or be constructed, maintained, or built on a lot absent a lawful principal use on that lot. Notwithstanding such prohibition, bona fide agricultural buildings are allowed if agricultural or farming uses are permitted in the Zoning District where the lot is located.

Section 4.3 Lots Located Partially Outside Township Boundaries

In cases where a lot lies partially outside of the Township’s boundaries, if a proposed lot, building, structure, or use would not satisfy the minimum area, dimensional, and street frontage provisions of this Ordinance with respect to that part of the lot located within the Township, then the minimum provisions of this Ordinance shall be applied with respect to the lot, building, structure, or use as if the entire lot were located within the Township, provided, however, that the entire lot shall comply with the minimum area, width, and frontage requirements of this Ordinance. For purposes of this Section, the Township boundaries shall not be deemed to be a lot line.

Section 4.4 Categories of Businesses or Uses not Designated

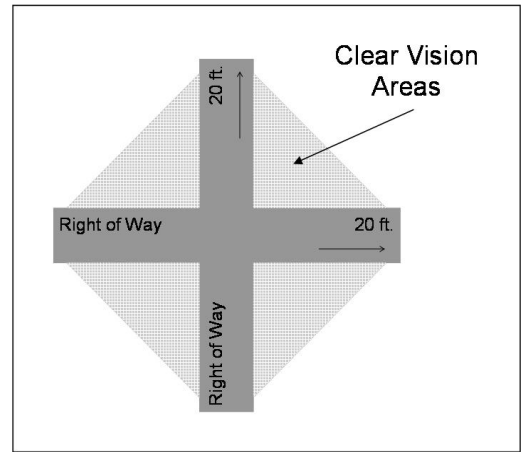
When the Zoning District into which a business or use belongs is not specified in this Ordinance, the Zoning Administrator may request the Planning Commission to make the determination into which Zoning District (if any) it shall be placed and such use shall then be permitted as a special use and the procedure for special uses shall be followed.

Section 4.5 Essential Public Services

- A. The erection, construction, alteration or maintenance of essential public services shall be permitted as authorized or regulated by law and other ordinances in any Zoning District, except those as otherwise provided for in this Ordinance, and shall be subject to Site Plan Review per Chapter 25 of this Ordinance.
- B. New utility substations, transmission lines, and switching stations in any Zoning District except the I-1 and I-2 Zoning Districts must receive Special Land Use approval from the Planning Commission.
- C. Commercial Wireless Communication Facilities are not an essential public service.

Section 4.6 Clear Vision Areas

- A. No plantings, fences or structures shall be installed, established or maintained on any corner lot or along any driveway that will likely result in obstructing the view of a vehicle driver approaching the intersection or entering or exiting the driveway.
- B. On corner lots, the clear vision area shall mean a triangular area formed by the street property lines and a line connecting them at points twenty (20) feet from the intersection of the street lines or in the case of a rounded property corner from the intersection of the street property lines extended.
- C. This shall not prohibit the maintaining of shrubbery less than thirty (30) inches in height in this area.
- D. Tree branches shall be a minimum of six (6) feet above the adjoining street level within the clearance corner.



Section 4.7 Private Drives and Private Street Regulations

For parcels that are accessed by means of a private drive or private street, the easement width for the private drive or private street shall conform to the following table:

Number of Parcels Utilizing a Private Street or Private Drive to Access a Public Street	Minimum Required Width of Easement for a Private Street or Private Drive
1	25 feet
2	50 feet
More than 2	66 feet

Section 4.8 Outdoor Residential Lighting

All directional outdoor residential lighting shall be designed and arranged so that it will not shine directly on adjacent occupied dwellings or interfere with the vision of traffic on streets and alleys.

Section 4.9 Moving of Buildings or Structures

The moving of a building or structure into the Township, or from one location to another within the Township, shall be considered to be the erection of a new building or structure; and as such, all provisions, regulations and requirements of this Ordinance concerning the erection of a new building or structure shall equally apply to any building or structure so moved. No building or structure shall be moved without a zoning permit.

Section 4.10 Control of Heat, Glare, Fumes, Dust, Noise, Vibration and Odors

Every use shall be so conducted and operated that it is not obnoxious or dangerous by reason of heat, glare, fumes, odors, dust, noise or vibration beyond the Lot or parcel of land on which the use is located. All land shall be stabilized in such manner as is necessary to prevent erosion, sand blows, or other soil conditions which cause dust, sand, dirt or other materials to be blown, washed or otherwise transported to adjoining Lots or parcels of land. The provisions of this Section shall not be deemed to prohibit uses which are a part of a Farm operation.

Section 4.11 Temporary Dwelling Structures

- A. No cabin, garage, cellar, basement, or any temporary structure, whether of a fixed or movable nature may be erected, altered, or moved upon and used in whole or in part for any dwelling purpose whatsoever for any length of time whatsoever. Notwithstanding such prohibition, a property owner may utilize one (1) temporary dwelling for a limited period of time if expressly approved in writing by the Zoning Administrator if one of the following two situations is involved:
1. The lot or parcel is vacant and the owner desires to occupy a temporary dwelling on the property while a new house or dwelling is built.
 2. A house or dwelling is destroyed or damaged to the extent that it is uninhabitable for a period of time, by a natural or man-made event, such as fire, flood, windstorm, or tornado.
- B. The Building Inspector, prior to approval of such temporary structure, shall determine that the proposed structure is safe for habitation and is adequately served by public utilities. The temporary dwelling shall be placed so as to conform to all yard requirements of the Zoning District in which it is located. Where municipal water and/or sanitary sewage disposal systems are not available, such on-site services shall be approved by the Kent County Health Department.

- C. The Zoning Administrator shall establish a reasonable date for removal of the temporary dwelling, said date not to exceed two (2) years from the date of said destruction or damage or the date of issuance of a Building Permit for new construction; however, the temporary dwelling shall be removed from the premises within six (6) months (180 days) of the date of issuance of an occupancy permit for the permanent dwelling. All utility connections shall be severed and temporary dwelling permit shall expire on issuance of an occupancy permit for the permanent dwelling.

Section 4.12 Site Condominium Development

- A. A site condominium unit shall be a unit created by the division of land on the basis of condominium ownership that is not subject to the platting provisions of the Land Division Act, Public Act 288 of 1967, as amended.
- B. A site condominium unit shall be treated as a separate lot or parcel and may have buildings constructed on it and uses conducted within it as allowed in its Zoning District provided the unit meets the regulations and requirements for the Zoning District in which it is located.
- C. Site condominium developments containing 4 or fewer lots/units must submit the following information to the Zoning Administrator in order to receive approval and before any building permits can be issued for any dwellings or structures located within the development:
 - 1. A completed application form and applicable fees.
 - 2. Written proof of fee ownership of the land contained within the proposed site condominium development.
 - 3. A certified survey of the land contained within the proposed site condominium development. The certified survey must show:
 - a. The dimensions and legal descriptions of the lots/units proposed to be created by the site condominium development.
 - b. The dimensions and legal descriptions of any easements.
 - c. The location of all existing structures and the location of proposed structures.
 - d. The accessibility of the parcels for vehicular traffic and utilities from existing public roads.
- D. Preliminary Site Plan Approval for Site Condominium Developments with More than 4 Units.
 - 1. A preliminary site plan shall be reviewed and approved by the Planning Commission and Township Board in accordance with the requirements of Chapter 25.
 - 2. Approval of a preliminary site plan shall be for a period of two (2) years.

3. One (1) year extensions may be granted by the Township Board if applied for in writing prior to the date of expiration of approval of the preliminary site plan.
 4. After a period of two (2) years from approval, unless extensions as provided for in this Section have been granted, the preliminary site plan approval shall become null and void if substantial construction has not commenced and proceeding in a meaningful manner.
- E. Final Site Plan Approval for Site Condominium Developments with More than 4 Units.
1. A final site plan for the condominium project must be approved by the Township Board prior to the issuance of any building permits for any structures on the proposed site, unless they already exist.
 2. At its regular meeting, or at a meeting called within 20 days of the date of submission, the Township Board shall examine the final plan for general compliance with applicable Township ordinances. The proprietor or his/her designee may request an extension of the 20 day time limit, which the Township Board may grant at its discretion.
 3. To receive final approval for the site condominium development, the owner shall submit ten (10) copies of the plan to the Township Engineer who shall place the final site plan on the agenda of the Township Board. Copies of the final site plan shall be distributed to the appropriate Township departments for their review and comment to the Township Board.
- F. Prior to the issuance of a building permit for any building in any proposed site condominium development, the following items must be submitted to the Zoning Administrator, unless waived by the appropriate Township department:
1. The Master Deed for the condominium development.
 2. The Articles of Incorporation for the condominium association.

Section 4.13 Representations and Promises of Developers and Property Owners

If, pursuant to any zoning approval (including, but not limited to, the granting of a variance or the approval of a special use, PUD, site plan, or other zoning approval), the property owner or applicant makes any representation, promise, or offer of a condition or voluntary restriction should the zoning approval be approved or granted, such promise, condition, or representation shall be deemed to be an enforceable condition of any such zoning approval (whether or not such promise, condition, or restriction was made orally or in writing, and whether or not it is reflected in the zoning approval motion, resolution, or other Township approval document) if the Township deems such promise, representation, or condition to have been a consideration by the official or Township body which granted the zoning approval and the Township also deems such promise, representation, or condition to be consistent with the zoning approval. In such case, the promise, condition, or representation shall be deemed an express and enforceable condition of the zoning approval.

Section 4.14 Wind Energy

- A. **Intent.** The purpose of this section is to promote clean and renewable energy utilizing Wind Energy Turbines, Community Wind Turbines, or Wind Energy Conversion Systems (WECS) while providing the necessary regulations to maintain the health, safety, welfare, and aesthetics of the Township.
- B. **Wind Energy Conversion Systems (WECS).** Because of their size, scale and potential impact on surrounding properties, it is the intent of this Ordinance that Wind Energy Conversion Systems (WECS) proceed through the Planned Unit Development (PUD) approval process (see Chapter 11). No Wind Energy Conversion Systems (WECS) shall be installed, commenced, used, or initiated without a PUD approval.
- C. **Application Requirements for All Turbines**
 - 1. In considering a zoning permit for a Turbine, the following must be provided to the Township at the time of application:
 - a. The Turbine size, blade clearance, proposed location, and setbacks from all lot lines and structures.
 - b. The color and architectural nature of the Turbine.
 - c. Make and model information for the Turbine, including noise and kilowatt output.
 - d. The location of all landscaping, enclosures, and signage related to the Turbine.
 - e. Copy of all required Gerald R. Ford International Airport zoning approvals. All Turbines must receive the applicable building and electrical permits prior to installation, construction and use.

D. General Regulations for All Turbines

1. Noise

- a. No Turbine located in the Agricultural or Residential Zoning Districts shall produce more than 50 decibels of noise at the lot line located closest to the Turbine.
- b. No Turbine located in the Office Service, Commercial, or Industrial Zoning Districts shall produce more than 60 decibels of noise at the lot line closest to the Turbine.
- c. The above noise restrictions may be exceeded only during short-term events such as utility outages and/or severe wind storms.

2. Other Licenses and Permits. Turbines shall maintain, at all times, all required state, federal, local, and operator licenses and permits, and shall meet all applicable standards and regulations of the Federal Aviation Administration requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.432 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), the Gerald R. Ford International Airport Zoning Ordinance requirements, the Michigan Public Service Commission, and the Federal Energy Regulatory Commission. Failure to so maintain necessary all necessary approvals or permits shall be grounds for revocation of the zoning permit.

3. Abandonment. Any Turbine which does not function properly, becomes obsolete, is abandoned, or fails to meet any of the requirements of this Ordinance for a period greater than 12 months shall be considered abandoned and shall be promptly dismantled and removed at the cost of the property owner.

4. Aesthetics. All Turbines shall either maintain a galvanized steel finish on the exterior, or be painted a neutral white, gray or blue, unless otherwise regulated by the FAA.

5. Lighting. All lighting related to the Turbine must meet any applicable standards of Chapter 18, unless otherwise authorized by a state or federal agency.

6. Safety. All Turbines shall maintain the following safety requirements:

- a. In the Residential and Agricultural Zoning Districts, all Turbine electrical equipment shall be locked in such a manner so as to prevent unauthorized access or entry.
- b. In the Office Service, Commercial, and Industrial Zoning Districts, all Turbines and electrical equipment must be completely enclosed by a locked gate or wall in such a manner so as to prevent unauthorized access or entry.

- c. In the Office Service, Commercial, and Industrial Zoning Districts, a sign or placard must be provided on the outside of the enclosure with the Turbine’s owner and emergency contact information.

7. **Maintenance.** All Turbines shall be kept in good and reasonable repair and appearance at all times.

E. **Wind Energy Turbine Regulations:** In addition to the regulations contained in subsection “D”, Wind Energy Turbines are subject to the following specific regulations:

1. **Location.** Wind Energy Turbines are permitted by right in all Zoning Districts.
2. **Accessory Use.** With the exception of lots in the A-B or A-R Zoning Districts, there must be a principal dwelling or building of primary use, or one under substantial construction, on the lot where the Wind Energy Turbine is to be located.
3. **Number.** There shall be no more than two (2) Wind Energy Turbines located on a lot.
4. **Development Standards.** All Wind Energy Turbines are subject to the development standards contained in the following table:

Development Standard		Zoning District			
		RL -10,RL-14, R-3, R-4	A-B, A-R	O-S, C-1, C-2	I-1, I-2
<i>Design</i>	Maximum Height	75 feet	100 feet	75 feet	100 feet
	Blade Clearance	15 feet	15 feet	20 feet	20 feet
<i>Distance</i>	Front Yard	Not Permitted	60 feet	50 feet	50 feet
	Side and Rear Yard	The height of the Wind Energy Turbine + 10 feet			
	Separation Distance from Other Structures				
	Separation Distance from Residential or Agricultural Zoning Districts	N/A		200 feet	

- F. **Accessory Wind Turbine Regulations.** In addition to the regulations contained in subsection “D”, Accessory Wind Turbines are subject to the following specific regulations:
1. **Location.** Accessory Wind Turbines are permitted by right in all Zoning Districts.
 2. **Number.** There shall be no more than one (1) Accessory Wind Turbine located on a structure.
 3. **Height.** All Accessory Wind Turbines are subject to a maximum height of the overall height of the structure it is attached to, plus 10 feet.
- G. **Community Wind Turbine Regulations.** Community Wind Turbines are permitted by right in all Zoning Districts, subject to special use approval from the Planning Commission. In addition to the regulations contained in subsection “D” and the general review standards of Chapter 19, when reviewing a special use request for a Community Wind Turbine, the Planning Commission shall consider all of the following additional standards:
1. No Community Wind Turbine shall be taller than 75 feet, unless a taller Turbine is deemed by the Planning Commission to be more appropriate based on the following:
 - a. The number of properties served by the Turbine.
 - b. The proximity of nearby structures.
 - c. Any topographical or vegetative features of the site or nearby properties the efficiency or use of the Turbine.
 2. All Community Wind Turbines shall be set back from all property boundary lines for a distance equal to or greater than the height of the Turbine, plus 10 feet, unless a reduced setback which is more appropriate is approved by the Planning Commission based on the following:
 - a. The proximity and type of nearby structures.
 - b. Any topographical or vegetative features of the site or nearby properties affecting the efficiency or use of the Turbine.
 3. The proposed Community Wind Turbine shall not have any negative visual, aesthetic or audible impacts on neighboring properties.

Section 4.15 Keeping of Animals; Non-Commercial Uses

This section regulates the keeping of animals for non-commercial uses in all Zoning Districts. Nothing in this section is intended to circumvent the Michigan Right to Farm Act as it regulates commercial farming operations.

A. Household Animals

1. The keeping of household animals for non-commercial uses on a lot or parcel with a dwelling unit thereon is permitted in all Zoning Districts.
2. Household Animals include cats, dogs, fish, household birds, hamsters, rabbits, and other animals generally regarded as household pets. The Zoning Administrator shall make the final determination as to whether an animal constitutes a household animal.
3. A maximum of 3 dogs or 4 cats, or a combination of not more than 4 such animals in total (so long as not more than 3 of the animals are dogs), can be kept on any lot or parcel with a dwelling unit.
4. Any non-dwelling structure which acts as housing for household animals is subject to the requirements of “Section 20.2 – Accessory Buildings”.
5. Kennels are subject to the Special Land Uses regulations of Chapter 19 Section 19.9 (J).
6. Household Animals shall not be allowed to roam or wander beyond the boundary lines of the lot or parcel where they are kept except on a tether or leash under the control of a person.

B. Non-Household Animals; Not Permitted

1. The phrase “Non-Household Animal” includes any animal that is not a Household Animal as defined in this Ordinance. The Zoning Administrator shall make the final determination as to whether an animal constitutes a Household Animal or Non-Household Animal
2. Non-Household Animals are not permitted in any of the following circumstances:
 - a. On lots or parcels zoned RL-10, R-3, or R-4.
 - b. Within Platted Subdivisions.
 - c. Within Site Condominium Developments.
 - d. Within Planned Unit Developments, unless expressly permitted during the zoning approval process.

C. Non-Household Animals; Permitted

1. In the A-B Zoning District and on parcels or lots of 3 acres or more in size in the A-R Zoning District, the keeping of Non-Household animals for non-commercial purposes is permitted, subject to the following requirements:
 - a. Poultry (Chickens) – No more than 10 chickens per acre are allowed.
 - b. Non-poultry – No more than 1 animal per acre is allowed.
 - c. A fence must be provided and regularly maintained to keep the animals from leaving the property. The Zoning Administrator shall determine what constitutes appropriate fencing.
 - d. Any non-dwelling structure which acts as housing for a Non-Household Animals must meet the requirements of “Section 20.2 – Accessory Buildings”.

D. Non-Household Animals; Special Use Permit Required

1. In the RL-14 Zoning District and on unplatted parcels or lots of less than 3 acres in size in the A-R Zoning District, the keeping of Non-Household Animals for non-commercial purposes is allowed only when authorized by the Planning Commission as a Special Use. In considering such authorization, the Planning Commission shall, in addition to the standards required by Chapter 19, consider the following standards:
 - (a) Can the requirements of “Subsection C (1)”, above, be met?
 - (b) Is the design of the housing for the Non-Household Animals appropriate for the character of the neighborhood?
 - (c) Is the design of the housing for the Non-Household animals compatible with any existing structures on the property involved?
 - (d) Does the location of the housing for the Non-Household Animals negatively affect adjacent properties because of potential noise?
 - (e) Does the location of the housing for the Non-Household animals negatively affect adjacent properties because of potential odors?
 - (f) Would approving the request establish a negative precedent for similarly zoned properties?

E. Nonconforming Uses

1. Any parcel or lot with any type or number of Non-Household Animals which was in compliance with the provisions of this Zoning Ordinance, but has been subsequently rendered non-compliant due to the amendment of this Ordinance, shall be deemed to be a nonconforming use, subject to the regulations of Chapter 21. However, any such use shall not expand, increase in size, or increase in intensity.

Section 4.16 Adult-Oriented Businesses

A. **Location and Approval.** An adult-oriented business shall be allowed as a special use only if all of the following standards are satisfied:

1. Adult-oriented businesses shall be allowed only within the I-2 Heavy Industrial Zoning District if approved as a special land use.
2. No adult-oriented business shall be located within five hundred (500) feet of another adult-oriented business.

For purposes of this subsection (2), and subsections (3) and (4) below, the distance between a proposed adult-oriented business and (A) another adult-oriented business, (B) the boundary of any land in the agricultural or any residential Zoning District or approved as a planned unit development for residential purposes, or (C) land used for any single-family, two-family or multiple-family dwelling; Township, County or State park; school; library; licensed childcare facility; playground; church or place of worship, shall be measured in a straight line from the nearest property line of the parcel of land upon which the proposed adult-oriented business is to be located to (A) the nearest property line of the parcel of land used for the other adult-oriented business, (B) the nearest boundary of the land in the agricultural or any residential Zoning District or approved as a planned unit development or a plat for residential purposes, or (C) the nearest property line of the parcel of land used for a single-family, two-family or multiple-family dwelling; Township, County or State park; school; library; licensed childcare facility; playground; church or place of worship.

3. No adult-oriented business shall be located on a parcel or lot that is within five hundred (500) feet of the boundary of any land in the agricultural or any residential Zoning District, or approved as a planned unit development for residential purposes.
4. No adult-oriented business shall be located on a parcel or lot within five hundred (500) feet of any single-family, two-family or multiple-family dwelling; any Township, County or State park; school; library; licensed child care facility; playground; church or place of worship.
5. No adult-oriented business shall be located within any principal or accessory building or structure already containing another adult-oriented business.
6. The proposed use shall conform to all requirements of the Zoning District in which it is located.
7. The proposed use shall be in compliance with all other ordinances of the Township and with all statutes, laws, rules and regulations of the County, State and Federal government and, to the extent required, all governmental approvals must be obtained.

8. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from neighboring properties or the adjacent right-of-way of a public street or private street.
9. Any sign or signs proposed for the adult-oriented business shall comply with the provisions of this Ordinance; may not otherwise include photographs, silhouettes, drawings, or pictorial representations of specified anatomical areas, specified sexual activities or obscene representations of the human form; and may not include animated or flashing illumination.
10. Entrances to the proposed adult-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 clearly marked lettering no less than two (2) inches in height stating 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’.
11. 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 by a person of normal visual acuity from the nearest adjoining right-of-way of a public street or private street or a neighboring property.
12. Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m., Monday through Saturday. All adult-oriented businesses shall remain closed on Sundays and legal holidays.
13. All off-street parking areas shall comply with this Ordinance and shall be illuminated after sunset during all hours of operation of the adult-oriented business, and until one (1) hour after the business closes. The illumination shall be designed to provide a minimum level of brightness of one (1) foot candle, with a 3:1 uniformity ratio. The illumination shall not reflect- on and shall be screened from adjoining properties.
14. Any booth, room or cubicle available in any adult-oriented business, except an adult motel, that is 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 law;
 - b. Be unobstructed by any floor, lock or other entrance and exit control device;
 - c. Have at least one (1) side totally open to a public, lighted aisle so that there is an unobstructed view of any occupant at all times from the adjoining aisle;
 - d. Be illuminated such that a person of normal visual acuity can, by looking into the booth, room or cubicle from its entrance adjoining the public lighted aisle, clearly determine the number of people within; and

- e. Have no holes or openings in any side or rear walls not relating to utility, ventilation or temperature control services or otherwise required by any governmental building code authority.

B. **Special Land Use Process.** Any special land use application for an adult-oriented business shall be processed under the provisions of Chapter 19 of this Ordinance.

C. **Definitions.** For purposes of this Section 4.16, the following words, phrases, and terms shall have the following meanings:

1. *Adult cabaret* means a nightclub, restaurant, or other establishment which regularly features or displays:
 - a. Live performances, displays, or dancing predominantly characterized by an emphasis on the exposure of any specified anatomical area or by any specified sexual activity; or
 - b. Films, motion pictures, video cassettes, DVDs, slides, computer displays, other photographic reproductions or other visual media predominantly characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area.
2. *Adult merchandise store* means an establishment that emphasizes merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area. An establishment emphasizes merchandise that is predominantly distinguished by its ‘emphasis on matter depicting, describing, or relating to any specified sexual activity or any specified anatomical area’ if any one or more of the following applies to the establishment:
 - a. 25% or more of the establishment’s retail display space (excluding bathrooms, office areas, fitting rooms, eating areas, storage areas, closets, and other nonpublic areas) is used for the sale of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area.
 - b. 25% or more of the establishment’s visible inventory is comprised of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area.
 - c. 25% or more of the establishment’s gross revenues are generated by the sale or rental of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area.
 - d. The establishment is operated consistently with its being an adult-oriented business (*e.g.*, advertising is directed to an ‘adults only’ market; the

establishment self-imposes, or imposes consistent with state or federal law, prohibitions on minors being present in the establishment, etc.).

3. *Adult motel* means a hotel, motel or similar establishment that:
 - a. Offers accommodation to the public for any form of consideration and provides patrons with close-circuit television (as distinguished from commercial cable services), transmissions, films, motion pictures, video cassettes, DVDs, slides, computer displays, other photographic reproductions or visual media that are characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area; or
 - b. Offers a sleeping room for rent, or allows a tenant or occupant of a sleeping room to sub-rent the room, for a period of time that is less than ten (10) hours, if the rental of such rooms accounts for more than ten percent (10%) of the establishment's gross revenues.

4. *Adult-oriented business* means a business or commercial establishment engaging in one or more of the following enterprises, uses, or activities:
 - a. Adult Cabaret
 - b. Adult Merchandise Store
 - c. Adult Motel
 - d. Adult Theater
 - e. Escort Agency
 - f. Nude or Semi-nude Model Studio
 - g. Sexual Encounter Center

5. *Adult theater* means a theater, concert hall, auditorium, or similar establishment which regularly features live performances predominantly characterized by an emphasis on the exposure of any specified anatomical area or by any specified sexual activity or which regularly or primarily shows films, motion pictures, video cassettes, DVDs, Blu-ray Disc, slides, computer displays, other photographic reproductions or visual media predominantly characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area. This definition includes, without limitation, establishments which offer individual viewing booths.

6. *Employee* means a person who performs any service for any consideration on the premises of an adult-oriented business on a full-time, part-time, or contract basis, whether or not the person is denominated as an employee, independent contractor, agent, or otherwise, and whether or not said person is paid a salary, wage, or other compensation by the operator of said adult-oriented business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises or for the delivery of goods to the premises.
7. *Escort* means a person who, for any form of consideration and regardless of who pays that consideration, agrees to act or offers to act as a companion or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
8. *Escort agency* means a person or entity which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration. An escort agency is deemed to be operated in the location where (1) a request for an escort is received, or (2) the escort and the person requesting the escort are together.
9. *Material* means anything tangible, whether through the medium of reading, observation, viewing, sound, or in any other manner, including, but not limited to, anything printed or written, any book, magazine, newspaper, pamphlet, picture, drawing, pictorial representation, motion picture, photograph, video tape, video disk, DVD, film, computer display, transparency, slide, audiotape, audio disk, computer tape, holographic images, or any other medium used to electronically produce or reproduce images, or any mechanical, chemical, or electronic reproduction. Material includes undeveloped photographs, molds, printing plates, and other latent representational objects whether or not processing or other acts are required to make the content of the material apparent. This definition is intended to include material which is the product of any technology, whether that technology is available on the effective date of the ordinance that added this definition or becomes available after that date.
10. *Merchandise* means material, products, and novelties.
11. *Novelty* means any instrument, device, or paraphernalia which depicts or describes any specific anatomical area or any specific sexual act, or which is designed for use, or commonly used, in connection with specific sexual activities, excluding condoms and other birth control and disease prevention products.

12. *Nudity, Nude, or State of Nudity* means the knowing or intentional live display of a human genital organ or anus with less than a fully opaque covering or a female's breast with less than a fully opaque covering of the nipple and areola. Nudity, as used in this Section does not include a woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
13. *Nude or semi-nude model studio* means any place where a person who displays any specified anatomical area is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by any other person who pays money or any form of consideration, but does not include the following:
 - a. An educational institution funded, chartered, or recognized by the state of Michigan; or
 - b. Any modeling session for a local, nonprofit organization, that is not open to the public or to any persons other than members of the organization, that is for the purpose of instruction in the artistic depiction in two-dimensional or three-dimensional media of the human form, during which no specified sexual activities occur and during which the model remains in a fixed pose.
14. *Operate or Cause to Operate* shall mean to cause to function or to put or keep in a state of doing business. *Operator* means any person on the premises of an adult-oriented business who exercises overall operational control of the business or a part of the business, who can open or close the business to the public, or who causes to function or who puts or keeps the business open or in operation. A person may be found to be operating or causing to be operated an adult-oriented business regardless of whether that person is an owner or part owner of the business.
15. *Patron* means a customer of the adult-oriented business or a person from the general public, not an 'employee' of the business, who is on the premises to obtain, receive, or view the products, services, or performances offered by the business.
16. *Regularly* mean recurring, attending, or functioning at fixed or uniform intervals.
17. *Semi-Nudity or Semi-Nude or in a Semi-Nude Condition* means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited in a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

18. *Sexual encounter center* means an establishment, except that which is part of the practice of and under the supervision and control of a physician, psychologist, or psychiatrist licensed to practice in Michigan, that offers:
 - a. Activities between male and female persons and/or persons of the same sex when one or more of the persons exposes or displays any specified anatomical area; or
 - b. The matching and/or exchanging of persons for any specified sexual activities.

19. *Specified anatomical area* means any or more of the following:
 - a. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast at or below the top of the areola; or
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

20. *Specified sexual activity* means any of the following:
 - a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast; or
 - b. A sex act, actual or simulated, including intercourse, oral copulation, or sodomy; or
 - c. Masturbation, actual or simulated; or
 - d. Excretory functions as part of or in connection with any of activities set forth in (1), (2) or (3) above.

- D. Each adult-oriented business shall comply with all applicable Township ordinances and codes, including.

Section 4.17 Prohibition on Medical Marihuana Dispensaries

- A. No medical marihuana dispensary shall be commenced, conducted, operated, or utilized in any Zoning District or on or from any property within the Township. Furthermore, no person shall frequent, patronize, or obtain or purchase any marihuana from any medical marihuana dispensary within the Township.

Section 4.18 **Solar Energy Collectors and Commercial Solar Energy Systems**

- A. ***Applicability.*** This section applies to consumer scale ground-mounted and building-mounted solar energy collectors and commercial solar energy systems. This section does not apply to smaller-scale solar energy collectors (with a combined collector surface areas less than 50 square feet) that are mounted on fences, poles, or on the ground and less than five (5) feet above the ground.
- B. ***General Requirements.***
1. **Applications.** In addition to all other content required for the completion of an application for building permit and zoning approval, the applicant shall submit for review unit renderings and plan details for the proposed solar energy collector equipment.
 2. **Glare and Reflection.** The exterior surfaces of solar energy collectors shall be generally neutral in color and substantially non-reflective of light. A unit shall not be installed or located so that sunlight or glare is reflected into neighboring residences or occupied yard space or onto adjacent streets.
 3. **Location.** To the maximum extent practical while still being functional, solar energy equipment shall be located so as to be visually unobtrusive to adjacent residential properties.
 4. **Installation.**
 - a. A solar energy collector shall be permanently and safely attached to the ground or an approved structure. Solar energy collectors and the installation and use thereof, shall comply with building codes and other applicable Township, County, State and Federal requirements.
 - b. Solar energy collectors shall be installed, maintained and used only in accordance with the manufacturer’s instructions. Upon request of the building inspector, a copy of the instructions shall be submitted to the building department prior to the issuance of a permit allowing installation
 5. **Power lines.** On-site power lines between solar panels and inverters shall be placed underground.
 6. **Abandonment.** Solar energy collection systems that cease to produce energy on a continuous basis for 12 months will be considered abandoned unless the responsible party (or parties) with ownership interest in the system provides substantial evidence every six (6) months after 12 months of no energy production to the Township of the intent to maintain and reinstate the operation of that facility. The responsible party shall remove all equipment and facilities and restore the site to its condition prior to development of the facility within one (1) year of abandonment.

- C. ***Consumer Scale Building-Mounted Solar Energy Collectors.*** Consumer scale Building-Mounted Solar Energy Collectors are permitted by right in all zoning districts when upon application for a building permit and upon review of the building inspector, they are found to be in compliance with the above general requirements and following specific requirements and standards.
1. Certification. A building mounted unit shall be only of such weight as can safely be supported by the structure. A certification by a professional engineer or other qualified person, shall be submitted to the Township prior to installation.
 2. Location. Wall-mounted units shall not be located on the front wall of a building.
 3. Height.
 - a. Wall-mounted unit shall not exceed the height of the building wall to which they are attached.
 - b. A roof-mounted unit shall not project more than three feet above the highest point of the roof and may exceed the maximum building height limitation for the zone district by no more than three (3) feet.
 4. Extension. A solar energy collector that is wall-mounted shall not project horizontally beyond the eave of the roof, or 12 inches, whichever is less.
- D. ***Consumer Scale Ground-Mounted Solar Energy Collectors.*** Consumer Scale Ground-Mounted Solar Energy Collectors shall only be established through the issuance of a special use permit obtained under the application, review and approval procedures outlined in Chapter 19. In addition to the “*General Standards for All Special Land Uses*” contained in Section 19. 8, the following specific requirements shall apply:
1. Location. The unit shall be located in the rear yard and shall be subject to the setbacks for accessory buildings.
 2. Maximum Size. 1,500 square feet of collector panels per ground-mounted solar energy collector structure.
 3. Maximum Height. 12 feet, measured from the natural grade below the unit to the highest point.
 4. Screening. Screening may be required in cases where ground-mounted units impact views from adjacent residential properties.
- E. ***Commercial Solar Energy Systems (ref. definition contained in Chapter 28, .Section 28.2 subsection “S”)*** Commercial Solar Energy Systems may only be established as principle or accessory uses within the following zoning districts and in accordance with the following standards:
1. A-B Agricultural/Agri-Business District and A-R Agricultural / Rural-Residential Districts: Only when authorized by the planning Commission through the issuance of a special use permit obtained under the application, review and approval procedures and standards outlined in Chapter 19 and the site plan review requirements of Chapter 25.

2. I-1 Light Industrial and I-2 heavy Industrial Districts: When authorized by the Planning Commission under the site plan review provisions of Chapter 25.
3. Specific standards: In addition to the site plan review standards of section 25.6 and when applicable, the general standards applicable to all special land uses contained in Section 19.8, the following specific standards shall apply to all Commercial Solar Energy Systems:
 - a. Minimum Setbacks. 100 feet minimum.
 - b. Maximum Height. 16 feet, measured from the natural grade below the unit to the highest point.
 - c. Minimum Acreage. Five (5) acres.
 - d. Screening. Views of collectors and equipment from residential properties or public right-of-way may be required to be screened. Screening methods may include the use of materials, colors, textures, screening walls, and landscaping, that will blend the facility into the natural setting and existing environment.
 - e. Decommissioning. A decommissioning plan signed by the responsible party and the landowner (if different) addressing the following shall be submitted prior to approval:
 - I. Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, abandonment, etc.)
 - II. Removal of all non-utility owned equipment, conduit, structures, fencing, roads, solar panels, and foundations.
 - III. Restoration of property to condition prior to development of the system.
 - IV. The timeframe for completion of decommissioning activities.
 - V. Description of any agreement (e.g. lease) with landowner regarding decommissioning, if applicable.
 - VI. The entity or individual responsible for decommissioning.
 - VII. Plans for updating the decommissioning plan.
 - VIII. A performance guarantee shall be posted in the form of a bond, letter of credit, cash, or other form acceptable to the township, to ensure removal upon abandonment. As a part of the decommissioning plan, the responsible party shall provide at least two (2) cost estimates from qualified contractors for full removal of the equipment, foundations, and structures associated with the facility. These amounts will assist the township when setting the performance guarantee valid throughout the lifetime the facility. Bonds and letters of credit shall be extended on a bi-annual basis from the date of special use permit approval.

Section 4.19 Prohibition on Marihuana Establishments and Marihuana Facilities Prohibited

- A. ***Marihuana establishments.*** Pursuant to Section 6 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, as amended, marihuana establishments are prohibited within the boundaries of Gaines Charter Township.
- B. ***Marihuana facilities.*** Marihuana facilities are prohibited within the boundaries of the Gaines Charter Township.

As used in this section, “marihuana establishment(s)” means that term as defined in the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, as amended, and “marihuana facility(ies)” means that term as defined in the Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended.

Section 4.20 Setback Averaging

- A. ***Intent.*** This section intends to allow for the reduction of the minimum front and side building setbacks within specified established neighborhoods to allow new single-family detached and two-family dwellings, garages, accessory buildings, and additions to existing dwellings to be placed on sites in a manner similar to the prevailing historic development pattern of the block. This section acknowledges that many existing buildings within the specified areas do not conform to the required minimum front and side setbacks. As such, the setback averaging provision will allow landowners to minimize the potential for inconsistency between new dwellings and accessory buildings and the physical character of existing neighborhoods due to the prevalence of nonconforming buildings.
- B. ***Applicability.*** This section applies to lots and parcels located within the RL-10 and R-3 zoning districts in Sections 6 and 7 of the Township and that are also within blocks with established building patterns that consistently vary from current setback requirements of Sections 6.3 and 7.3 of the Zoning Ordinance. In these areas, an applicant may request front and side setback reductions for new single-family detached and two-family dwellings, garages, accessory buildings, and additions to existing dwellings as determined by the average of the setbacks of residential buildings on adjoining and nearby properties.
- C. ***Process.*** An applicant may seek setback reductions authorized by this section through the special land use process.
- D. ***Method for Determining Setbacks.*** The following process shall be used to determine the allowable setback range for a property based on averaging:
 - 1. The average front and/or side setbacks will be determined by measuring the front and/or side setbacks of at least two, but no more than four, contiguous developed properties on the same block on either side of the property to be developed (vacant lots may be

skipped). The average shall include at least one property on each side of the subject site. In the case of a corner lot, two to four properties along both street frontages may be used in the average.

2. The total gross setback distances shall be divided by the number of properties measured to find the average, which is the “initial” setback line. The front and/or side building line(s) of the building shall be proposed within five feet of either side of the initial setback line. However, in no case shall the front or side building line of a proposed building be less than the lowest of the front and/or side setbacks used to determine the average.
 3. Properties with different zoning categories cannot be used in the averaging. For example, a residential property next to a commercial property cannot use the commercial property setback in the averaging calculation.
 4. The setbacks used for the calculations must be for the same type of building that is proposed. For example, only garage entrance setbacks may be used to average a garage entrance setback, and only dwelling setbacks may be used to average a dwelling setback.
- E. ***Final Setback Approval.*** The Planning Commission shall determine the allowable setback range based on the method for determining setbacks, as well as the special land use general standards within Section 19.8. Based on the review of the proposal against Section 19.8, the Planning Commission may approve a greater minimum setback and/or a maximum setback if it is required to protect public health, safety, and welfare, or the character of the neighborhood.

CHAPTER 5

Agricultural and Rural Residential Zoning Districts

Section 5.1 Description and Purpose

This chapter presents the regulations of two different Zoning Districts: “A-B” Agricultural/Agri-Business and “A-R” Agricultural/Rural-Residential. The intent of these districts is to conserve the rural character of the areas within these two zoning districts. In both districts, the primary intended uses are agricultural and rural residential. The difference between the two districts is in the balance between the agricultural and rural residential uses. The “A-B” zoning district is intended to have a lower density of residential development than the “A-R” zoning district.

- A. **Agricultural/Agri-Business (A-B):** Land is placed in this district based on the significant agricultural uses that remain and the quality of the land for agriculture. One of the primary purposes of this zone is to reduce the potential conflicts between agricultural and non-agricultural uses by limiting the density of residential uses that can occur here. The clustering of residential development is encouraged in order to minimize its conflict with agriculture.
- B. **Agricultural/Rural-Residential (A-R):** This district is intended primarily to address the need for single-family development in rural and relatively low density patterns. Residential development should be sparse in order to preserve open space and the rural character of the area. Clustered residential developments are encouraged in order to help achieve these goals. Agricultural uses are permitted in the district but are not necessarily encouraged.

Section 5.2 Table of Permitted Uses

The following abbreviations apply to the Table of Permitted Uses

- P: The use is permitted by right in the district
- SPU: The use is permitted only if the Planning Commission grants a Special Use Permit for it after finding for applicable standards in this chapter and Chapter 19.
- NP: The use is not permitted in the district.

Land Use	Zoning District		Additional Use Standards
	A-R	A-B	
Agricultural Uses			
Agriculture and Agricultural Buildings, with the exception of:	P	P	
Slaughtering and/or livestock operations that exceed any of the following animal confinement densities: <ol style="list-style-type: none"> 1. 5 or more large Farm animals per acre (including beef cattle, cows, horses, mule, buffalo, llamas, etc.). 2. 20 or more small Farm animals per acre (including goats, sheep, pigs, etc.). 3. 500 or more poultry (hens, etc.) or small field mammals (rabbits, etc.) per acre. 	SPU	P	See Section 19.9 (A)
Agricultural Rural Enterprise	SPU	P	In the A-B district, rural enterprises must meet the standards in Section 19.19 (B) "Agricultural Rural Enterprise." Staff will review the application for compliance.
Agricultural Service Business	SPU	P	Site Plan Review approval is required per Chapter 25 "Site Plan Review."
Farm Markets	P	P	
Roadside Stands	P	P	
Residential Uses			
Single Family Dwellings	P	P	The number of new dwellings permitted in the A-B district is limited by Section 5.3.
Farm Accessory Dwelling	NP	P	Staff will review the application for compliance, per Section 5.5.
Rural Open Space Community Developments	P	P	See Chapter 22

Gaines Charter Township Zoning Ordinance

Land Use	Zoning District		Additional Use Standards
	A-R	A-B	
Institutional			
Place of Religious Worship	SPU	SPU	See Section 19.9 (G)
Schools	SPU	SPU	
Nonprofit Organization	SPU	SPU	See Section 19.8
Other Uses			
Home Occupations	P	P	See Section 20.7
Bed and Breakfast Establishments	SPU	SPU	See Section 19.9 (E)
Private Cemetery of Burial Ground	SPU	SPU	See Section 19.9 (F)
Kennels	SPU	SPU	See Section 19.9 (J)
Landscaping Business	SPU	SPU	See Section 19.9 (K)
Outdoor Recreational Facilities	SPU	SPU	Specifically includes athletic grounds, nature preserves, golf courses, riding stables, parks, and playgrounds. See Section 19.9 (L)
Recreational Vehicle Storage Business	SPU	SPU	See Section 19.9 (M)
Residential Child, Adult Day, and Foster Care Facilities	See Section 20.11		

Section 5.3 Permitted Land Divisions / Lot Splits / Dwellings in the "A-B" Agricultural / Agri-Business Zoning District

- A. The maximum number of lots that may be created or split from a lot of record (which existed as of March 23, 2006) for new dwelling units shall be based on the gross area of the lot of record (as it existed as of March 23, 2006) which is to be divided, as listed on the following table:

**Permitted Lot Split Table
"Sliding Scale"**

Size of Lot of Record	Number of Buildable Lots Allowed
0-9.9 acres	3
10-29.9	4
30-49.9	5
50-69.9	6
70-89.9	7
90-99.9	8
Over 100 acres	8 lots plus one additional lot for each additional 20 acres over 100 acres

- B. The parcel or lot that is left (if any) after the permitted number of lot(s) for new dwellings are created is not a buildable lot and a building permit for a new dwelling shall not be issued for this remaining parcel unless that property is rezoned to another zoning district that would allow additional dwellings. For example, if the lot of record contains 30 acres and 5 lots for new dwellings are created, the parcel left over would be unbuildable and a building permit would not be issued for such parcel.
- C. The maximum number of total residential dwellings that may be built or maintained involving lots created from a lot of record (which existed as of March 23, 2006) shall be based on the gross area of the lot of record (as it existed as of March 23, 2006) which is to be divided, as listed in the following table:

**Permitted Number of Dwellings
"Sliding Scale"**

Size of Lot of Record	Number of Buildable Lots Allowed
0-9.9 acres	3
10-29.9	4
30-49.9	5
50-69.9	6
70-89.9	7
90-99.9	8
Over 100 acres	8 lots plus one additional lot for each additional 20 acres over 100 acres

- D. The allowed number of lots to be created and dwellings which may be built as specified in the two tables above in this Section 5.3 are based on an original lot of record as such lots of record existed as of March 23, 2006.

Section 5.4 Development Standards

The following table lists the development standards for the A-R and A-B zoning districts:

Development Standard	Zoning District	
	A-R	A-B
<i>Residential Primary Dwellings</i>		
Minimum Lot Area	80,000 square feet	40,000 square feet
Minimum Lot Width	200 feet	200 feet
Front Yard Setback	60 feet	60 feet
Side Yard Setback	General	20 feet
	Street Side	60 feet
Rear Yard Setback	100 feet	50 feet
Maximum Building Height	35 feet or 2.5 stories, whichever is less	
Minimum Floor Area	<ul style="list-style-type: none"> • One story with full basement: 1080 square feet on first floor. • Two story with full basement: 650 square feet on the first floor above grade and 1200 square feet total above grade. • All other units (including bi-level and tri-levels): 1200 square feet total living area (includes basement). 	
<i>Residential Accessory Buildings</i>		
Total Building Area	Under 200 Square feet	200 Square feet or larger
Front Yard	60 feet with Type I Buffer in front	60 feet with Type I Buffer in front
Rear Yard	0 feet	3 feet
Side Yard	3 feet	20 feet
Maximum Area	3 % of the total lot area or 2,400 square feet, whichever is less. <i>A Special Use Permit may be available for structures above 2,400 square feet; See Section 20.2</i>	
Maximum Height	20 feet, as measured in Section 2.3 (D)	
<i>Agricultural Buildings</i>		
Front Yard Setback	60 feet	
Side Yard Setback	60 feet	
Rear Yard Setback	General	40 feet
	Corner	60 feet
Maximum Building Height	None	
<i>Other Requirements</i>	Agricultural Buildings shall be considered and regulated as Accessory Buildings unless such a Building is owned, operated and maintained by the owner of the Farm upon which it is located; and used for purposes essential to the operation of the Farm upon which it is located.	

Farm Markets		
Front Yard Setback		40 feet
Side Yard Setback	General	20 feet
Rear Yard Setback	General	40 feet
Other Requirements	An on-site parking area is required. The number of required spaces shall be based on the requirements of Chapter 15 "Parking and Loading" for similar businesses. Such spaces are not required to be paved or improved as specified elsewhere in this Zoning Ordinance.	
Roadside Stands		
Front Yard Setback		20 feet
Side Yard Setback		20 feet
Other Requirements	<ul style="list-style-type: none"> • Must be accessory to a farm on the same lot. • Roadside stands must have an off-street parking area and adequate ingress and egress with an area to turn around. • One parking space is required per 200 square feet of sales area. No parking is allowed within the front yard setback. The parking area is not required to be paved. • Sales are limited to Agricultural and Rural products. 	

Section 5.5 Farm Accessory Dwellings

In the "A-B" Agricultural/Agri-Business zoning district only, not more than one (1) Farm Accessory Dwelling may be permitted if and only if the following conditions are met and maintained:

- A. There shall be a Single Family Dwelling located upon the farm.
- B. The Farm Accessory Dwelling shall be used for residential purposes only by those persons whose primary income is derived from the operation of the farm either as a member of the family occupying the Single Family Dwelling or as a full-time employee thereof.
- C. The Farm Accessory Dwelling shall be governed by the same setback and yard requirements as are stipulated by this Ordinance for Single Family Dwellings in the "A-B" Agricultural/Agri-Business zoning district.
- D. The Farm Accessory Dwelling shall have not less than 660 square feet of floor area.
- E. The Farm Accessory Dwelling shall meet all applicable Building Codes.

CHAPTER 6

Low Density Residential Zoning Districts

Section 6.1 Description and Purpose:

This Chapter presents the regulations of two Zoning Districts: the “RL-14” Single Family Residential and the “RL-10” Residential. The intent of these districts is to establish low-density residential neighborhoods. The difference between the two is the density that would be permitted in the district.

- A. **Single Family Residential (RL-14):** This zoning district is intended to establish and preserve single-family neighborhoods. It permits detached single-family dwellings and recreational, institutional, and educational uses that are both compatible with and convenient to the residents of the district.
- B. **Residential (RL-10):** This zoning district is similar to the RL-14 district as it is intended to establish and preserve predominantly single-family neighborhoods but at slightly higher densities.

In both Zoning Districts, there are additional uses that are compatible with the residential character of the district. In addition to the uses permitted in the two districts, such uses include housing for the elderly, assisted living facilities, and nursing homes. Due to their scale, the intent for these districts is that such uses be accomplished through the Planned Unit Development approval process.

Section 6.2 Table of Permitted Uses

The following abbreviations apply to the Table of Permitted Uses

P: The use is allowed by right in the district

SPU: The use is allowed only if the Planning Commission grants a Special Use Permit for it after finding for applicable standards in this chapter and Chapter 19.

NP: The use is not allowed in the district.

Use	Zoning Districts		Additional Regulations
	RL-14	RL-10	
Residential Uses			
Detached Single Family Dwelling	P	P	
Attached Accessory Dwelling	SPU	SPU	See Section 19.9 (D)
Two Family Dwelling	NP	P	Must have 80 feet of frontage on a primary arterial street, excluding any easements, or must abut property zoned Industrial or Commercial.
Residential Child and Adult Care Facilities	See Section 20.11 “Residential Child and Adult Day Care Facilities”		
Institutional Uses			
Nonprofit Organization	SPU	SPU	See Section 19.9
Place of Religious Worship	P	P	<ul style="list-style-type: none"> • Principal access must be from a primary arterial or collector street. • The minimum setback for front, side and rear yards is 50 feet. • Maximum lot coverage of all buildings or structures is 35%.
Schools	P	P	
Other Uses			
Home Occupations	P	P	See Section 20.7
Parks	P	P	
Bed and Breakfast	SPU	SPU	See Section 19.9 (E)
Outdoor Recreational Facilities	SPU	SPU	Specifically includes athletic grounds, nature preserves, golf courses, riding stables, and playgrounds. See Section 19.9 (L)
Public Libraries, Museums, and Community centers	SPU	SPU	See Section 19.9
Utility Substations, and Switching Stations	SPU	SPU	See Section 19.9
Private Cemetery or Burial Ground	SPU	SPU	See Section 19.9 (F)
Kennels	SPU	SPU	See Section 19.9 (J).

Section 6.3 Development Standards

Development Standard	Zoning District	
	RL-14	RL-10
Lot Size		
Single Family	14,000 square feet	10,000 square feet
Single Family (without public sewer)	21,780 square feet	21,780 square feet
Two-Family	n/a	12,000 square feet
Two-Family (without public sewer)	n/a	35,000 square feet
Lot Width		
Single Family	80 feet	80 feet
Single Family (without public sewer)	100 feet	100 feet
Two-Family	n/a	80 feet
Two-Family (without public sewer)	n/a	150 feet
Setbacks		
Front Yard Setback	35 feet	
Rear Yard Setback	35 feet	
Side Yard Setback	8 feet	
Reduced front and side setbacks may be authorized in RL-10 through the special land use process for properties within Sections 6 and 7 of the Township. See Section 4.20 Setback Averaging.		
Building Requirements		
Minimum Floor Area	Single Family dwellings	<ul style="list-style-type: none"> • One story with full basement: 1080 square feet on first floor. • Two story with full basement: 650 square feet on the first floor above grade and 1200 square feet total above grade. • All other units (including bi-level and tri-levels): 1200 square feet total living area (includes basement).
	Two Family Dwellings	<ul style="list-style-type: none"> • One story: 720 square feet per dwelling unit. • More than one story: 820 square feet per dwelling unit.
Maximum Building Height	35 feet or 2.5 stories, whichever is less.	

Residential Accessory Buildings		
Total Building Area	Under 200 Square feet	200 Square feet or larger
Front Yard	Not Permitted	Not Permitted
Rear Yard	0 feet	3 feet
Side Yard	3 feet	8 feet
Maximum Area	1.5 % of the total lot area or 1,200 square feet, whichever is less. <i>A Special Use Permit may be available for structures above 1,200 square feet; See Section 20.2</i>	
Maximum Height	16 feet, as measured in Section 2.3 (D)	
Additional Standards	<ul style="list-style-type: none"> a. Principal Dwelling: There must be a principal dwelling, or on under substantial construction, on the lot for an accessory building to be permitted. b. Architectural Character: The architectural character of all accessory buildings shall be compatible with and similar to the principal building. 	

Section 6.4 Additional Development Requirements for Plats and Site Condominium Developments

A. Housing Model Variety

1. A preliminary plat or a site condominium development shall have a variety of different types of house models. The following table indicates the minimum number of different types of house models for developments of various sizes:

Size of Plat or Site Condo Development	Minimum Number of House Models
3-8 units	2
9-19 units	3
20-49 units	4
50 or more units	5

2. Each house model shall have multiple characteristics that clearly distinguish it from the other house models, such as different exterior materials, rooflines, garage placement, architectural style, number of stories, and/or building face.
3. No more than two of the same house model can be located adjacent to one another.

4. The applicant must submit the elevations and floor plans for the models in a development with the preliminary plat application. The Planning Commission shall use the guidelines in Subsection 1 to decide whether a model constitutes a separate model. After the preliminary plat is approved, the Zoning Administrator or designee can approve additional models or changes to models.

B. Possible Reduced Minimum Lot Sizes in Plats and Site Condominiums that Include Parks, Open Spaces, and/or Trails.

The Township recognizes that parks, open spaces, and trails contribute to good neighborhoods. Therefore, the Planning Commission and Township Board can approve reduced minimum lot area and widths when land in a project is set aside as parks and/or open space if each finds that the inclusion of the parks, open spaces, or trails will contribute to a better overall development.

1. *Reduced Minimum Lot Requirements:* If the standards of the following Subsection 2 are met, the lot requirements for all or some of the lots in a development can be reduced to the following:

Zoning District	Reduced Minimum Lot Area	Reduced Minimum Lot Width
RL-10	8,000 square feet	70 feet
RL-14	11,200 square feet	70 feet

2. *Standards for When Reduced Minimum Lot Requirements Are Allowed:* Some or all of the lots in a development can be based on the above reduced minimum lot requirements in the following situations:
 - a. *If more than 10% of the site is designated for park or open space:* All the lots in a development can be based on the reduced lot requirement if the following standards are met:
 - i. Ten percent of the site, excluding wetlands and other undevelopable areas, must be developed as parks or preserved as open space.
 - ii. The intent is that the open space be designed to be easily accessible and provide recreational opportunities for all residents and not be the area left over after lots are situated. Therefore, all lots must be within 660 feet of a park and all parks/open space areas must have access to a street.
 - iii. All parks and open space must offer some type of recreational opportunities, whether active or passive. There must be a balance between parks offering active recreational opportunities (playgrounds, sports fields, etc.) and open space developed for passive recreational use. A community center can count as a park.
 - iv. The applicant must provide information for how the parks/open space will be maintained.

- b. *If less than 10% of the site is designated for parks and open space:* If the amount of park area is between 1% and 10% of the total site area, a percentage of the lots in a development can be based on the reduced minimum lot requirements:

Zoning District	Formula
RL-10	$x = \left(\frac{\text{Total Park Area in Square Feet}}{\text{Number of Units}} \div 2000 \right) \times 100$ <p>X = Permitted Percentage of Lots with Reduced Area</p>
RL-14	$x = \left(\frac{\text{Total Park Area in Square Feet}}{\text{Number of Units}} \div 2800 \right) \times 100$ <p>X = Permitted Percentage of Lots with Reduced Area</p>

*Example: If an applicant proposes to include 20,000 square feet of park area in a 40-lot development in the RL-10 zoning district, the minimum lot area for 25% of the lots would be 8000 square feet. ((20,000 square feet / 40 units) / 2000 square feet) * 100 = 25%.)*

The parks must meet the following standards:

- i. The parks must offer active recreational opportunities, such as playgrounds or sports fields.
- ii. A community center can count as a park.
- iii. The parks must be designed to be easily accessible to the residents of the development.

3. *Trails:* For properties located in the Non-Motorized Transportation Area as identified in the Township Master Plan, the Planning Commission and Township Board may allow up to 10% of the lots in a development to be based on the reduced minimum yard requirements if the developer constructs a portion of the trail system on the site. To receive the full 10% bonus, the constructed trail must substantially contribute to the non-motorized transportation network. The Planning Commission and Township Board may allow a lesser bonus where appropriate. If a site is outside of the identified Non-Motorized Transportation Area but the Planning Commission and Township Board find that a trail through the site is the best possible route, the Planning Commission and Township Board may still grant the bonus. The Planning Commission and Township Board must find that the trail construction standards are acceptable before granting the bonus.
4. Whenever reduced lot sizes are being requested, the applicant must include calculations as part of the application packet to support the proposed reductions.

CHAPTER 7

Medium and High Density Residential Zoning Districts

Section 7.1 Description and Purpose

This Chapter presents the regulations of two Zoning Districts: the “R-3” Multiple Family Residential” and the “R-4” Mobile Home. The intent of these districts is to establish medium and high density residential neighborhoods.

- A. **Multiple Family Residential – (R-3):** This zoning district is intended to provide a residential mix of one, two, and multiple family dwellings.
- B. **Mobile Home – (R-4):** This Zoning District is intended to establish neighborhood areas which because of site conditions, land use compatibility and the availability of necessary public services and facilities, are best suited to permit high density single-family residential development where Mobile Homes and similar manufactured Dwellings may be permitted as principal Dwellings.

Section 7.2 Table of Permitted Uses

The following abbreviations apply to the Table of Permitted Uses

- P: The use is permitted by right in the district
- SPU: The use is permitted only if the Planning Commission grants a Special Use Permit for it after finding for applicable standards in this chapter and Chapter 19.
- NP: The use is not permitted in the district.

Use	Zoning Districts		Additional Use Regulations
	R-3	R-4	
Residential Uses			
Detached Single Family Dwelling	P	NP	
Attached Accessory Dwelling	SPU	NP	See Section 19.9(D).
Two Family Dwelling	P	NP	
Three to Eight Unit Buildings	P	NP	Must be located no closer than one hundred (100) feet to any Single Family Dwelling for which a building permit was issued on or before February 16, 1982. Otherwise, requires a Special Use Permit per Chapter 19.
Nine to Sixteen Unit Buildings	SPU	NP	In addition to the requirements of Chapter 19, any building must be located no closer than one hundred (100) feet to any Single Family Dwelling for which a building permit was issued on or before February 16, 1982 and a minimum setback of 40

Gaines Charter Township – Zoning Ordinance

Use	Zoning Districts		Additional Use Regulations
	R-3	R-4	
			feet between buildings must be maintained.
Bed and Breakfasts	SPU	NP	See Section 19.9(E)
Mobile Home Parks	NP	P	Subject to Chapter 25 “Site Plan Review”
Residential Child and Adult Care Facilities	See Chapter 20.11 “Residential Child and Adult Day Care Facilities”		
Institutional Uses			
Private Cemetery or Burial Ground	SPU	NP	See Section 19.9(F).
Nonprofit Organization	SPU	NP	
Place of Religious Worship	P	P	<ul style="list-style-type: none"> • Principal access must be from a primary arterial or collector street. • The minimum setback for both side and rear yards is 50 feet. • Maximum lot coverage of buildings or structures is 35%.
Schools	P	P	
Home Occupations	P	P	See Section 20.8 “Home Occupations”
Public Libraries, Museums, and Community centers	SPU	NP	See Section 19.9.
Parks	P	P	
Outdoor recreational facilities	SPU	SPU	Specifically includes athletic fields, rinks or courts, golf courses, and similar activities – See Section 19.9(L).
Utility substations, and switching stations	SPU	SPU	See Section 19.9.

Section 7.3 Development Standards for the “R-3” Zoning District

Development Standard	Zoning District
	R-3
Minimum Lot Size (square feet)	
Single Family,	10,000
Single Family (without public sewer)	21,780
Two-Family	10,000
Three Units	15,000
Four Units	19,000
Five Units	22,500
Six units	25,500
Seven units	28,000
Eight units	30,000
Nine units	33,300
Ten units	36,000
Eleven units	38,500
Twelve units	40,800
Thirteen units	42,900
Fourteen units	44,800
Fifteen units	46,500

Gaines Charter Township – Zoning Ordinance

Development Standard	Zoning District
	R-3
Sixteen units	48,000
Minimum Lot Width (feet)	
Single Family	80
Single Family (without public sewer)	100
Two-Family	80
Three to Eight Unit	100
Nine to Sixteen Units	150
Minimum Setbacks (feet): One and Two Family	
Front	35
Side	8
Street Side	35
Rear	35
Reduced front and side setbacks may be authorized through the special land use process for properties within Sections 6 and 7 of the Township. See Section 4.20 Setback Averaging.	
Minimum Setbacks (feet): Multiple Family	
Front	35
Side	20
Street Side	35
Rear	50
Minimum Floor Area Requirements	
Single-family dwellings	<ul style="list-style-type: none"> • One story with full basement: 1080 square feet on first floor. • Two story with full basement: 650 square feet on the first floor above grade and 1200 square feet total above grade. • All other units (including bi-level and tri-levels): 1200 square feet total living area (includes basement).
Multi Family Dwellings	<ul style="list-style-type: none"> • One story: 720 square feet per dwelling unit. • More than one story: 820 square feet per dwelling unit.
Maximum Building Height	35 feet or 2.5 stories, whichever is less.

SECTION 7.4 Specific Development Standards for “R-4” Zoning District

All Mobile Home Parks shall be in conformance with all State laws and regulations governing Mobile Home Parks except as the same may be modified by the following conditions and requirements:

A. Setbacks and Buffers:

No Mobile Home or permanent Building shall be located closer than thirty-five (35) feet to a public right-of-way nor closer than ten (10) feet to: (1) another Mobile Home Park; or (2) a boundary line which is adjacent to or part of a Type II Buffer. In all other cases no Mobile Home or permanent Building shall be located closer than twenty (20) feet to the Mobile Home Park boundary line.

B. Minimum Site Area:

Each site within the Mobile Home Park shall have a minimum area of five thousand five hundred (5,500) square feet, provided; however, that said minimum site area may be reduced by not more than twenty percent (20%) if for each square foot of land gained through the reduction of the site below five thousand five hundred (5,500) square feet at least an equal amount of land shall be dedicated as open space.

C. Corner Sites:

No fence, Structure or planting over thirty (30) inches in height shall be located on any corner Mobile Home site within a triangle shaped area bounded on two sides by the edges of the adjacent internal roads and on the third side by a line drawn connecting the first two sides not less than forty (40) feet from the intersection of said interior street edges.

D. Street Requirements:

If two-way traffic is to be accommodated, the street pavement width shall be no less than twenty-four (24) feet. If only one-way traffic is to be accommodated, the street pavement width shall be no less than twenty (20) feet.

E. Parking Requirements:

Parking shall be provided in off-street parking bays with at least two (2) parking spaces for each site within the Mobile Home Park. Each parking space shall be not less than two hundred (200) square feet in area. Each parking bay shall be conveniently located in relation to the site for which it is provided. In addition to the two (2) required off-street parking spaces, one (1) additional parking space is permitted on each site provided it is hard surfaced and contains at least two hundred (200) square feet of area.

F. Access Streets:

Each Mobile Home Park shall be designed and located so that at least two (2) access streets provide a continuous route of travel throughout the park and provide exclusive access to a Primary arterial as designated on the Gaines Township General Development Plan, as amended. Except for restricted designated emergency exits, no ingress and egress shall be provided via neighborhood collectors, cul-de-sacs, or other local streets. No Mobile Home Park access street shall be located closer than one hundred twenty-five (125) feet to the intersection of any two (2) public streets; provided, however, that for double street or boulevard type access points the minimum distance to the intersection of any two (2) public streets shall be two hundred (200) feet.

G. Mobile Homes Sales:

The selling of new and/or used Dwellings as a commercial operation in connection with the operation of a Mobile Home Park is prohibited. Dwellings located on sites within the Mobile Home Park may be sold by the owner of the Dwelling or operator of the Park.

H. Underground Utilities:

All private and public utilities shall be installed underground.

I. Site Improvements:

Each dwelling shall be installed in accordance with the adopted Township Building Code, or in the case of mobile homes, shall be provided with a continuous pad of four (4) inches thick concrete running the full length and width of the mobile home or a twenty-

four (24) inch wide strip of concrete not less than six (6) inches total thickness beneath the entire perimeter of the mobile home with four (4) inches of compacted sand. In addition, each Mobile Home shall be installed pursuant to the manufacturer's set up instructions and pursuant to Rule 602 and 602(a) promulgated by the Michigan Mobile Home Commission. Each Mobile Home shall be secured to the premises by an anchoring system or device compatible with Rules 605 through 608 of the Michigan Mobile Home Commission. Skirting shall be installed along the base of each mobile home sufficient to hide the undercarriage and supports from view and conforming to the standards set forth in the rules of the Michigan Mobile Home Commission promulgated under 1976 Act 419, as amended.

J. Skirting:

Skirting shall be provided on all Mobile Homes and installed in accordance with the requirements of the Michigan Mobile Home Commission, R.125.1604, et seq., of the Michigan Administration Code.

K. Sidewalk:

Paved sidewalks shall be provided on both sides of all two-way Streets functioning as the main collector Street within the Mobile Home Park. Sidewalks shall be directly next to and parallel to the Street and may be used as curbs for the Street. All sidewalks shall be at least four (4) feet in width.

L. Streets and Parking Area:

All Streets and parking areas in a Mobile Home Park shall be paved with a hard surface which complies with the requirements of the Michigan Mobile Home Commission R.125.1922, et seq., of the Michigan Administrative Code.

M. Television Antennas:

Exterior television antennas shall not be permitted on individual Dwellings or Dwelling sites within a Mobile Home Park.

N. Ground Cover:

All exposed ground surfaces in the Mobile Home Park must be sodded, seeded, covered with ornamental stone, wood chips or other attractive ground cover. One (1) shade tree at least ten (10) feet in height when planted shall be provided for each two (2) sites.

O. Storage of Vehicles Other Than Automobiles:

The storage of campers, trailers, motor homes, boats, snowmobiles, and other Recreational Vehicles shall be permitted only in a Recreational Vehicle storage area designated for such use. Recreational Vehicle storage areas shall be screened by a solid-type screening device at least five (5) feet in height around its perimeter.

P. Miscellaneous Outside Storage:

The storage of any household personal items outside of any Dwelling is strictly prohibited except within an individual storage cabinet located upon the site or within a central storage area designated for such use. If storage cabinets or enclosed storage spaces are to be provided, not less than three hundred (300) cubic feet per Dwelling shall be devoted to such use. Individual accessory buildings or storage cabinets shall not cover

more than two and one-half percent (2-1/2%) of the site area. This section shall not prohibit the enclosed storage of household or personal items beneath a Mobile Home.

Q. Common Open Space:

Each Mobile Home Park shall contain an open space area dedicated to common park use which is equal to no less than the area of land gained through the site reduction specified in Section 12.5(B) herein or an amount equal to no less than that required by the Michigan Mobile Home Commission, R.125.1946, et. seq., of the Michigan Administrative Code, whichever is greater.

R. Building Construction:

All buildings shall be constructed, erected, or installed in accordance with provisions of the adopted Township Building Code pertaining to at-site constructed housing.

CHAPTER 8 Office and Commercial Zoning Districts

Section 8.1 Intent and Purpose

This Chapter presents the regulations of three Zoning Districts: the “O-S” Office Service, the “C-1” Neighborhood Commercial and the “C-2” General Commercial. The intent of these districts is to provide for the orderly development of these uses to meet the retail, service and employment needs of the Township’s residents and surrounding areas.

- A. **Office Service (O-S):** The Office Service Zoning District is intended for professional and business offices. It allows service, medical, technical and related office uses both to serve the area’s residents and in support of the industrial developments of the Township.
- B. **Neighborhood Commercial (C-1):** The Neighborhood Commercial Zoning District is intended for neighborhood commercial businesses and business offices. The uses in this district should be designed to provide goods and services primarily to meet the needs of the immediate neighborhood.
- C. **General Commercial (C-2):** The General Commercial zoning district is intended for more generalized commercial activities including office, highway commercial, regional and community based retail, and general business activities that service other businesses as well as the public.

Section 8.2 Table of Permitted Uses

The following abbreviations apply to the Table of Permitted Uses:

- P: The use is permitted by right in the district
- SPU: The use is allowed only if the Planning Commission grants a Special Use Permit for it after finding for applicable standards in this chapter and Chapter 19.
- NP: The use is not allowed at all in the district.

Use	Zoning District			Additional Requirements
	O-S	C-1	C-2	
Office				
Clinics	P			
Offices, without the sale of goods	P			
Research and Development, without manufacturing	P	NP	NP	
Service				
Bed and Breakfasts	SPU	SPU	SPU	See Section 19.9(E)
Contractors	NP	NP	P	
Financial Institutions	P			
Fitness Facility	P			
Funeral Home and Mortuary	P			
Hotels and Motels	NP	NP	P	
Personal Service Establishments	P			
Radio & Television Stations	P	NP	NP	
Studios for instruction, such as dance or music	P			

Gaines Charter Township – Zoning Ordinance

Use	Zoning District			Additional Requirements
	O-S	C-1	C-2	
Vehicle Repair, Major	NP	NP	P	Parcel must be located a minimum of 150 feet from Residential or Agricultural zoned parcel.
Vehicle Repair, Minor	NP	NP	P	
Vehicle Washes	NP	P	P	
Institutional, Recreational, and Utilities				
Assembly Building	SPU			See Chapter 19.
Residential Child and Adult Care Facilities	See Section 20.11 “Residential Child and Adult Day Care Facilities”			
Colleges and Universities	SPU			See Chapter 19.
Emergency Medical Centers	P	NP	NP	
Hospitals	SPU	NP	NP	See Chapter 19.
Municipal and Public Service Activities	SPU			See Chapter 19.
Nursing Homes	SPU	SPU	SPU	See Chapter 19.
Places of Religious Worship	SPU	SPU	SPU	See Section 19.9(G).
Schools	P			<ul style="list-style-type: none"> Principal access must be from a primary arterial or collector street. The minimum setback for both side and rear yards is 50 feet. Maximum lot coverage of all buildings or structures is 35%.
Public Utilities	SPU			See Chapter 19.
Retail				
Gasoline Service Station	NP	SPU	SPU	See Chapter 19.
Open Air Businesses	NP	NP	P	
Restaurants, without drive-thru	NP	P	P	
Restaurants, with drive-thru	NP	P	P	
Retail, Convenience	NP	P	P	
Retail, Low Intensity	NP	P	P	
Wholesale Establishments	NP	NP	SPU	See Chapter 19.
Theatres	NP	NP	P	
Vehicle Sales	NP	NP	P	

Section 8.3 Development Standards

Development Standard	Zoning District			Other Requirements
	O-S	C-1	C-2	
Minimum Lot Area	N/A	N/A		
Minimum Lot Width	100 feet	N/A		
Front Yard Setback	50 feet			Or the average of existing front yards within 300’ on the same side of the street, not less than 10’.
Side Yard Setback	General	15 feet		0’ setback if building is located on the lot line.

Development Standard	Zoning District			Other Requirements
	O-S	C-1	C-2	
If yard is adjacent to a “R” district	50 feet			
Street side of a corner lot	25 feet	35 feet		
Rear Yard Setback	General			
	25 feet			
	If yard is adjacent to a “R” district			
	50 feet			
Maximum Building Height	35 feet or 2.5 stories, whichever is less.			

Section 8.4 Additional Standards for O-S, C-1, and C-2 Zoning Districts

- A. **Outdoor Activity:**
With the exception of automobile parking and off-street parking, all business, service or processing shall be conducted wholly within a completely enclosed building, unless approved in advance as part of the Site Plan Review process.
- B. **Outdoor Storage:**
Any outdoor storage of materials or equipment shall only be permitted in areas approved in advance as part of the Site Plan Review process. They must be screened from the view of neighboring properties or from a street through the use of an approved landscaped screen, wall or solid fence. Materials or equipment cannot be visible above the screening. Outdoor storage is not permitted in any required yard that is adjacent to an “R” district or to a primary arterial street.
- C. **Sale of Goods:**
All goods sold shall consist of new merchandise or used merchandise which was acquired by the vendor as a trade-in for the sale of new merchandise.

CHAPTER 9 Industrial Zoning Districts

Section 9.1 Description and Purpose

The Township is committed to the continued growth and vitality of industrial businesses in the community where their location is appropriate because they provide employment for area residents and manufactured goods and services for the region. This chapter presents the regulations of the following two industrial zoning districts:

- A. **Light Industrial Zoning District (I-1):** This Zoning District is intended for industrial operations that do not generate significant obnoxious off-site effects, such as noise, vibration, and odor. Offices and support services convenient to the industrial workforce are also intended for this district. However, this district limits the number of commercial and office uses since the intent is that industrial uses are to be the predominant land use. Therefore, the Planning Commission must grant a special use permit for most commercial or office uses to be allowed.
- B. **Heavy Industrial Zoning District (I-2):** This Zoning District is intended for most all industrial uses, including those that could cause greater effects on the surrounding area due to the processing and handling of products and materials.

Section 9.2 Table of Permitted Uses

The following abbreviations apply to the Table of Permitted Uses

- P: The use is permitted by right in the district
- SPU: The use is allowed only if the Planning Commission grants a Special Use Permit for it after finding for applicable standards in this chapter and Chapter 19
- NP: The use is not allowed at all in the district.

Use	Zoning District		Additional Requirements
	I-1	I-2	
Industrial			
Central Dry Cleaning Plant	P	P	
Contractor’s yard	SPU	P	See Chapter 19.
Junkyards	NP	SPU	See Section 19.9(I).
Heavy Industrial Uses	NP	P	
Light Industrial Uses	P	P	
Recycling Facility	SPU	SPU	See Section 19.9(N).
Tool and Die	P	P	
Warehouse, Distribution	P	P	
Workshops and Custom Small Industry Uses	P	P	
Institutional and Utilities			
Heating and Electric Power Generating Plants	SPU	P	See Chapter 19.
Municipal and Public Service Activities	SPU	SPU	See Chapter 19.
Utility Substations, Transmission Lines and Switching Stations	P	P	

Section 9.2 Table of Permitted Uses (Continued)

Office			
Corporate Offices Associated with Industrial Operations	P	SPU	See Chapter 19.
Financial Institutions	SPU	SPU	See Chapter 19.
Office Buildings	SPU	NP	See Chapter 19.
Research and Development Facilities	P	P	
Trade or Industrial Schools	P	P	
Service			
Child Day Care Centers	SPU	SPU	See Chapter 20.
Fuel Depot	SPU	SPU	See Section 19.9(H).
Mini-warehouse and Personal Storage	P	SPU	See Chapter 19.
Motor Freight Terminal	P	P	
Printing and Publishing	P	P	
Commercial			
Adult-Oriented Business	NP	SPU	See Section 4.16
Lumberyards	SPU	SPU	See Chapter 19.
Truck tractor and trailer rental and sales	P	P	
Vehicle Repair, Minor	SPU	SPU	See Chapter 19.
Vehicle Repair, Major	P	P	
Wholesale Establishment	P	P	
Residential			
Dwellings existing on the effective date of the ordinance.	P	P	Must meet the yard requirements of the “RL-10” Residential Zoning District
New Residential Dwellings	NP	NP	
Probation, Parole, or Sex Offender Home	SPU	SPU	See Chapter 19.
Substance Abuse Rehabilitation Home	SPU	SPU	See Chapter 19.
Accessory and Support Uses			
Accessory facilities and activities customarily associated with or essential to permitted uses and operated incidental to the principal use.	P	P	

Section 9.3 Lot, Yard, and Building Requirements

Development Standard		Zoning District		Other Requirements
		I-1	I-2	
Minimum Lot Area		40,000 square feet	80,000 square feet	
Minimum Lot Width		200 feet		
Front Yard Setback	General	50 feet	75 feet	
	If yard is adjacent to a primary arterial street.	100 feet		
Side Yard Setback	General	15 feet	20 feet	
	If yard is adjacent to a “R” district	50 feet	100 feet	
	Street side of a corner lot	Same as front yard		
Rear Yard Setback	General	25 feet	50 feet	
	If yard is adjacent to a “R” district	50 feet	100 feet	
Maximum Building Height		60 feet		

Section 9.4 Performance Standards

Uses of land and buildings permitted in the Industrial Districts shall conform to the following Performance Standards and requirements at all times. The owner, or by qualified representatives of the owner, shall certify that all new operations or changes in operations are designed and intended to comply with these standards.

- A. **Outdoor activities:**
All permitted activities, other than parking, loading and storage, shall be conducted wholly within enclosed buildings.
- B. **Outdoor storage:**
Any outdoor storage of materials or equipment shall only be permitted in areas approved in advance as part of the site plan approval. They must be screened from the view of neighboring properties or from a street through the use of an approved landscaped screen, wall or solid fence. Materials or equipment cannot be visible above the screening. Outdoor storage is not permitted in any required yard that is adjacent to an “R” district or to a primary arterial street.
- C. **Odor, fumes, dust, glare, vibration or heat:**
No permitted activity shall emit or produce odor, fumes, smoke, particulates, dust, glare, vibration or heat that will adversely affect permitted uses on an adjacent property.
- D. **Noise:**
No permitted activity shall emit noise that is readily discernable to the average person in any adjacent residential zone district providing that air handling equipment in proper working conditions shall be deemed to comply with this provision if located on a roof with intervening noise reduction baffles or if located on the side of a building facing away from the residential zone.

- E. **Effluent:**
No permitted use shall discharge effluent of any kind onto or into the ground or in violation of sewage treatment regulations.
- F. **Electromagnetic radiation:**
No permitted use shall emit electromagnetic radiation which would adversely affect the operation of equipment beyond the confines of the building producing the effect.
- G. **Hazardous Material Management Plan:**
Any permitted activity that may present danger of fire, explosion or other catastrophe shall have a current Hazardous Material Management Plan, shall be reviewed and approved by the appropriate Fire Department and the Township Engineer and shall not represent any danger to property or persons beyond the property lines.
- H. **Other requirements:**
All uses shall conform to all other Township, County, State and Federal regulations pertaining to its operations.

CHAPTER 10

Planned Unit Development Zoning Districts

Section 10.1 Intent and Purpose

The Planned Unit Development (PUD) districts are intended to offer design flexibility for projects that further the goals of the Gaines Charter Township Master Plan but may not meet all of the specific regulations of this Ordinance. They are intended to permit flexibility in the normal use, area, and height, bulk, and placement standards of this Ordinance while affording reasonable protection to uses within and near the PUD district. For example, a Planned Unit Development rezoning could be used for a mixed-use village center or a neighborhood based on traditional neighborhood design principles. In addition to the general Planned Unit Development district, there are three specialized Planned Unit Development districts, each with standards and review processes designed to address specific land uses.

The submittal requirements and review standards of the PUD Chapters are intended to guide preparation of submittals and serve as the basis for the review by the Planning Commission and the Township Board. The standards are based on the following objectives:

- A. Encourage innovation and creativity in land use planning and development.
- B. Allow design flexibility that benefits the community and the environment and results in a better overall project than would be permitted under conventional zoning.
- C. Create neighborhoods with a variety of housing options and a mix of land uses.
- D. Create a package of amenities not typically achieved with conventional zoning, such as useable open space, preservation of key natural or historic resources, improvements to public roads or facilities, pathways, natural stormwater systems, more extensive landscaping, consistent and coordinated site design details among various projects (lighting, signs, building design, etc.) and high quality architectural design or materials.
- E. Encourage the use, redevelopment, and improvement of existing sites.
- F. Provide regulations for land uses that because of their character or size require a specialized review process.

Section 10.2 Types of Planned Unit Development Districts

There are four Planned Unit Development districts:

- A. **Planned Unit Development (PUD):**
General Planned Unit Development district (including the Industrial-Business Technology Planned Unit Development – the PUD-BT).
- B. **Planned Unit Development – Mineral Removal (PUD-MR):**
Regulates mining operations.

- C. **Planned Unit Development – Large Scale Phased (PUD-LSP):**
Regulates certain large-scale, phased land uses that are 160 acres or more in area.
- D. **Planned Unit Development – Open Space Preservation (PUD-OSP):**
Regulates clustered residential developments.

Section 10.3 Eligibility Criteria

Land considered for rezoning to the PUD District must satisfy all of the following requirements:

- A. **Recognizable Benefit:**
The Planned Unit Development must create a greater benefit to the Township than a development permitted under the conventional zoning of the property.
- B. **Minimum Required Area:**
 1. *General* – No Minimum Required Area.
 2. *Mobile Home Park* – 25 acres.
 3. *Industrial or Research Park* – 10 acres.
- C. **Coordination:**
A Planned Unit Development shall be under the control of one owner or unified group of owners and shall be capable of being planned and developed as one integral unit.

A Planned Unit Development initiated by the Township shall be capable of being developed in a coordinated manner. If a PUD is approved the requirements shall be transferred to all future owners, and any changes shall require approval of both the Township and the affected landowner(s) within the PUD.
- D. **Must meet the review standards as contained in Chapter 11.**

Section 10.4 Review Process

This Section describes the process to rezone property to a Planned Unit Development (PUD) Zoning District. This Chapter also governs the process for rezoning to the PUD-MR, PUD-LSP, and PUD-OSP zoning districts except where the chapters governing those Planned Unit Developments expressly provide otherwise.

PUD Approval Process	
<i>Step 1 – Planning Commission Review of Preliminary Plan</i>	
Submittal Requirements	Application and fees See Section 10.5 “Preliminary Plan – Submittal Requirements”
Review Standards	“Section 11.1 – Planned Unit Development General Review Standards”
Planning Commission Action	Review and recommended changes to be made before Final Plan review or if significant changes are required, table so applicant can make the changes to the Preliminary Plan

PUD Approval Process	
<i>Step 2 – Planning Commission Final Plan Review</i>	
Submittal Requirements	“See Section 10.6 – Final Plan Submittal Requirements” and “Section 25.3 – Applications – Submittal Requirements”
Public Hearing	Required
Review Standards	Section 11.1 “Planned Unit Development General Review Standards” and “Section 25.6 – Site Plan Review Standards”
Planning Commission Action	Prepare and adopt a resolution with a recommendation to approve, approve with conditions, or deny the requested PUD rezoning for the Township Board.
<i>Step 3 – Township Board Review of Final Plan and Rezoning Request</i>	
Public Hearing	Required.
Township Board Action at First Meeting	The Township Board shall review the Final Plan and the Planning Commission’s recommendation. If the Board has questions about or proposes changes to the conditions or other matters, it shall forward the proposed changes or questions to the Planning Commission.
Planning Commission Response (where applicable)	The Planning Commission shall consider comments from the Township Board and forward a written response back to the Township Board. The response shall answer any questions and state whether it agrees or disagrees with any recommended changes to the conditions of approval.
Township Board Action	The Township Board shall review the Final Plan and the PUD rezoning request according to the standards of review set forth in “Section 11.1 – Planned Unit Development General Review Standards” and “Section 25.6 – Site Plan Review Standards” and shall deny, approve, or approve with conditions the rezoning according to these standards following the procedures for rezoning set forth in Chapter 27.
<i>Step 4 – Review of Phases or Individual Buildings</i>	
Site Plan Review	Only required if it is made a condition of approval for the Planned Unit Development.
Public Hearing	The Planning Commission may choose to hold a public hearing.

Section 10.5 Preliminary Plan - Submittal Requirements

Applicants must submit the following information for the Planning Commission review of the Preliminary Plan. The Planning Commission may request additional information that it finds is reasonably necessary to evaluate the rezoning request. The Planning Commission may also waive any of the requirements, if it finds that information is not necessary to evaluate the rezoning request.

- A. **Rezoning Application.** On forms approved by the Planning Department.
- B. **Final Project Description.** Must include:
 - 1. Sketch of properties, streets and uses within 1/2 mile of the PUD.
 - 2. A narrative describing:
 - a. The overall objectives of the PUD.

- b. Proposed uses and accessory uses and the number of acres allocated to each use
 - c. Details about the design standards of the development
 - d. Method of financing.
 - e. Gross and net densities.
 - f. Description of access to site.
 - g. Proposed method of providing sewer and water service as well as other necessary public and private utilities.
 - h. Proposed method of providing storm drainage.
 - i. Environmentally sensitive areas and the effect on natural resources.
 - j. Beginning date of construction, length of construction, and any phasing.
3. Current proof of ownership of land to be rezoned or evidence of a contractual ability to acquire such land.

C. **Preliminary Plan.** A map to scale showing:

1. Location and area of the different types of uses.
2. All lots and property lines with dimensions.
3. Buildings, including buildings within 100 feet of the property line.
4. Building footprints or building envelopes if single family residential.
5. Setbacks for buildings.
6. Size, location, and uses of all areas devoted to open space or recreational uses.
7. Access points, streets, parking areas, and other transportation arrangements, including pedestrian, public transit and non-motorized transportation.
8. Existing vegetation, proposed landscaped areas, and buffer strips.
9. Wetlands and bodies of water.
10. Existing topographical contours at a minimum of 2-foot contours.
11. Easements benefiting or encumbering the sites.

D. **Development Impact Statement:** The Planning Commission may require the applicant prepare and submit a developmental impact statement. It must describe in detail the effects that the proposed development may have and how those effects can be mitigated. The Planning Commission can require that the development impact statement address any or all of the following:

1. Environmental factors, such as streams, rivers, air pollution, wetlands, and the quality of surface and ground waters.
2. Traffic congestion.

3. Local school systems.
4. Population in the surrounding area and the Township.
5. Additional costs to governmental units and school districts.
6. Aesthetic qualities and blighting influences, upon surrounding properties.
7. Noise, vibration, dust and dirt, litter, gas smoke, odor, light, and glare.
8. Public safety services.
9. Drainage.
10. Surrounding property values.
11. Sanitation, including water supply and sewage disposal.
12. Historical structures and places.
13. Archaeological sites and artifacts.
14. Wildlife and trees and forests.
15. Such other matters as the Planning Commission may request to be included.
16. The developmental impact statement shall, if requested by the Planning Commission, include statements and comments from the following public agencies or officials concerning any aspects of the proposed land use within their respective responsibilities and jurisdictions: County Health Department, County Road Commission, County Drain Commissioner, Department of Natural Resources, Department of Environmental Quality, Intermediate School District and local Board of Education, County Sheriff's Department, local Fire Department, and other agencies as determined appropriate by the Planning Commission.

Section 10.6 Final Plan – Submittal Requirements

Applicants must submit the following information for the Planning Commission review of the Final Plan. The Planning Commission may request additional information that it finds is reasonably necessary to evaluate the rezoning request. The Planning Commission may also waive any of the requirements, if it finds that information is not necessary to evaluate the rezoning request.

- A. All materials required by Chapter 25 “Site Plan Review” in addition to the information required in Section 10.4 “Preliminary Plan – Submittal Requirements.”
- B. Any change that the Planning Commission required in the Preliminary Review process.
- C. Architectural sketches and/or a general statement as to the type of construction and materials to be used in the proposed Buildings or Structures.

Section 10.7 Time Limits on Development

Construction must begin and be proceeding substantially and meaningfully within one (1) year of the effective date of the rezoning. The Planning Commission may grant an extension if the applicant presents reasonable evidence that the development has encountered unforeseen difficulties, but is now ready to proceed. If the applicant has not started the development within one year and the Planning Commission has not granted an extension, any building and other Township permits issued for the development shall be invalid. In addition, the Planning Commission may initiate proceedings to rezone the property.

Section 10.8 Performance Guarantees

The Planning Commission, in connection with its review of any final development plan, may as a condition of approval require reasonable performance guarantees to assure the development of the land in accordance with the approved final plan. Such guarantees may include, but shall not be limited to, entering into written agreements with the Township and providing a letter of credit or other performance guarantee in an amount and form which are acceptable to the Township.

Section 10.9 Required Improvements Before Issuance of an Occupancy Permit

The Planning Commission may require that improvements be constructed and completed before the issuance of a building permit or an occupancy permit. In the event that said improvements are partially completed to the point where occupancy would not impair the health, safety and general welfare of the residents, the Building Inspector may, upon the recommendation of the Planning Commission, grant a building permit or an occupancy permit so long as the developer deposits under Section 10.8 a performance guarantee with the Township in an amount equal to 125% of the cost of the improvements yet to be made. The improvements must be completed within one year of the date of the building permit or the occupancy permit.

Section 10.10 Phasing

Phasing must be specifically approved by the Township Board at the time of approval of the Planned Unit Development. The phasing of a Planned Unit Development may result in the exact uses and layouts for part of the development not being known at the time of application. In such cases, the applicant shall provide conceptual uses and layouts for the future phases of the project. When the future phases are ready to be built, the Planning Commission or the Site Plan Review Committee as required in the original approval shall review such phases using the requirements and standards of this Ordinance and the resolution approved for the Planned Unit Development. It shall approve the site plan if the plans are significantly similar to the approved conceptual layout for the phase and in keeping with the intent and regulations of the Planned Unit Development. If there are significant changes, the review of the phase shall be processed as a major amendment according to the requirements of Section 10.11 “Amendment Process.”

Section 10.11 Amendment Process

- A. **Amendments.** The applicant must notify the Planning Department in writing of any planned changes from the approved Final Plan before starting any construction in conflict with or deviation from the approved Final Plan. The applicant must include a site plan showing the proposed amendment with the application to amend the Final Plan.
- B. **Process.** The Township Planner or designee must determine whether the requested change to the approved Final PUD Site Plan is a minor or major amendment according to Subsection C. The Planner may approve minor amendments. The Planning Commission and Township Board must review and approve or deny major amendments. The Planner may consult with the Chair of the Planning Commission in determining whether a change is a major or a minor amendment. If the Township Planner chooses to not approve a requested minor amendment, the request shall be handled as a major amendment request under Section 10.11 (D) “Major Amendments.”
- C. **Minor Amendments.** Minor changes include:
1. For residential buildings, a reduction or increase by not more than 5% in the size of structures, provided that there is no increase in the number of dwelling units.
 2. For non-residential buildings, a reduction or increase by no more than 5% or 10,000 square feet, whichever is less, in gross floor area.
 3. A revision in floor plans, if consistent with the character in the area.
 4. The alteration of vertical elevations by no more than 5%.
 5. The relocation of building footprints by no more than 5 feet, unless the relocation infringes on a specific setback or separation distance imposed as a condition of PUD approval.
 6. An increase in size of areas designated on the approved Final PUD Site Plan as “not to be disturbed.”
 7. The substitution of plant materials included in the Final Development Plan, provided they are substituted by similar types of plants on a 1 to 1 or greater basis, as determined by the Planner.
 8. Improvements made to access and circulation systems, such as the addition of acceleration/deceleration lanes, boulevards, curbing, or bicycle/pedestrian paths.
 9. Changes made to exterior materials if the changes provide for the use of materials of equal or higher quality than those originally approved, as approved by the Planner.
 10. A reduction in the size of signs or an increase in sign setbacks.
 11. A change in the internal arrangement of parking spaces in a parking lot, if the total number of parking spaces is not reduced and circulation hazards or congestion is not created.
 12. A change in the name of the PUD or in the names of streets.

13. Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the PUD that are deemed by the Planner to be not significant in relation to the entire PUD and which the Planner determines would not have any significant adverse effect on adjacent or nearby lands or the public health, safety, or welfare.
- D. **Major Amendments.** The Township Board, with a recommendation from the Planning Commission, must review and approve or deny all major amendments. The Planning Commission may hold a public hearing at its discretion if it finds that the request warrants one. The Planner shall determine what information the applicant must submit with their request and can require the applicant to submit any of the items in Section 10.5 “Preliminary Plan – Submittal Requirements” and Section 10.6 “Final Plan-Submittal Requirements.” The Township Board can attach reasonable conditions to any major amendment approval.

Section 10.12 No Appeals to the Zoning Board of Appeals for a Planned Unit Development.

The Zoning Board of Appeals is without jurisdiction to accept appeals or grant variances from any Planned Unit Development provisions, approvals, or denials by the Township Board

CHAPTER 11

PUD – Review Standards

Section 11.1 Planned Unit Development - General Review Standards

This Chapter shall only apply to the Planned Unit Development (PUD) zoning district. This Chapter shall also govern the review standards for rezoning to the PUD-MR, PUD-LSP, PUD-BT and PUD-OSP zoning districts except where the chapters governing those Planned Unit Developments expressly provide otherwise. The Township Board and Planning Commission shall use the following standards in reviewing a Planned Unit Development rezoning request.

- A. **Consistency with Master Plan and Zoning Ordinance:** The Planned Unit Development must further the goals and objectives of the Township Master Plan and must be consistent with it. It must also be consistent with the intent and purpose of this Zoning Ordinance.
- B. **Aesthetics:** The Planned Unit Development must be aesthetically pleasing and be an integrated development with respect to building facades, building materials, landscape and berming, noise and visual screening mechanisms, and signs. It should contribute to creating a distinctive attractive community with a strong sense of place.
- C. **Compatibility with Adjacent Uses:** The Planned Unit Development must be compatible with surrounding uses. Efforts must be made to reduce any adverse effects on surrounding uses.
- D. **Density:** The density requirements of the proposed Planned Unit Development shall be based on the underlying land use district in the Master Plan. The Township Board, upon recommendation of the Planning Commission, may vary the density requirements if doing so would result in a development that better achieves the intent of the Master Plan.
- E. **Traffic:** The Planned Unit Development shall be designed to minimize the effect of traffic generated by the proposed development on surrounding uses. Consideration should be given to:
 - 1. The amount and type of traffic generated by the proposed project and capacity of existing and proposed streets to safely absorb that additional traffic.
 - 2. Whether the streets and pedestrian walkways within each project are designed to facilitate safe pedestrian and vehicular traffic flow patterns.
 - 3. All points of ingress and egress to the project shall be located and designed to maximize safety.
- F. **Protection of Natural Environment:** Each project shall be designed to minimize adverse effects on the environment. Special emphasis shall be placed on maintaining the quality of air, soils, groundwater, streams, wetlands, and rivers.

- G. **Schools:** Whether a project can be served by existing schools and school related facilities and the impact upon schools if the property is developed in accordance with the Planned Unit Development plans or in accordance with the conventional zoning district requirements shall both be considered. In addition, streets and pedestrian walkways shall be designed and located in any project to facilitate the ability of students to make the best and safest use of existing schools and school related facilities.
- H. **Public Facilities:** The Planning Commission shall consider the impact a project will have on:
1. Public safety and protection services.
 2. Water and sewer facilities.
 3. The costs for such services.
- Each project shall be designed and located so as to facilitate use of, access to, or the logical expansion or extension of existing facilities in order to minimize any adverse financial or other impact upon the Township and to promote public health and safety.
- I. **Water, Sewer, and Drainage Systems:** A Planned Unit Development shall be served by a public or private water and sanitary sewer systems. The Kent County Health Department and/or the Township Engineer must approve the systems. A PUD shall also have a drainage system for surface water run-off which the Kent County Drain Commission and / or the Township Engineer must approve.
- J. **Open Space:** The Planning Commission and Township Board should consider whether the PUD permanently preserves significant amounts of open space or significant natural features. The Township Board may require, upon recommendation of the Planning Commission, that natural amenities such as, but not limited to, ravines, rock outcrops, wooded areas, tree or shrub specimens, unique wildlife habitat, ponds, streams, and wetlands be preserved as part of the open space system.
- K. **Non-Motorized Trail Network:** Projects within an identified trail network corridor may be required to construct a portion of the trail.
- L. **Other Development Regulations:** Except as expressly authorized by the approval of the PUD Plan, all other regulations and requirements of this Zoning Ordinance shall apply. These regulations include but are not limited to parking, signs, landscaping and outdoor lighting.

Section 11.2 Industrial – Business Technology Specific Standards

- A. **Intent and Purpose:** The intent of the PUD-BT district as described in the Master Plan is to create a new industrial area in the southwest corner of the Township that focuses on technology-related office and industrial business opportunities. Facilities should be developed in harmony with the area’s natural features, adjacent land uses and in a scale and form to encourage pedestrian access. An essential part of the PUD-BT will be a road constructed at the centerline of Sections 31, 32, and 33 between Division and Kalamazoo

Avenues. This road will serve as the primary access for properties in this Zoning District.

B. Additional Eligibility Criteria:

1. Property must be located in the PUD-Business Technology district in the Master Plan.
2. Public water and public sewer must be provided for the site.

C. Permitted Uses

1. Research and development or testing laboratories.
2. Light industry, particularly those related to technology, scientific, and engineering capabilities, that has a minimal effect on adjacent properties and environment. If there is question about whether a use would qualify, the Planning Commission shall make that determination.
3. Medical facilities
4. Information technologies and data processing centers.
5. Executive, administrative, professional, accounting, or clerical office facilities
6. Engineering, architecture and design studios
7. Telecommunications organizations.
8. Computer programming and other software or computer services.
9. Training Centers.
10. Printing and publishing.
11. Motion picture and sound recording industries.
12. Warehouse.
13. Wholesale establishments. A maximum of 5% of the floor area can be devoted to retail.
14. Workshops and custom small industries.
15. Supporting uses, such as gyms or child-care.

D. Lot Requirements: Lots must meet the standards in the following table. To encourage flexibility and creativity, the Planning Commission may grant variations from the standards in this table as a part of the approval process. In order to grant such variations, the Planning Commission must find that a variation from the table would result in a higher quality development before granting the variation.

Development Standard		Minimum Requirement
Lot Area		80,000 square feet
Lot Width		200 feet
Front Yard Setback	With front yard parking	70 feet with front 25 feet landscaped.
	Without front yard parking	35 feet – must be landscaped.
Side Yard Setback	General	25 feet
	If yard is adjacent to an “R” or “A-R” district	50 feet
Rear Yard Setback	General	35 feet
	If yard is adjacent to an “R” or “A-R” district	100 feet but can be reduced to 50 feet if no use occurs in the rear yard.
Maximum Lot Coverage by Buildings		25%

E. Performance Standards:

1. *Outside Storage.* All manufacturing activities must be conducted within an enclosed building. External storage of materials is prohibited. Equipment may be located within the rear and side yard, provided it is completely screened from all streets and adjoining properties, except for drive openings, with a solid fence six feet in height. Vehicle parking is exempt from the equipment fencing requirement.
2. *Architectural Guidelines.* The front of each building and the sides of buildings facing streets shall be finished with face brick, or its equivalent, from finished grade to roof level, except that the Planning Commission may approve different materials if it finds them to be similar in character.
3. *Access Management.* The intent of the planned Business-Technology PUD district is for access to the properties within this district to be from a road to be built at the midpoint between 100th and 108th Streets. Businesses locating in this district are responsible for building the street. Access to properties should primarily be from this street.
4. *Landscaping.* Applicants are encouraged to provide a landscaped berm along the fronts of their properties in addition to the requirements of Chapter 16 “Landscaping Regulations.”
5. *Parking.* Parking must meet the requirements of Chapter 15 “Parking and Loading Regulations.” Parking is discouraged in the front yard.

CHAPTER 12

PUD – Mineral Removal

Section 12.1 Description and Purpose

The “PUD-MR” Planned Unit Development – Mineral Removal District is a Planned Unit Development zoning district established to authorize the planned removal, and in some cases processing, of mineral material. Rezoning to PUD-MR is required when mineral removal from a site exceeds a certain amount as specified in this Chapter on qualifying lands within the Township. The Township recognizes that mineral material is needed to develop and maintain the health, safety and general welfare of the Township, that mineral material is a limited resource, and that mineral material can only be removed from where it is found. The Township also recognizes that mineral removal may result in the loss of other Township resources, is generally incompatible with residential uses, has industrial-type characteristics, and creates the need for the reclamation of mined areas. This zoning district permits the use of qualifying land for mineral removal operations, but only after this proposed use of the land has been comprehensively reviewed and approved in the manner set forth below. This Chapter requires the reclamation of the land so that after completion, the land will be an asset to the community, rather than hazardous, unsightly, or unusable for purposes permitted under this Ordinance.

Section 12.2 Permitted Uses

Permitted uses in the PUD-MR District are:

- A. Agriculture, but not including any Buildings or Structures.
- B. Planned Mineral Removal.

Section 12.3 Eligibility Criteria

Land considered for rezoning to the PUD-MR District must satisfy all of the following requirements:

- A. **Minimum Size:** 20 acres.
- B. **Site Access.** The land must have direct access to a primary arterial street. Access must be by either:
 - 1. 66 feet of frontage on the primary arterial street. The land providing this access must be at least 66 feet wide at all points; or
 - 2. A 66-foot wide easement and right-of-way that benefits, is appurtenant to and runs with the land, and which permits general access to the land from the primary arterial street.

Land used to access the site must also be included in the PUD-MR district.

C. **Proximity to Residential District.** No portion of the land to be rezoned to PUD-MR may be closer than 1320 feet to any “R” District.

Section 12.4 Exclusive Method; Exceptions

This District is the exclusive method by which mineral material may be removed from lands located within the Township, except for the following situations:

A. **In General.** Mineral materials may be removed in the following quantities from any land in the Township without requiring a PUD-MR approval, subject to site plan approval by the Township Planner:

1. *A parcel between 0 and 5 acres in size – 5000 cubic yards in total*
2. *A parcel over 5 acres in size – 10,000 cubic yards in total*

The above limitations shall apply in a cumulative fashion regardless over what time period the removal of the mineral material may have occurred.

B. **Mineral Material Located in an Approved Plat or Approved Planned Unit Development or Pursuant to an Approved Special Use or Industrial or Commercial Site Plan Approval.** Up to 5,000 cubic yards of mineral material may be removed per acre from a property for which development has been approved by the Township as a plat, Planned Unit Development, or special use, or based on a site plan approval for an industrial or commercial use, provided that such mineral removal was also expressly approved by the Township as part of the approval process for that development. All such mineral material must be removed within 12 months of the date of final approval by the Township for the plat, PUD, site plan, or other development involved.

Section 12.5 Process

The following table describes the PUD-MR approval process:

PUD-MR Approval Process	
Step 1. Planning Commission Review of Preliminary Plan and Rezoning Request	
Submittal Requirements	<ul style="list-style-type: none"> • Rezoning Application (12 copies) • Project Description (12 copies) • Environmental Impact Assessment (12 copies) • End Use Description and Plan (12 copies) – See Section 12.8 “Approval of the End Use” • Application and Escrow Fees (See Section 12.6 “Preliminary Plan – Submittal Requirements for Step 1” for information about what is required for each item.)
Review Standards	Section 12.7 “Preliminary Plan – Review Standards for Step 1 and 2”
Public Hearing	Required.
Planning Commission action	Prepare and adopt a resolution with a recommendation to approve, approve with conditions, or deny the requested PUD-MR rezoning for the Township Board.
Step 2. Township Board Review of Preliminary Plan and Rezoning Request	

Table continued on next page	
Township Board Action at First Reading	The Township Board shall review the Planning Commission’s recommendation. If the Board has questions about the conditions or other matters, it shall forward those questions to the Planning Commission. If the Board proposes changes to the recommended conditions of approval, it shall forward changes to the Planning Commission.
Planning Commission Response	The Planning Commission shall consider comments from Township Board and forward a written response back to the Township Board. The response shall answer any questions and state whether it agrees or disagrees with any recommended changes to conditions of approval.
Township Board Action at Second Reading	The Township Board shall review the preliminary plan and the PUD-MR rezoning request according to the standards of review set forth in Section 12.7 and shall adopt a resolution to deny, approve, or approve with conditions the rezoning according to these standards following the procedures for rezoning set forth in Chapter 27.
Step 3. Final Mineral Plan –Review Operation and Restoration Plan	
Submittal Requirements	<ol style="list-style-type: none"> 1. <i>Final Mineral Plan</i> (see Section 12.8 “Final Mineral Removal Plan – Submittal Requirements for Step 3) <ul style="list-style-type: none"> • Must be submitted before any work at site can begin. • Must be submitted within one year of the effective date of the rezoning. 2. <i>Performance Guarantee</i> as required (see Section 12.10 “Performance Guarantee”)
Review Standards	Section 12.9 “Final Mineral Removal Plan – Review Standards and Operational Requirements”
Planning Commission Action	The Planning Commission shall approve, deny or approve with conditions the Final Mineral Removal Plan based on its conformance with the Preliminary Plan and the Final Mineral Removal Plan review standards.
Step 4. Annual Review of Operations	
Submittal Requirements	<p>Annual Operating Plan (see Section 12.11 “Annual Operating Plan – Submittal Requirements for Step 4”)</p> <p>Must be submitted each year by the submittal deadline for the regular January Planning Commission meeting. If the applicant submits the plan late, it shall be placed on the agenda for the next regular Planning Commission meeting if the agenda is not already full.</p> <p>Mineral removal operations cannot resume until the Planning Commission approves the Annual Operating Plan.</p>
Review Standards	See Section 12.12 “Annual Operating Plan–Review Standards for Step 4”
Public Hearing	The Planning Commission can hold an advisory public hearing. The applicant is responsible for the cost of the public hearing.
Planning Commission Action	The Planning Commission shall approve, deny or approve with conditions the Annual Operating Plan based on its conformance with the Annual Operating Plan review standards. The Planning Commission, or its designated subcommittee or agent, has the authority to inspect the site as a part of the review.

Section 12.6 Preliminary Plan - Submittal Requirements for Step 1

Applicants for a rezoning to the PUD-MR district must submit the following items to the Planning Department for the preliminary review:

- A. **Rezoning Application.** The rezoning application must be on forms provided by the Planning Department.
- B. **Project Description.** The project description must include the information required by Section 10.4 “Preliminary Plan – Submittal” and general information about mineral removal operations, including information on the following topics:
 - 1. Access to the site.
 - 2. Proposed buffers.
 - 3. Proposed methods for handling stormwater.
 - 4. Description of proposed on-site operations and the types of equipment that will be used.
 - 5. Efforts that the applicant will take to mitigate the adverse effects of the mineral removal operation, such as noise and dust.

The applicant can submit required information as a narrative or shown on plans.

- C. **Environmental Impact Assessment.** Must include the following information:
 - 1. A current aerial photograph displaying the area and all lands within 1320 feet of the site. The aerial map shall show the uses of the lands on the aerial map and the location of the various types and extent of existing natural features, such as soils, vegetation, and water bodies. Appropriate overlays at the scale of the aerial photograph may be used to depict topography, slope hazards, soils, vegetation, wildlife habitat, or any other information the Township reasonably requires in order to assess the environmental impact of the proposed mineral removal and restoration to an End-Use.
 - 2. A description of the various types and extent of existing major ground vegetation, particularly tree species, and endangered species found within the area proposed for mineral removal.
 - 3. A detailed description of any known, anticipated or likely adverse or detrimental effect upon any aspect of the community or element of the natural and built environment, with respect to both the site of the mineral removal and the surrounding area.
 - 4. A description of the type, quality, and amount of the mineral material at this site and of the current and potential market for the mineral material to be removed.
- D. **End Use Description.** The End Use Description must describe the proposed use(s), number of acres devoted to each use, projected number of units and density, utilities, methods for handling drainage, access to and within the site, and the zoning district to which the restored site is proposed to be rezoned. If the proposed End-Use is itself a Planned Unit Development to be approved together with the PUD-MR rezoning, the preliminary plan for the proposed End-Use shall include the content required by Section 10.4 “Preliminary Plan – Submissions and Content.”

Section 12.7 Preliminary Plan – Review Standards (Step 1 and Step 2)

The Planning Commission and Township Board shall review the preliminary plan and proposed PUD-MR rezoning based on the following standards:

- A. **Access.** Whether the Mineral Removal operation and proposed End-Use will have adequate and safe access from and onto the public streets of the Township, with particular reference to Vehicle and Pedestrian safety and convenience, traffic flow, frequency and control, dust management, traffic volume, and emergency access in case of fire or other catastrophe.
- B. **Storm Water Retention and Drainage.** Whether the site will have adequate and safe storm water retention capability, and whether the site will change drainage patterns or the amount of drainage going off the site during mining and for the End-Use.
- C. **Environmental Harm.** Whether the proposed mineral removal from the site will threaten any endangered or threatened species of plants or animals, or otherwise create an adverse or detrimental effect upon the environment. The Township can employ a consultant or consultants to assess the environmental effects. The applicant shall be responsible for the cost of the consultant(s).
- D. **Potential Harm Relative to the Value of the Mineral Material.** The value to the applicant and the public of the mineral material proposed to be removed from the site shall be balanced against any adverse effect of the proposed mineral removal from the site on adjacent property, the Township or the community, whether the adverse effect is on the natural or built environment.
- E. **Compatibility of Proposed End-Use.** Whether the proposed End-Use will be compatible with:
 - 1. The general purposes and requirements of this Ordinance, the Township’s Master Plan, and other ordinances, statutes and plans that regulate land development or uses in the Township.
 - 2. Adjoining properties.
 - 3. In the case of multiple uses on one site, whether the proposed uses will be compatible with one another.
- F. **Density and Intensity of End-Use.** Whether the density and intensity of the proposed End-Use is in conformance with the Township’s Master Plan.
- G. **Access to Utilities.** Whether the proposed End-Use will have adequate access to all public and private utilities necessary or desirable for its development.

- H. The general standards for a PUD contained in Chapter 11.1 “Planned Unit Development General Review Standards” and for a site plan in Chapter 25 must also be met for a PUD-MR.

Section 12.8 Approval of the End-Use

If it is clear that all mining and restoration will be fully completed pursuant to a PUD-MR within 7 years of the date of the PUD-MR approval, the applicant can, at its option, submit a request for an approval for a Planned Unit Development for a specific End-Use concurrent with the applicant’s application for a PUD-MR approval. In such case, the Planning Commission and Township Board shall have the option at the discretion of the Township of approving both a PUD-MR and a Planned Unit Development for a proposed End Use at the same time, with the End-Use PUD to be commenced upon completion of the mining and site restoration. Pursuant to such a concurrent approval, upon cessation of the mining and complete restoration having occurred, the PUD-MR shall cease and the PUD for the End-Use would commence. However, where such a concurrent approval has occurred and all mining and restoration has not been fully completed within 7 years, any End-Use approved as a Planned Unit Development at the same time the PUD-MR approval occurred would be null and void and the applicant would have to apply for a new End-Use Planned Unit Development approval or other rezoning.

If mining will not be completed within 7 years (or even if it will be completed within 7 years, but the applicant does not desire to pursue an End-Use Planned Unit Development approval at the same time when the PUD-MR is approved), the applicant must nevertheless still submit a conceptual plan for a proposed End-Use at the same time when the applicant files a PUD-MR approval request. In such case, even though mining ceases and restoration has been completed under the approved PUD-MR, the site will remain zoned PUD-MR (but dormant) until and unless the applicant receives approval from the Township for a Planned Unit Development for the End-Use or other rezoning approval. A conceptual End-Use plan submitted with a PUD-MR proposal (even if such End-Use plan is “approved” pursuant to the PUD-MR approval) shall not constitute an approved PUD or rezoning for the proposed End Use, and shall not accord the applicant any vested rights.

Section 12.9 Final Mineral Removal Plan – Submittal Requirements for Step 3

The Final Mineral Removal Plan must contain:

- A. **Map Drawing.** A map drawing of the site, or set of map drawings if necessary, done by a professional engineer, which meets the following specifications and containing the following information:
1. The name and address of the person responsible for preparing the Final Mineral Removal Plan shall be included. A Final Mineral Removal Plan shall also include the seal of any professional person involved in the preparation of it, the name and business address of the firm(s) of those professional person(s), and the date of

- preparation of the Final Mineral Removal Plan. Any revisions of the Final Mineral Removal Plan shall contain the revision date and number.
2. All lot or site lines shall be clearly drawn on the map and shall include, at a minimum, all bearings and dimensions mentioned in the legal description of the site.
 3. The general shape, size and location of all existing Structures on the site and on all adjoining properties.
 4. The location, pavement width, and right-of-way width of all abutting roads, Streets, Alleys, drives, or easements.
 5. The location and dimensions of all existing Buildings or Structures to be left on the site, all existing Buildings or Structures proposed to be removed or razed, and any proposed Buildings or Structures to be built or placed upon the site, including a description of the purpose or intended use of each Building, Structure, or part of the Building or Structure.
 6. All natural features including wetlands, streams, rivers, lakes, shoreline, wood lots, ditches and watercourses, and a topography map at a contour interval of not greater than 2 feet of elevation.
 7. The location and dimensions of all existing and proposed improvements on the site such as high tension towers, pipe lines, excavations, bridges, utilities, culverts, drains, docks, paths, parking areas.
 8. The location and size of all easements and rights-of-way for existing and proposed public utilities and any private on-site utilities such as provisions for lighting, sanitary sewage disposal, storm drainage and water supply.
 9. The size in acres and square feet of the site, both including and excluding road rights-of-way.
 10. The location and dimensions of all existing and proposed drives curb openings, signs and curbing.
 11. Shading indicating the extent of the area to be excavated on the site.
 12. Typical cross-sections showing the extent of overburden, the extent of mineral deposits, and the location of the water table.
 13. The location and direction of all watercourses and flood control channels that the excavation may affect, and areas to be used for ponds.
 14. The location of all mineral processing and storage areas.
 15. The location of all fencing and gates.
 16. The location of proposed berms and vegetative buffers, including descriptions of berms or buffers and cross-sections for the berms.

17. Additional information as the Planning Commission may request that is reasonably necessary to evaluate the proposed development of the site.
- B. **Operational Plan.** The operational plan shall include a narrative description of the proposed planned mineral removal together with the following information:
1. The date when the mineral removal is expected to begin and the date the mineral removal is expected to be completed.
 2. The proposed hours and days of operation.
 3. The estimated type and volume of mineral material to be removed (both in total and annually) and the location of same.
 4. The removal and processing methods, including a description of the number and type of all equipment expected to be used in the operation, and the noise rating of each type.
 5. Proposed slopes for banks of excavated materials.
 6. A description of the proposed measures to limit the dust generated by the mineral removal, including dust generated by the movement of vehicles on and off the site, and a description of the routes to be used by vehicles carrying the minerals off the site.
- C. **Site Restoration Plan.** The applicant shall provide a narrative description of the planned site restoration, including a description of the property after it is restored, the proposed grading for the restored site including maximum slopes (cannot exceed 1 foot of elevation for each 3 feet of horizontal distance), the methods that will be used to accomplish the restoration, the timing of the restoration, and the estimated costs of the restoration. The applicant must also provide a plan map showing the general outlines of the proposed restoration.
- D. Any other circumstances, matters, factors, or reasons that the applicant desires to offer or explain with respect to the Final Mineral Removal Plan.
- E. Any additional information required by the Planning Commission.

Section 12.10 Final Mineral Plan – Review Standards and Operational Requirements

The Final Mineral Removal Plan must demonstrate that the mineral removal operation will meet all of the following standards and requirements:

- A. **Beginning and Completion Date.** The date when the applicant expects to begin mineral removal must be within one year of approval of the Final Mineral Removal Plan. The completion date must be before the time limit required by Section 12.15 “Time Limit.”
- B. **Hours of Operation.** Mineral removal shall not be conducted as a 24 hour per day operation. The Planning Commission may establish reasonable hours and days of

operation, taking into consideration the needs and desires of neighbors and persons who live or work on the routes used by the vehicles engaged in the mineral removal.

C. **Setbacks for Mineral Removal Activity.**

1. *Mineral removal:* 100 feet from the edge of the PUD-MR District.
2. *Routes for the vehicles used for the mineral removal:* 50 feet from the edge of the PUD-MR District.
3. *Mineral removal:* 100 feet from a residential dwelling on any land not owned or within the possession of the applicant. This applies only for a dwelling which existed prior to the date of approval for the PUD-MR involved.

D. **Equipment Limits.** Equipment that emits noise louder than 85 decibels measured at a distance of 50 feet from the equipment when operating shall not be located closer than 1320 feet to the nearest occupied Building, except for beepers that are required by law. The Planning Commission may, at its discretion, approve an operational plan that allows equipment exceeding these noise limitations if the applicant's plan proposes to place a berm between the mineral removal operation and any occupied Building that is within 1320 feet of the planned mineral removal operation. Equipment can then be placed up to the base of the approved berm. The berm must be seeded, mulched and maintained to inhibit erosion. The slope on the outward side of the berm shall be graded to slopes of not greater than 1 foot of elevation for each 4 feet of horizontal distance, unless the Planning Commission approves an alternate slope. The berm shall be located above the source of the noise and its peak shall be at least up to the line of sight between the mineral removal operation and any occupied Building or Buildings located on adjoining property.

E. **Engine Brakes.** No engine brakes may be used within the mineral removal operation area.

F. **Excavated Material and Grading.** No mineral material or other excavated material shall be left in such a condition that it constitutes a danger to persons who may enter the mineral removal area. At a minimum, this means that all banks of excavated material shall be graded to slopes having a vertical to horizontal ratio of not greater than 1 foot of elevation for each 2 feet of horizontal distance after the end of daily operation. The Planning Commission may approve a less restrictive grading requirement if a substantially constructed fence is located on the site. The fence must meet all of the following standards:

1. Be at least 4 feet in height.
2. Be maintained and located so that any slopes steeper than 1 foot of elevation for each 2 feet of horizontal distance cannot inadvertently be approached by any person who may enter the mineral removal area.
3. The driveway to the mineral removal area has a gate of the same quality material and at the same height as the fence.

4. The gate shall be locked whenever mineral removal is not occurring.
- G. **Drives.** At least one driveway shall enter onto a primary arterial street. There must be a maintained landscaped area around the site entrance as shown on the approved Final Mineral Removal Plan.
- H. **Processing of Minerals; Storage of Materials From Other Sites.** Processing of mineral material (including, but not limited to, sorting, crushing, and mixing of minerals) can occur on the site but only if expressly approved by the Township as part of the PUD-MR. Mineral materials which have originated on or been mined from properties not included within the PUD-MR may be brought on site for processing, mixing, or storage only if expressly approved as part of the PUD-MR and as shown on the approved site plan. Pursuant to an approval for any such mineral materials brought on site from other properties, the applicant shall disclose amounts of such materials to be brought on site and the frequency of such deliveries to the site from outside, as well as the total amount of such mineral materials from other properties which will be stored on site at any one time. Reasonable conditions can be attached to any PUD-MR involving the processing of minerals and the storage or utilization of materials from other sites. Cement or batch plants or facilities shall not be present on any site.
- I. **Ponds or Lakes.** Ponds or lakes may be created pursuant to a Mineral Removal as long as any created or altered body of water is expressly approved as a part of the PUD-MR. Ponds or lakes which are to remain after mining has been completed shall be of a sufficient depth, size and configuration so that water does not become stagnate or putrid. During the time the mining is occurring, fencing around all such bodies of water shall occur to the extent reasonably necessary as to make the site safe as shown on the approved site plan. Furthermore, the applicant will be responsible for receiving any applicable approvals or permits from the state of Michigan.
- J. **Amount of Area Being Excavated at One Time.** For a given site involving a mining operation, no more than 20 acres shall be stripped of topsoil and open for mining at any one time unless a larger area is expressly approved by the Planning Commission as part of an Annual Review and the Planning Commission also finds that all of the following standards are met:
 1. Opening the larger area will not cause greater adverse impacts due to dust and noise than mining a smaller area.
 2. Opening the larger area will not cause greater adverse impacts in general to adverse impacts upon adjoining properties than mining a smaller area.
 3. The opening of a larger area will not conflict with the intent of the PUD-MR Chapter of this Ordinance or the Master Plan.

Section 12.11 Performance Guarantee

An applicant for a Final Mineral Removal Plan must submit a performance guarantee (i.e., letter of credit, security bond, or cash deposit) acceptable to the Township with the Township as the beneficiary in an amount that the Planning Commission reasonably requires before starting mineral removal. The performance guarantee shall be conditioned upon the timely and faithful performance by the applicant of all of the terms and conditions of the Final Mineral Removal Plan and any other Township requirements. The Planning Commission shall consider the following when establishing the amount of the security:

- A. The size, scope, and timing of the proposed mineral removal.
- B. The probable cost of site restoration in the event of default or other non-compliance with the Final Mineral Removal Plan.
- C. The estimated cost to the Township of compelling compliance with the Final Mineral Removal Plan and enforcing this performance guarantee by judicial proceedings or otherwise.
- D. Other facts and conditions as are relevant in determining an appropriate amount.

The applicant shall renew the performance guarantee and provide the Township with the renewed security document each year during the mineral removal operations until the site restoration is complete. The Planning Commission shall review the performance guarantee each year when reviewing the Annual Operating Plan, and may adjust the amount each year based upon the expected cost of relevant factors including site restoration according to the Site Restoration Plan at that time. Failure to maintain and timely renew this performance guarantee shall be a breach of a condition of the Final Mineral Removal Plan. No mining, processing or similar operations shall occur on site at any time when the required performance guarantee is not in effect.

Section 12.12 Annual Operating Plan – Submittal Requirements for Step 4

The Annual Operating Plan must include:

- A. **Map Drawing:** A map drawing showing the area to be mined during the upcoming year and the areas that have been mined or restored. The site plan must include the information required by Section 12.9 (A) “Map Drawing for the Final Mineral Removal Plan.”
- B. **Site Restoration Plan:** A Site Restoration Plan showing the area to be restored during the upcoming year, including the following information:
 - 1. Final grades for the land after restoration at a contour interval not exceeding 2 feet together with a description of the soil type if the final grade of any portion of the land is greater than 1 foot of elevation for each 3 feet of horizontal distance. All reclaimed areas shall have topsoil with a depth of at least 4 inches unless otherwise approved by the Planning Commission.

- C. **Operational Plan:** An Operational Plan for the area to be mined during the upcoming year that includes the information required by Section 12.9 (B) “Operational Plan for the Final Mineral Removal Plan.”

Section 12.13 Annual Operating Plan – Review Standards for Step 4

In determining whether to approve, approve with conditions or deny a proposed Annual Operating Plan, the Planning Commission shall consider:

- A. Whether the Annual Operating Plan conforms to the approved Final Mineral Removal Plan and the standards contained in Section 12.10 of this Ordinance.
- B. Whether the restored site as shown on the Site Restoration Plan meets the following requirements:
1. The topsoil shall be stabilized with plantings or Structures to prevent erosion. All restored areas shall have topsoil to a depth of at least 4 inches, unless otherwise approved by the Planning Commission.
 2. Plantings of grasses, shrubs, trees and other vegetation shall be located on the site to maximize erosion protection, screen less attractive areas, and enhance the natural beauty of the site.
 3. No storage or dumping of stumps, boulders or other debris shall be permitted on the restored site.
 4. Final surface water drainage courses and areas of surface water retention shall be laid out and constructed at such locations and in such manner as to enhance the End-Use, and so that the original drainage patterns and amount of drainage off the site is not changed.
- C. Whether the site is in compliance with previous Annual Operating Plans.

Section 12.14 If the Annual Operating Plan is Denied

If the Planning Commission denies the Annual Operating Plan, the applicant shall have an opportunity to submit a revised Annual Operating Plan. The applicant must submit the revised Annual Operating Plan within 30 days of the Planning Commission’s denial. If the applicant does not submit a revised Annual Operating Plan or the Planning Commission denies the revised Annual Operating Plan, all mining, processing and related activity shall cease and the applicant must promptly restore the site according the approved Final Mineral Removal Plan and the Site Restoration Plan approved with the last approved Annual Operating Plan.

Section 12.15 Time Limits

Unless a lesser time limit is imposed as a condition of approval, mineral removal within an approved PUD-MR must be complete within seven (7) years of the beginning date of mineral removal operations as stated in the approved Final Mineral Removal Plan. The Township Board, upon a recommendation from the Planning Commission, can approve at its discretion one or more 2-year time extensions (but no more than four such 2-year extensions in total). Except as otherwise provided by a plan approved by the Township, full and complete restoration must occur within one (1) year of the cessation of mineral removal operations. The Township Board and Planning Commission shall consider the following standards when deciding whether to approve a time extension request:

- A. Whether the site complies with all requirements of this Ordinance and the Final Mineral Removal Plan and latest Annual Operating Plan.
- B. Whether there is a history of non-compliance with the requirements of this Chapter.
- C. Whether the applicant has proceeded diligently with mineral removal and restoration of the site.
- D. Whether the extension will create substantial adverse effects on adjacent properties, the environment, or the Township in general because of traffic, pollution, dust, noise or any other reason.

The Planning Commission may hold a Public Hearing when considering a time extension request if deemed in the public interest. Conditions may be attached to any time extension that is in addition to or different from those contained in the original approval.

Section 12.16 Completion of Mineral Removal; Beginning of an Approved End Use

After Planned Mineral Removal has been completed, the Township Engineer and Planner shall inspect the site or any portion of the site to determine whether the site or portion of the site has been fully restored according to the approved Site Restoration Plan. The Township may employ an outside consultant or consultants to inspect the site. The applicant shall pay the cost of the outside consultant(s). Upon receipt of a letter confirming compliance from the Planning Department, the applicant may develop the restored site or portion of the site according to the approved End-Use PUD if the End-Use PUD was approved at the time of rezoning to the PUD-MR District. Where approval of an End-Use as a PUD did not occur at the time of rezoning to the PUD-MR District or since that time, the applicant may apply for a rezoning for a Planned Unit Development or other appropriate zoning district.

Section 12.17 Change of Final Mineral Removal Plan or Annual Operating Plan

The Final Mineral Removal Plan or the Annual Operating Plan, including all conditions imposed upon either, shall remain unchanged except upon the mutual written consent of the Planning Commission and the applicant. If an applicant requests a change in the Final Mineral Removal

Plan or Annual Operating Plan, the Planning Commission shall decide whether the proposed change warrants a complete or partial review. In the case of a minor deviation that neither affects the intent of the approved plan nor violates any ordinance or statute, the Planner may approve field changes on behalf of the Township, who shall then advise the Planning Commission of all such changes in writing. The Planning Department shall maintain a record of all changes to the Final Mineral Removal Plan or Annual Operating Plan.

Section 12.18 Change of an Earlier Approved End Use for the PUD-MR District

If an applicant does not desire to develop the End-Use for a site according to the Planned Unit Development for an End-Use approved when the property was rezoned to the PUD-MR District, the applicant may request a different rezoning of the property according to the provisions of Chapter 27. Where there already exists an approved PUD for an End-Use, the Township shall not be required to rezone the site to another zoning designation unless it cannot be reasonably developed for the approved End-Use PUD, but the Township shall consider the new rezoning request according to the provisions of this Ordinance.

Section 12.19 Termination of Final Mineral Removal Plan Approval

A Final Mineral Removal Plan shall be valid for one (1) year from the date of approval. Final Mineral Removal Plan Approval shall automatically terminate in the following situations:

- A. **Failure to begin:** If mineral removal has not started within the one-year period, the Final Mineral Removal Plan approval shall automatically terminate.
- B. **Failure to meet conditions:** If the applicant has not satisfied a condition attached to the approval of the Final Mineral Removal Plan within the time limit included in the condition or, if no limit was included, within the one-year period, the Planning Commission may revoke the Final Mineral Removal Plan approval upon finding that the condition has not been satisfied after holding a hearing with the applicant. The Planning Department shall notify the applicant in writing of the time, date and place of the hearing at least 10 days prior to any hearings.

Nothing provided in this Section shall be construed to prevent an applicant from reapplying for Final Mineral Removal Plan approval after the termination or revocation of a Final Mineral Removal Plan.

Section 12.20 Termination of PUD-MR Zoning Upon Failure To Submit, Receive or Retain Approval For A Final Mineral Removal Plan

If an applicant does not submit a Final Mineral Removal Plan within one year of the PUD-MR rezoning or if the Planning Commission has approved a Final Mineral Removal Plan but subsequently revokes it pursuant to the provisions of Section 12.19, the Township shall be free to

rezone the land back to its prior zoning district designation or another zoning designation. The provisions of this Section shall not limit the Township’s authority to consider rezoning of the site or any portion of the site at any other time or to any other District in accordance with law.

Section 12.21 Applicability to Existing Approved PUD-MR’s

Existing PUD-MR’s with an approved Final Mineral Removal Plan must apply for approval of an Annual Operating Plan per the requirements of Step 4 “Annual Operating Plan” in Section 12.5 “Process.” Existing PUD-MR’s without an approved Final Mineral Removal Plan or where the Final Mineral Removal Plan has expired, must apply for Final Mineral Removal Plan approval per the requirements of Step 3 “Final Plan – Review Operation Plan” in Section 12.5 “Process.”

Section 12.22 Definitions

The words and phrases described in this paragraph shall have the following meanings:

- A. **End-Use.** A use or uses of lands that were formerly used, in whole or in part, for planned mineral removal.
- B. **Mineral Material.** Soil, dirt, clay, earth, sand, gravel, coal, gypsum, limestone, or any combination of them or other solid minerals, whether occurring naturally or artificially.
- C. **Mineral Removal.** The mining, extracting, excavating for, processing, removal and/or transport of mineral material, and other activities conducted for the purpose of the removal of mineral material, and the restoration, reclamation and improvement of lands after the removal of mineral material where all of these activities involve the final removal of more than 5000 cubic yards of mineral material per any 3 contiguous acres of qualifying lands within the Township.
- D. **Planned Mineral Removal.** The mining, extracting, excavating for, processing, removal and transport of mineral material, and other activities conducted for the purpose of the removal of mineral material, and the restoration, reclamation and improvement of lands after the removal of mineral material, where the same are accomplished in accordance with a plan submitted, considered and approved as a PUD-MR in accordance with this Chapter.
- E. **Restoration.** The process or act of causing land which has been mined (or where mining has occurred or ceased) to be put into a state appropriate for an End-Use or for open space or agricultural use. This process is governed by this Chapter.

CHAPTER 13

PUD– Large Scale Phased

Section 13.1 Description and Purpose

Some projects are of such a large scale (160 acres or more in area) that flexibility beyond that provided in the Planned Unit Development Zoning District is needed. The Planned Unit Development – Large Scale Phased (PUD-LSP) Zoning District is intended to provide the extra flexibility necessary to promote and control single-owner large scale phased developments. The PUD-LSP Zoning District allows a degree of flexibility in the use, area, height, bulk and placement regulations of this Ordinance, and, in addition, provides flexibility in the preliminary planning of large scale developments, the time over which the development may occur, and the final approval of each phase of the development. This District is intended to permit and promote large scale phased developments which by their very nature are significant contributors to the economic, social, and general well being of the community.

The PUD-LSP District can provide the following benefits:

- A. To encourage developers to use a more creative and imaginative approach in the development of their land which will provide more efficient design, preserve the natural character of open fields, stands of trees, brooks, ponds, floodplains, hills and similar natural assets, and create a more desirable living, shopping and working environment.
- B. To allow phased construction with the knowledge that subsequent phases will be developed consistently with earlier phases and under the review of the Planning Commission in accordance with the provisions of this Chapter.
- C. To encourage development of large scale phased developments in coordination with private and public development of services, utilities and transport, which can be more efficiently and timely planned when master planning a larger area.

Section 13.2 Permitted Uses

The permitted uses are:

- A. Airports
- B. Colleges
- C. Hospitals and their related clinics and facilities
- D. Industrial complexes
- E. Recreational facilities and parks

Section 13.3 Eligibility Criteria

Land considered for rezoning to the PUD District must satisfy all of the following requirements:

- A. **Recognizable Benefit:** The Planned Unit Development must create a greater benefit to the Township than a development permitted under the conventional zoning of the property.
- B. **Minimum Area:** 160 Acres
- C. **Coordination:**
 - 1. A Planned Unit Development shall be under the control of one owner or unified group of owners and shall be capable of being planned and developed as one integral unit.
 - 2. A Planned Unit Development initiated by the Township shall be capable of being developed in a coordinated manner.

If a PUD is approved the requirements shall be transferred to all future owners, and any changes shall require approval of both the Township and the affected landowners within the PUD.

Section 13.4 Process

PUD-LSP Approval Process	
Step 1. Planning Commission Review of Preliminary Plan and Rezoning Request	
Submittal Requirements	Rezoning Application (12 copies) Project Description (12 copies) Conceptual Layout (12 copies) Development Impact Statement (12 copies)– if required (See Section 10.5 (D)) Application and Escrow Fees See Section 13.5 “Preliminary Plan Submittal Requirements” for information about what is required for each item.
Review Standards	Section “11.1” “Planned Unit Development Review Standards”
Public Hearing	Required
Planning Commission action	Prepare and adopt a resolution with a recommendation to approve, approve with conditions, or deny the requested PUD-LSP rezoning for the Township Board.
Step 2. Township Board Review of Preliminary Plan and Rezoning Request	
Township Board Action at First Meeting (where applicable)	The Township Board shall review the Final Plan and the Planning Commission’s recommendation. If the Board has questions about or proposes changes to the conditions or other matters, it shall forward the proposed changes or questions to the Planning Commission.
Planning Commission Response (where applicable)	The Planning Commission shall consider comments from Township Board and forward a written response back to the Township Board. The response shall answer any questions and state whether they agree or disagree with any recommended changes to conditions of approval.
Township Board Action	The Township Board shall review the preliminary plan and the rezoning request according to the standards of review set forth in Section 11.1 “Planned Unit Development Review Standards” and shall deny, approve, or approve with conditions the rezoning according to these standards following the procedures for rezoning set forth in Chapter 27.
Step 3. Final Development Plan	
Submittal Requirements	The applicant must submit a Final Development Plan for each phase before development on it can begin. The Final Development Plan must include all the information required for a Final PUD Plan (See Section 10.6 “Final Plan –

	Submittal Requirements”).
Review Standards	Section 13.7 “Final Development Plan – Review Standards”
Public Hearing	The Planning Commission may choose to hold a public hearing.
Planning Commission Action	The Planning Commission shall approve, deny or approve with conditions the Final Development Plan based on its conformance with the Preliminary Plan and the review standards in Section 13.7 “Final Development Plan – Review Standards”

Section 13.5 Preliminary Plan - Submittal Requirements

Applicants for a rezoning to the PUD-LSP district must submit the following items to the Planning Department for the preliminary review:

- A. **Rezoning Application.** On forms provided by the Planning Department.
- B. **Project Description.** Including:
 - 1. A sketch of properties, streets and uses within 1/2 mile of the land proposed to be rezoned to PUD-LSP.
 - 2. A narrative describing the overall objectives of the applicant with respect to the development of the land proposed to be rezoned to PUD-LSP which must be consistent with permitted uses in the PUD-LSP Zoning District and the purpose and objectives of the District. This narrative shall contain, at a minimum, a statement as to the type of use proposed (which must be one of the permitted uses set forth in this Chapter), as well as all expected accessory uses, representations as to design standards for the development, and the expected needs of the development, both in terms of time and capacity, for sewer and water services, as well as other public and private utilities and transport.
 - 3. A description of all aspects of the objectives for the use of the land area which might have positive or adverse effects on public health, safety and welfare.
 - 4. Current proof of ownership of the land proposed to be rezoned to PUD-LSP, or evidence of a contractual ability to acquire such land, such as an option or purchase contract.
- C. **Conceptual Layout:** A sketch of the uses and buildings proposed to be developed within the property to be rezoned to PUD-LSP.
- D. The Planning Commission may request information that it finds is reasonably necessary to evaluate the development of the land proposed to be rezoned to PUD-LSP and its effect on the surrounding neighborhood and the Township in general. The Planning Commission may waive any of the above requirements upon a determination that the same is not reasonably necessary to evaluate the development of the land proposed to be rezoned to PUD-LSP and its effect on the surrounding neighborhood and the Township in general.

Section 13.6 Time Limits on Acquisition of Property after Rezoning

The applicant must acquire all land included in a rezoning of land to PUD-LSP within one (1) year of the effective date of the rezoning. The Planning Commission may grant an extension if the applicant presents reasonable evidence that such purchase has encountered unforeseen difficulties, but that it is proceeding diligently. If the applicant does not request an extension after one year or if the time extension requested is denied, the Planning Commission may initiate a rezoning of the land not acquired. Furthermore, if the Planning Commission determines that the unacquired land is essential to the proper development of all or any part of the land rezoned to PUD-LSP, the Planning Commission may initiate proceedings to rezone all or any portion of the land that the applicant included in the original rezoning. In making its determination as to whether the unacquired land is essential to the proper development of all or any part of the acquired land which was rezoned to PUD-LSP, the Planning Commission shall consider the effect of the failure to acquire the land on the preliminary development plan, including but not limited to a review of whether:

- A. All of the acquired land is contiguous,
- B. The acquired land meets the minimum size requirements for the zone,
- C. The acquired land may be developed consistently with the stated objectives for the use of the land, and
- D. The failure to acquire the land may have adverse effects on the surrounding properties and the public health, safety and welfare.

The Planning Commission may consider additional factors so long as they are reasonably related to the evaluation of the effect of the Applicant's failure to acquire land included in the original rezoning.

Section 13.7 Final Development Plan – Review Standards

In addition to the standards of review of the Planning Commission as set forth in Chapter 25 "Site Plan Review" of this Ordinance, the Planning Commission shall review the Final Development Plan for each phase of PUD-LSP development in accordance with the following:

- A. The final development plan's compatibility with and adherence to the objectives and representations of the applicant in the Preliminary Development Plan.
- B. Ingress and egress to the property and proposed Buildings and Structures thereon, with particular reference to Vehicle and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
- C. Off-street parking and loading areas where required, with particular reference to the items in subparagraph B, above,
- D. The economic, noise, glare, or odor effects of each use in the phase.
- E. Refuse and service areas, with particular reference to the items listed in subparagraphs B and C above.
- F. Utilities, with reference to locations, availability and compatibility.

- G. Screening and buffering with reference to type, dimensions and character, and their relation to neighboring uses and properties.
- H. Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect and compatibility and harmony with adjoining properties and properties in the proposed phase.
- I. Yards and other open spaces.
- J. General compatibility with adjoining properties including properties in the PUD-LSP zone.
- K. The purpose of this Ordinance, as well as compatibility with other ordinances and statutes which regulate land development.
- L. Additional matters may be considered by the Planning Commission upon a finding by the Planning Commission that they are reasonably necessary to a proper evaluation of the final development and the Township in general. The Planning Commission may waive review of any of the above standards upon a finding by the Planning Commission that same is not reasonably necessary to an evaluation of the final development plan for the phase and its effect on the surrounding neighborhood and the Township in general.

Section 13.8 Performance Guarantee

The Planning Commission, in connection with its review of any final development plan, may as a condition of approval require reasonable performance guarantees to assure the development of the land in accordance with the approved final development plan. Such guarantees may include, but shall not be limited to, entering into written agreements with the Township and the providing of a letter of credit in a form and amount acceptable to the Township.

Section 13.9 Time Limits

Each phase shall be under substantial construction within one (1) year after the Planning Commission approves the final development plan for the phase. If this requirement is not met, the Planning Commission may grant an extension provided the Developer presents reasonable evidence that said development has encountered unforeseen difficulties, but is now ready to proceed diligently.

If construction has not begun in one year and the Planning Commission has not granted an extension, the approval for the final development plan by the Planning Commission shall expire, and any Township permits issued for said development shall be invalid. The Applicant may proceed with development of the phase only if the Applicant resubmits the final development plan to the Planning Commission or submits a new final development plan for the phase to the Planning Commission in accordance with the provisions of this Chapter and obtains approval for the same.

Section 13.10 Changes to a Final Development Plan

The process and review standards for amending a Final Development Plan in a PUD-LSP District shall be the same as for a Final PUD Plan in a General PUD District, as described in Section 10.11 “Amendment Process.”

CHAPTER 14

PUD – Open Space Preservation

Section 14.1 Intent and Purpose

The provisions of this Chapter are intended to carry out the provisions of Public Act No. 177 of 2001, as amended, being MCLA 125.286h et seq. (“Act No. 177”). In order for a landowner to exercise the open space preservation option of that statute, the land involved must be rezoned to a Planned Unit Development (“PUD”) zoning designation pursuant to this Chapter and all of the requirements of this chapter must be met. In addition, the PUD provisions of Chapter 10 and Chapter 11 of this Ordinance shall also apply except to the extent that an express provision of this Chapter modifies the PUD process. Act No. 177 requires that townships having a population of 1,800 or more and which have a zoning ordinance must adopt provisions in their zoning ordinances known as “open space preservation” provisions, which permit lands satisfying certain criteria to be developed, at the option of the landowner, with the same number of dwellings on a portion of the land specified in the zoning ordinance, but not more than 50%, that, as determined by the townships could otherwise be developed under existing ordinances, laws, and rules on the entire land area. The purpose of this Chapter is to adopt open space preservation provisions consistent with the requirements of Act No. 177.

Section 14.2 Definitions

For purposes of this Chapter, the following definitions shall apply:

- A. “Land zoned for residential development” shall mean any land located in the “A-R” Agricultural/ Rural Residential, “RL-14” Residential, or “RL-10” Residential zoning districts pursuant to this Ordinance.
- B. “Act No. 177” shall mean Public Act No. 177 of 2001, as amended, being MCLA 125.286h et seq.

Section 14.3 Eligibility Criteria

- A. Land may be developed pursuant to the provisions of this Chapter and Act No. 177 only if all of the following requirements and conditions are met:
 - 1. The land is located in the A-R Agricultural/Rural-Residential, RL-14 Residential, or RL-10 Residential zoning districts pursuant to this Zoning Ordinance;
 - 2. The development of land pursuant to this Chapter shall not depend upon the extension of a public sanitary sewer or a public water supply system to the land, unless the development of the land without the exercise of the clustering or open space option provided for by this Chapter would also depend on such extension; and

3. The clustering or open space option provided pursuant to this Chapter shall not have previously been exercised with respect to the same land.
- B. If all of the preceding conditions and requirements listed in this Section 14.3 are satisfied, the land may be developed, at the option of the landowner, in accordance with the provisions and requirements of this Chapter.

Section 14.4 Permitted Uses

Only those residential land uses permitted by the zoning district in which the land is located shall be permitted on land developed or used pursuant to the provisions of this Chapter.

Section 14.5 Process

Only land located in the A-R Agricultural / Rural-Residential, RL-14 Residential, or RL-10 Residential zoning districts is eligible for the open space preservation option provided for in this Chapter and pursuant to Act No. 177. Should the owner of a property within the A-R Agricultural / Rural-Residential, RL-14 Residential, or RL-10 Residential zoning districts desire to take advantage of such option, the landowner must apply for a PUD rezoning approval pursuant to the procedural requirements of Chapter 10. Once the land is zoned for a PUD pursuant to this Chapter, it will be deemed a “Residential-Open Space Preservation PUD.” All of the normal minimum lot size, setback, road frontage, lot width, width-to-depth ratio, and other dimensional, frontage, and area requirements governing the development of land within the zoning district where the land is located shall apply except to the extent that such standards are expressly varied pursuant to this Chapter or where the Planning Commission and Township Board approve such a variation pursuant to the PUD approval process.

Section 14.6 Application and Review Procedure

- A. The application requirements and review procedures for land proposed to be developed pursuant to the provisions of this Chapter shall be those stated in Chapter 10 “Planned Unit Development Zoning Districts” and Chapter 25 “Site Plan Review” of this Ordinance, governing site plans and Planned Unit Developments, except as otherwise expressly provided in this Section 14.6 and this Chapter.
- B. In addition to the application materials required by Chapter 10 “Planned Unit Development Zoning Districts” and Chapter 25 “Site Plan Review” of this Ordinance, an application for the development of land under the provisions of this Chapter shall also include the following:
1. *The Existing Zoning Plan.* The applicant shall prepare and submit to the Township a site plan for the purpose of demonstrating the number and location of dwelling units that could be developed on the land at issue under its existing zoning if the clustering or open space option provided for by this Chapter were not exercised. The Existing Zoning Plan may be conceptual in nature, but shall include at least the following information:

- a. Date, north arrow and scale, which shall not be more than 1" = 100', and, in all cases, the scale shall be the same as that utilized for the site development plan illustrating the proposed development using the clustering option permitted by this Chapter.
 - b. Location of all streets and driveways, existing and proposed.
 - c. Location of all lots, illustrating lot area, frontage, and the width of each lot to demonstrate compliance with the minimum requirements of the applicable zoning district.
 - d. Location of all utilities that would be necessary to serve a development under the Existing Zoning Plan and which would not be located within any public road right-of-way or private street easement, or on buildable lots. Such utilities include, but are not limited to, storm water retention or detention basins, community sewage treatment systems and community water supply facilities.
 - e. If development under the Existing Zoning Plan would require the use of septic tanks and drain fields, the Existing Zoning Plan shall illustrate the location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot would be approved, or has been approved, by the Kent County Health Department.
 - f. The location of all portions of the land that are unbuildable for residential purposes due to the presence of wetlands, severe slopes, flood plains, or other features prohibiting development for residential purposes.
 - g. If any portion of the land has frontage on a lake, river, or street, the Existing Zoning Plan shall show each such body of water, as well as the number and location of dwelling units that could be developed with frontage on or access to each such body of water under existing zoning if the open space or clustering option provided for by this Chapter were not exercised.
2. *The Site Development Plan* The applicant shall also submit a site plan for the open space or clustering option permitted by this Chapter, which, in addition to the site plan requirements specified by Chapter 10 "Planned Unit Development Zoning Districts" and Chapter 25 "Site Plan Review" of this Ordinance, shall also include all of the following information:
- a. Date, north arrow and scale, which shall not be more than 1" = 100', and, in all cases, the scale shall be the same as that utilized for the Existing Zoning Plan.
 - b. The site development plan shall clearly illustrate the portions of the land that are proposed to remain in a perpetually undeveloped state and the portions of the land that will be used for clustered development.

- c. The site development plan shall indicate the total number of acres of land that are proposed to remain in a perpetually undeveloped state, the total number of acres of land that are proposed to be used for cluster development, and the percentage of each, as compared to the total site acreage.
 - d. The site development plan shall illustrate the location of all lots and proposed building envelopes and shall indicate the lot area, frontage, and width of each lot, and the proposed front, side and rear yard building setbacks. The number of lots on the site development plan shall not exceed the number of lots on the Existing Zoning Plan, as approved by the Planning Commission, and reduced to accommodate non-dwelling structures, if necessary, as described later in this Chapter.
 - e. The site development plan shall also illustrate the location and type of all proposed structures or improvements that are not dwellings.
 - f. If the proposed clustered development will include septic tanks and drain fields, the site development plan shall illustrate the location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot has been approved by the Kent County Health Department.
 - g. If the development is to be served by public streets, proof that the Kent County Road Commission has approved the design, layout and construction of the streets.
 - h. If any portion of the land has frontage on a lake, river, or street, the site development plan shall show the proposed location and number of dwelling units with proposed frontage on or access to a body of water.
 - i. The location of any proposed private street(s).
 - j. The site development plan shall demonstrate that each of the proposed residential lots and proposed building envelopes is “buildable” and fully suited for the construction and use of a single-family residential dwelling.
3. *Developable Area.* When reviewing an application submitted under the terms of this Chapter, the Planning Commission shall determine whether the Existing Zoning Plan accurately reflects the number and location of dwelling units that could be developed on the land under its existing zoning if the clustering or open space option provided by this Chapter were not exercised. If the Planning Commission determines that the number and/or location of dwellings shown on the Existing Zoning Plan exceeds the number of dwellings that could be permitted or developed on the land if it were developed under its existing zoning if the clustering or open space option provided by this Chapter were not exercised (or the locations are not accurate), the applicant shall submit a revised Existing Zoning Plan which accurately reflects the number and location of dwellings which could have been developed under existing zoning if the Act No. 177 option

were not exercised pursuant to this Chapter. For purposes of determining the number and location of dwellings that would have been permitted or developed on the land under its existing zoning if the clustering or open space option were not exercised, the following shall be deemed land not developable and shall be excluded from the formula of determining otherwise developable land area under existing ordinances:

- a. Wetlands as defined by Michigan law.
 - b. Land located under a lake, pond, river, or stream.
 - c. Land with slopes exceeding 15%.
 - d. Land for which an on-site private septic system or private well could not be utilized under Kent County Health Department regulations.
 - e. Land located within a flood plain or which is subject to periodic flooding.
4. *The Restrictions Document.* The applicant shall submit a copy of the proposed deed restrictions, restrictive covenants, conservation easement, plat dedication, or other legal document which the applicant proposes to utilize if the proposed open space or cluster development is approved pursuant to this Chapter and which would have the legal effect of preserving in perpetuity the open space required by this Chapter in an undeveloped state. Such document shall be reviewed and approved by the Township and the Township Attorney (as to form and content) prior to recording. At a minimum, the document(s) shall provide for all of the following:
- a. Indicate the proposed permitted use(s) of the undeveloped open space.
 - b. Require that the open space be maintained forever in an undeveloped condition, without buildings, structures, or other improvements, except such drainage improvements, utilities, riding trails, hiking trails, picnic areas, park or playground equipment, growing of crops, agricultural structures, or similar improvements which are approved by the Planning Commission.
 - c. Require that the undeveloped open space be maintained by the parties who have an ownership interest in it.
 - d. Provide standards for scheduled maintenance of the undeveloped open space, including necessary pruning and harvesting of trees and new plantings.

The approved restrictions document shall be fully executed by all of the owner(s) of the land and shall be recorded with the Kent County Register of Deeds before any lots are sold and before any building permits are issued.

5. If the site development plan complies and all aspects of the proposed development satisfy all requirements of this Chapter, the Planning Commission and Township Board shall approve the site development plan and the Planned Unit Development rezoning for the proposed development.

Section 14.7 Requirements for Open Space

- A. **Required Open Space.** At least 50%, but no more than 80%, of the land proposed for development under the provisions of this Chapter shall remain in a perpetually undeveloped state (i.e., “open space”) by means of a conservation easement, plat dedication, restrictive covenant, or other legal instrument that runs with the land as approved by the Township Board (upon recommendation by the Planning Commission) and the Township Attorney.
- B. **Lands to be Set Aside as Open Space.** It shall be the Township Board (upon recommendation from the Planning Commission) that determines which 50% or more of the land shall be set aside for open space, as well as which portion or portions of the land may be developed. At the discretion of the Township Board (upon recommendation from the Planning Commission), the land to be set aside as permanent open space need not be contiguous. The Township Board (upon recommendation from the Planning Commission) shall also determine what percentage of the total land area (between 50% and 80%) shall be set aside as permanent open space.
- C. The following areas shall not constitute open space and may not be utilized to satisfy the open space requirement:
1. Any areas located within or under any public street easement or right-of-way.
 2. Property located under or within any private street or road easement.
 3. The land located under or the area within any easement for overhead utility lines.
 4. The area within a platted lot or site condominium unit.
 5. Off-street parking areas.
 6. Detention and retention ponds.
 7. Community drain fields.
 8. The lands or area located underneath a lake, pond, river, or stream.
 9. The area within a wetland as defined by Michigan law.
 10. Lands with slopes exceeding 15%.
 11. Areas subject to flooding or within a flood plain.
- D. **Standards for Open Space.** The following standards shall apply to the open space required pursuant to this Chapter:
1. The open space shall not include a golf course.
 2. The open space may include a recreational trail, picnic area, children’s play area, greenway, linear park, an agricultural use or other use which, as determined by the Planning Commission, is substantially similar to these uses.

3. The open space shall be available for all residents of the development, subject to reasonable rules and regulations. The open space may be, but is not required to be, dedicated to the use of the public.
 4. If the land contains a lake, stream or other body of water, the Planning Commission may require that a portion of the open space abut the body of water.
 5. A portion of the open space shall be located along the public street frontage abutting the land. The depth of this area shall be at least 50 feet, not including public right-of-way, and this area shall be left in its natural condition or be landscaped to help to preserve or enhance the existing views.
 6. A portion of the open space shall be reasonably useable by the residents of the land for passive recreational uses such as hiking or picnicking.
 7. Open space shall be located so as to be reasonably accessible to the residents of the development. Safe and convenient pedestrian access points to the open space from the interior of the clustered development shall be provided.
 8. Open space shall be located so as to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, wetlands or agricultural land.
- E. **Use of Open Space.** All dwelling units and other structures and improvements shall be located outside that portion of the land designated as open space. However, the Township Board (upon recommendation by the Planning Commission), at its discretion, may permit structures or improvements to be located in the open space if the structures and/or improvements would be consistent with the designated purpose of the open space. By way of example only, park or playground equipment could be permitted on open space designated for recreational use, or agricultural structures could be permitted on open space designated for agricultural use.

Section 14.8 Individual Lots, Streets, and Other Improvements; Miscellaneous Provisions

- A. **Underlying Zoning District.** The development of land under this Chapter shall comply with all requirements of this Ordinance applicable to the zoning district in which the land is located, except those setback, area, lot width to depth ratio, and yard size requirements that must be adjusted to allow the clustering option permitted under this Chapter where approved by the Township Board (upon recommendation from the Planning Commission).
- B. **Uniform Lot Size.** Lots for dwellings in the clustered portion of the development shall be as uniform in area as is reasonably practicable, unless otherwise approved by the Township Board (upon recommendation from the Planning Commission).
- C. **Building Envelopes.** The location and area of building envelopes, as proposed by the applicant, shall be subject to the review and approval of the Township Board (upon recommendation from the Planning Commission). The location and area of building

envelopes shall be established to achieve the intent and purpose of the zoning district in which the land is located.

- D. **Required Street Frontage.** Each lot shall have a minimum of at least 60 feet of frontage on a lawful street, measured at the street right-of-way line.
- E. **Lot Width.** Each lot shall have a minimum width equal to no less than 1/2 the minimum lot width specified for the zoning district in which the land is located, unless otherwise approved by the Township Board (upon recommendation from the Planning Commission). If there is a conflict between Subsection D “Required Street Frontage” and Subsection E “Lot Width”, the greater requirement shall apply. Notwithstanding the provisions of this subsection, each lot which abuts or has frontage on a lake, river, stream or creek shall have frontage on such body of water equal to or greater than the minimum lot width requirement for the zoning district in which the land is located.
- F. **Maximum Number of Lots.** The clustered portion of the development shall contain no more than the maximum number of lots, as determined from the Existing Zoning Plan approved by the Planning Commission and Township Board, and as reduced to reflect the inclusion of nondwelling unit structures, if any, as described in Subsection H.
- G. **Nondwelling Unit Structures.** Lots containing nondwelling structures such as a clubhouse and its related amenities shall be subject to all requirements of this Chapter applicable to lots containing dwellings and shall further be subject to all other requirements of this Ordinance and other Township ordinances applicable to the type of structure proposed. However, the Township Board (upon recommendation by the Planning Commission) may, at its discretion, permit the enlargement of a lot containing a nondwelling structure so as to reasonably accommodate it.
- H. **Reduction in Lots for Nondwelling Structures.** If structures other than dwellings, such as a clubhouse, are constructed on a lot in the clustered portion of the land, the number of dwelling lots permitted in the clustered portion of the land shall be reduced as follows:
1. The area of a lot or lots occupied by nondwelling structures shall be calculated and then divided by the average area of a dwelling lot that could be situated in the clustered development if the nondwelling structures were not included in the clustered development, as determined from the approved Existing Zoning Plan. If this number is a fraction, it shall be rounded up to the nearest whole number.
 2. The number calculated under Subsection (1) shall be subtracted from the number of dwelling lots that could be permitted in the clustered development in the absence of the nondwelling structures, as determined from the approved Existing Zoning Plan, in order to determine the maximum number of dwelling lots permitted to be included in the clustered portion of the development with the nondwelling structures included.
- I. **Perimeter Lots.** Notwithstanding any other provision of this Chapter, the Township Board (upon recommendation from the Planning Commission) may require that the clustered development be designed and constructed with lot sizes and setbacks on the

perimeter that will be reasonably consistent with the lot sizes and setbacks of adjacent uses (planned or existing).

- J. **Sidewalks.** The Township Board (upon recommendation from the Planning Commission) may require sidewalks.
- K. **Grading.** Grading within the clustered development shall comply with the following requirements:
1. To preserve the natural appearance of the land, all graded areas, cuts and fills shall be kept to a minimum. Specific requirements may be placed by the Township Board on the area of land to be graded or to be used for building, and on the size, height, and angles of cut-and-fill slopes and the shape thereof. Retaining walls may be required by the Township Board.
 2. All areas indicated as open space on the approved development plan shall be undisturbed by grading, excavating, structures or otherwise, except as permitted by the Township Board (upon recommendation from the Planning Commission). Drainage improvements, utility lines, riding trails, hiking trails, picnic areas, and similar recreational improvements and amenities may be placed in open space areas if approved by the Township Board (upon recommendation from the Planning Commission).
 3. Grading within the clustered development shall be planned and carried out so as to avoid erosion, pollution, flooding or other adverse effects upon the land, and so as to have only such minimal effect upon lakes, streams, wetlands, and the environmental characteristics of the land as may be reasonably feasible.
- L. **Private Streets.** Private streets within a clustered development shall conform to the private street requirements (and approval process) of this Ordinance or any other applicable Township ordinance. The Township Board (upon recommendation from the Planning Commission) may, however, modify the requirements for private streets and in doing so, shall consider the following criteria:
1. The number and type of dwelling units served by the private street; traffic generation;
 2. Existing topography and vegetation;
 3. Security provisions;
 4. Inter-relationship with the public street network;
 5. Future installation of public utilities; and
 6. Likelihood of public dedication of the roadway.
- M. **Other Laws.** The development of land under this Chapter is subject to all other applicable Township ordinances, and state and federal laws, rules and regulations, including, but not limited to, rules relating to suitability of groundwater for on-site water supply for land not served by a public water system, and rules relating to the suitability of soils for on-site sewage disposal for land not served by public sanitary sewers.

N Access to or Frontage on Lakes and Streams.

1. An approved Residential Open Space Preservation PUD or other approved development pursuant to Act No. 177 and this Chapter, shall comply fully with the lake access, frontage, and other requirements contained in this Ordinance with regards to lakes, rivers and streams if the property at issue has frontage on a lake, river or stream.
2. No approved Residential – Open Space Preservation PUD or other development approved pursuant to Act No. 177 and this Chapter shall permit any more lots or dwellings to have access to or frontage upon a lake, river or stream than would be otherwise legally permissible under existing zoning.

O. County Drain Commissioner Approval. Any matters involved with drainage, retention/detention ponds, water runoff, and similar matters associated with any proposed development pursuant to this Chapter shall require the approval of the Kent County Drain Commissioner and shall be subject to the applicable rules and regulations of the same.

Section 14.9 Amendments to an Approved Residential-Open Space PUD

The process and review standards for amending a Final Development Plan in a PUD-OSP District shall be the same as for a Final PUD Plan in a General PUD District, as described in Section 10.11 “Amendment Process.”

Section 14.10 Performance Guarantees

The Planning Commission, in connection with its review of any final development plan, may as a condition of approval require reasonable performance guarantees to assure the development of the land in accordance with the approved final plan. Such guarantees may include, but shall not be limited to, entering into written agreements with the Township and providing a letter of credit or other performance guarantee in an amount and form which are acceptable to the Township.

Section 14.11 Time Limitations for Development

Each development approved and permitted pursuant to this Chapter shall be under substantial construction within one (1) year after the date of approval of the site plan and PUD by the Planning Commission and Township Board. If this requirement is not met, the Planning Commission may, at its discretion, grant an extension not exceeding one (1) year, provided that the applicant submits reasonable evidence showing that unforeseen difficulties or special circumstances have occurred which caused excusable delay in the commencement of the cluster or open space development. If the approved development has not been commenced within the above-stated time period or any authorized extension thereof, any zoning permits and building permits issued for the development or any part thereof shall be of no further effect. The applicant shall then be required to seek a new approval (as if starting over again) from the Planning Commission and Township Board pursuant to the requirements of this Chapter.

Section 14.12 Savings Clause

If for any reason a court of competent jurisdiction determines that the Township cannot require an applicant to obtain a PUD rezoning approval as a prerequisite for exercising the clustering or open space/preservation development option pursuant to Act No. 177 or this Chapter, all other procedures and requirements of this Chapter shall remain applicable, including the site plan approval requirements of Chapter 25 “Site Plan Review” of this Ordinance. If a court of competent jurisdiction determines that zone district(s) in addition to those listed in Section 14.2(A) of this Chapter are considered “lands zoned for residential development,” the requirements of this Chapter shall apply to the lands in such additional zone district(s).

CHAPTER 15 Parking and Loading Regulations

Section 15.1 Purpose

The parking and circulation aspects of all developments should be designed to minimize their impact on neighboring properties and be well designed with regard to safety, efficiency, and convenience for pedestrians and vehicles. To do so, this section prescribes two types of regulations. First, it sets requirements for the number of parking spaces by use to provide reasonable protection to adjacent land uses from light, noise, stormwater runoff, and other effects of parking. Second, it contains regulations for the design of parking lots to ensure that they are safe, efficient, and convenient for pedestrians and vehicles and to minimize their impact on neighboring properties.

Section 15.2 General Requirements by Use

In all Zoning Districts, there shall be provided, before any Building or Structure is occupied, or is enlarged or increased in capacity, off-street parking spaces or parking area for motor Vehicles as follows:

Use	Minimum Requirement
Residential	
One and Two Family Dwellings	1 per unit
Multiple Family Dwellings <ul style="list-style-type: none"> • One Bedroom • Two Bedroom or more 	<ul style="list-style-type: none"> • 1.5 per unit • 2 per unit
Mobile Homes in a Mobile Home Park	2 per site. In addition to the two (2) required off-street parking spaces, one (1) additional parking space is permitted on each site provided it is hard surfaced and contains at least two hundred (200) square feet of area.
Housing for the Elderly <ul style="list-style-type: none"> • Independent Living Units • Convalescent, Nursing Home 	<ul style="list-style-type: none"> • 1.5 per unit • 1 per 2 beds plus 1 per employee
Institutional	
Churches, Synagogues, Temples, Mosques	1 per 4 seats
Health Facilities <ul style="list-style-type: none"> • Hospitals • Outpatient Care Facilities 	<ul style="list-style-type: none"> • 1.75 per bed • 2 per exam room plus 1 per lab or recovery room plus 1 per employee
Group Day Care	1 per employee plus 1/8 licensed capacity
Libraries, Museums, Art Galleries	2.5 per 1000 square feet gross floor area
Schools <ul style="list-style-type: none"> • Elementary and Middle • Secondary 	<ul style="list-style-type: none"> • 2 per classroom plus 1 per employee or 1 per 4 seats in the gymnasium or auditorium, whichever is greater • 2 for each 3 employees normally engaged in or about the building and grounds plus 1 for each 4 students enrolled in the institution
Retail	

Gaines Charter Township – Zoning Ordinance

Use	Minimum Requirement
Low Intensity Retail	2 per 1000 square feet gross floor area
Convenience Retail	4 per 1000 square feet gross floor area
Other Retail	5 per 1000 square feet gross floor area
Shopping Center <ul style="list-style-type: none"> • 25,000 to 400,000 sq. ft. gross leasable area • 400,000 to 600,000 sq. ft. gross leasable area • Over 600,000 sq. ft. gross leasable area 	<ul style="list-style-type: none"> • 4 per 1000 square feet gross leasable area • 4.5 per 1000 square feet gross leasable area • 5 per 1000 square feet gross leasable area
Financial Services	3 per 1000 square feet gross floor area
General Vehicle Servicing and Maintenance	5 per 1000 square feet plus 1 per employee
Drive Through Vehicle Maintenance	1 per 1000 square feet plus 1 per employee
Vehicle Sales	1 per 5000 square feet of sales area plus 1 per sales desk or office plus 1 per employee
Personal Services	6 per 1000 square feet gross floor area
Restaurant <ul style="list-style-type: none"> • Standard • Fast Food 	<ul style="list-style-type: none"> • 10 per 1000 square feet of gross floor area • 15 per 1000 square feet of gross floor area
Hotel, Motel, or Bed & Breakfast	1 per unit plus 1 per 2 employees plus amount required for accessory use
Bars, Taverns, and Nightclubs	10 per 1000 square feet of gross floor area
Recreational/Entertainment	
Indoor Commercial Recreational	6 per 1000 square feet of gross floor area
Outdoor Commercial Recreational	.3 per person at maximum capacity
Golf Course	60 per 9 holes plus 50% of amount regularly required for accessory uses
Stadiums	1 per 4 seats. When a stadium exceeds 5000 seats a separate parking plan describing how parking will be handled for special events must be submitted with the site plan. The parking plan must be designed to minimize the total impervious surface area constructed while still providing adequate parking area. Techniques to do so include, but are not limited to, sharing parking lots, providing shuttle buses, and using non-impervious parking surface materials.
Theaters	1 per 4 seats
Private Clubs	1/3 maximum occupancy
Office	
General Office	3 per 1000 square feet gross floor area
Medical Office	4 per 1000 square feet gross floor area
Industrial	
Warehousing	1 per 4000 square feet gross floor area plus amount for office or 1 per employee
Manufacturing and other industrial uses	1.5 per 1000 square feet gross floor area

Section 15.3 Maximum Parking Requirements

In order to limit excess areas of pavement that cause increased volumes of stormwater runoff and adverse aesthetic impacts, the number of parking spaces provided on any development site, excluding single family residential developments and institutional uses, shall not exceed the

minimum standards of this Chapter by more than twenty five per cent (25%), unless the Planning Commission or the Site Plan Review Committee approves a greater amount. The Planning Commission or Site Plan Review Committee shall not approve such additional parking unless it determines, based on documentation provided by the applicant, that such additional parking is necessary for the operation of the proposed use. The Commission may consider, but are not limited to, the following factors: the type of use proposed, the floor plan layout of proposed buildings, number of employees, examples of similar existing uses requiring such additional parking, and the likely frequency and duration of the need for additional parking.

Section 15.4 Reduced or Deferred Parking

The Planning Commission or Site Plan Review Committee may permit a reduction from the standards contained in Section 15.2 if the Planning Commission or Site Plan Review Committee determines that the requirements of this Chapter would result in an unneeded number of spaces based on documentation that the applicant provides. Alternatively, the Planning Commission or Site Plan Review Committee may permit the construction of a portion of the required parking to be deferred to a later date, subject to the following requirements:

- A. The site plan shall include the design and layout for the total number of parking spaces required by this Chapter, and shall designate the parking area to be constructed initially, as well as parking area that is being deferred.
- B. The entire planned parking area, both initial and deferred, shall comply with all applicable standards of this Ordinance, including dimensions, setbacks, internal landscaping and landscape buffer requirements.
- C. The area reserved for deferred parking must not have physical characteristics, such as excessive slope or wetland, which would interfere with its use for parking.

At any time following the approval of a plan for deferred parking and the construction of the use associated therewith, the Planning Commission may require that the deferred parking area be constructed.

Section 15.5 Joint Use of Facilities

Provision of common parking facilities for several lots is encouraged. In such cases, the total space requirement is the sum of the individual requirements for the individual lots. The Planning Commission or Site Plan Review Committee may grant exceptions to this requirement when the uses have parking demands that do not coincide in the time of day or in the day of week. In considering such exceptions, the following shall be considered:

- A. The nature of the uses and their respective parking demands;
- B. Their hours of operation and the days of the week in which they operate;
- C. The location of the parking area intended for joint use and its proximity to the uses; and

- D. The nature of the surrounding area and the potential impact of a parking area intended for joint usage.

Section 15.6 Location of Facilities

Parking for residential buildings and nonresidential buildings or uses in residential Zoning Districts shall be provided on the lot or premises with the building, structure or use it is required to serve. For non-residential buildings, structures and uses in commercial or industrial Zoning Districts, required parking shall be provided within three hundred (300) feet. The three hundred feet shall be the walking distance measured from the nearest point of the parking facility to nearest normal entrance to the Building, Structure, or use that such facility is required to serve.

Section 15.7 Size of Parking Space

Parking spaces and aisles for automobiles shall meet the following standards:

Angle	Width	Length	Aisle		Total Width	
			One way	Two way	One way	Two way
Parallel	8.5 feet	22 feet	12 feet	22 feet	29 feet	39 feet
<53°	9 feet	18 feet	13 feet	22 feet	49 feet	58 feet
54° to 74°	9 feet	18 feet	16 feet	22 feet	52 feet	58 feet
75° to 90°	9 feet	18 feet	13 feet	24 feet	48 feet	60 feet

Section 15.8 Requirements for Parking Areas

All land hereafter established as an off-street public or private parking area for more than five (5) vehicles, including a municipal parking lot, commercial parking lot, automotive sales and/or service lot, and accessory parking areas for Multiple Family Dwellings, businesses, industry, public assembly and institutions, shall be developed and maintained in accordance with the following requirements:

- A. The parking lot and its driveway shall be: (1) designed to provide adequate drainage per Kent County Drain Commission standards, (2) surfaced with concrete or asphalt, and (3) maintained in good condition, free of dust, trash and debris. The Planning Commission or Site Plan Review Committee may approve alternate parking lot surfaces for overflow parking or employee parking in order to reduce the amount of impervious surface and the corresponding storm water runoff. Alternate parking lot surfaces may include but shall not be limited to gravel, crushed stone, or products that are installed in the ground to support a vehicle but allow grass to grow within the supporting spaces.
- B. The parking lot and its driveways shall not be used for repair, dismantling or servicing of any Vehicles.
- C. The parking lot shall be provided with entrances and exits so located as to minimize traffic congestion.

- D. The parking lot shall be provided with wheel or bumper guards or other appropriate means, so located that no part of a parked Vehicle will extend beyond the parking area.
- E. Lighting facilities shall be so arranged as to reflect the light away from any Street or adjoining premises.
- F. No part of any public or private parking area regardless of the number of spaces provided shall be closer than ten (10) feet to the Street right-of-way line.
- G. All private driveway entrances shall conform to the minimum standards as adopted by the Kent County Road Commission and shall be marked with a reflector device making them visible from both directions.

Section 15.9 Off-Street Loading Spaces

For every Building or addition to an existing Building hereafter erected, to be occupied by industrial, manufacturing, storage, display of goods, retail store or block of stores, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other similar uses requiring the receipt or distribution in Vehicles of materials or merchandise, there shall be provided and maintained on the same Lot or parcel of land with such Building or addition (1) an area or means adequate for maneuvering and ingress and egress for delivery Vehicles, and (2) off-street loading spaces in relation to Floor Areas as follows: (a) up to twenty thousand (20,000) square feet one space; (b) 20,000 or more but less than fifty thousand 50,000 (2) spaces; and (c) one additional space for each additional 50,000 square feet or fraction thereof. In addition, the following shall apply with regard to off-street loading and unloading spaces:

- A. Each loading space shall be at least 10 feet in width, 35 feet in length and 14 feet in height.
- B. Such space may occupy all or any part of any required Yard, provided that such space shall be on those sides of the Building that do not face a frontage Street.
- C. No such space shall be closer than 50 feet to any Lot in any R Zoning District unless wholly within a completely enclosed Building or enclosed on all sides by a wall or solid fence not less than 6 feet in height.

CHAPTER 16

Landscaping Regulations

Section 16.1 Purpose

Landscaping is an important part of land development and use. The benefits of landscaping include, but are not limited to the following:

- A. Screening lighted areas and unattractive features.
- B. Preventing glare from buildings, cars, and other sources.
- C. Controlling air pollution by the absorption of noxious gases and the release of oxygen.
- D. Reducing noise and stabilizing soils.
- E. Decreasing wind velocity and increasing surface water retention.
- F. Defining access and circulation on a site.
- G. Improving the amenity of pedestrian movement within paved areas.
- H. Enhancing or focusing attention towards a feature, such as a building or main entrance.
- I. Providing visual relief from monotonous features such as building walls, large parking lots, and streets.
- J. Adding natural color and attracting wildlife.
- K. Filtering water run-off.
- L. Moderating heat in the summer.

This Chapter sets minimum yet flexible standards for required landscaped areas to achieve these goals. Applicants are also encouraged to provide landscaping in addition to the minimum requirements of this Ordinance in order to improve the function, appearance, and value of their property and surrounding area.

Section 16.2 Applicability

The standards contained in this Chapter apply to any site plan, special use, or planned unit development request (or any use involving any such zoning approval or approvals) that is subject to review and approval by the Planning Commission or Site Plan Review Committee, subject to the following limitations:

- A. These regulations do not apply to single and two family dwellings.
- B. The standards contained in this Chapter apply to the expansion of existing uses or development only if they are subject to site plan review (i.e. for example, where an expansion exceeds 25% of the original floor area of the building or exceeds more than five parking spaces). The buffer and front yard landscape requirements shall apply to the

whole site, including existing areas. Parking lot landscaping requirements shall apply only to the expanded area of the parking lot.

Section 16.3 Approval Process

A landscape plan prepared in compliance with this chapter shall be submitted with the required site plan, special use permit application, or planned development application (or expansion thereof). The landscape plan shall include, but not be limited to, the following items:

- A. Minimum scale of 1 inch to 50 feet.
- B. Proposed plant location, spacing, size, species (common and botanical name) and necessary descriptions for use within required landscape areas. Plants to be included should be drawn at mature size.
- C. Existing and proposed contours on-site and 10 feet beyond the site at intervals not to exceed 2 feet.
- D. Location of property lines, buildings, sidewalks, and parking areas.
- E. Straight cross section including slope, height, and width of berms, and type of ground cover.
- F. Significant construction details to resolve site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns.
- G. Planting and staking details in either text or drawing form to ensure proper installation and establishment of proposed materials.
- H. Identification of existing trees proposed to be saved including individual tree caliper size and species. Clearly reference on the plan the total number of trees proposed to be preserved, point value of preserved tree, and number of trees requested for credit consideration.
- I. Identification of tree protection method for trees proposed to be preserved.
- J. Identification of existing trees above 2.5” caliper proposed to be removed.
- K. Identification of grass and other ground cover and method of planting.
- L. Table clearly referencing the number of required points for front yard and parking lot landscaping and a list describing the existing tree and proposed landscape elements used to achieve the required number of points.
- M. Any other information required by the Planning Commission or Site Plan Review Committee.

Section 16.4 Alternative Compliance

The Planning Commission or Site Plan Review Committee in its review of the landscape plan has the authority to increase, decrease, or otherwise modify the landscaping and screening

requirements of this Chapter. In doing so, the Planning Commission or Site Plan Review Committee shall consider the following criteria:

- A. The amount of space on the site available for landscaping.
- B. Existing landscaping on the site and on adjacent properties.
- C. The type of use on the site and the size of the development.
- D. Existing and proposed adjacent land uses.
- E. The effect that the required landscaping would have on the operation of the existing or proposed land use.

Section 16.5 General Regulations

- A. All required landscaping shall be fully installed before occupancy of the building or structure unless the applicant applies for a longer period and the Zoning Administrator permits a time extension in writing. The Zoning Administrator may require as a condition of any time extension that the applicant file a bond, irrevocable letter of credit or cash security (in an amount and form as required by the Zoning Administrator) with the Township to ensure that all landscaping will be fully completed.
- B. The entire site not devoted to floor area, parking, detention, accessways, or pedestrian use shall be appropriately landscaped with grass, canopy and coniferous trees, shrubs, and ground cover, or left in its natural state.
- C. All landscaping shall be hardy plants and shall be maintained thereafter in a neat, healthy, and orderly manner. Withered and/or dead plant materials shall be replaced within a reasonable period of time but no longer than one growing season. Maintaining the landscaping items, trees, and plants shall be the responsibility of the then-owner(s) of the property where such item or items are located. If such items are located in a common area or jointly-owned or property owned by a property owners association, both the property owners association and all of the property owners within the plat or development involved shall be jointly and severally responsible for fully maintaining such landscaping items, plants and trees and complying with this subsection.
- D. For the purposes of this Chapter, a corner lot is considered to have front yards along each street, and the required landscaping shall be provided for both.
- E. Plantings shall not be planted or maintained in such a way so as to create a sight obstruction for persons using street intersections.
- F. The Planning Commission or Site Plan Review Committee may impose reasonable conditions to the approval of any landscaping plan.
- G. Wherever ground in its natural state has been disturbed, approved landscaping or grass shall be fully installed, and established within a reasonable period of time, but no longer than one growing season (unless some other provision of this Chapter or Ordinance specifies a different time limit).

- H. During excavation, grading and installation of required landscaping, all soil erosion and sedimentary control regulations shall be strictly followed and complied with.

Section 16.6 Storm Water Runoff

Required landscape areas, greenbelts, and landscaped islands shall be designed to integrate parking lot and site drainage in order to increase stormwater infiltration, reduce storm water runoff velocities and minimize non-point source pollution. The Township Engineer may attach reasonable conditions regarding stormwater to the approval of any landscaping plan.

Section 16.7 Planting Types

New plants shall meet the following minimum size requirements:

Plant Type	Minimum Size at Planting	Minimum Mature Size
Canopy Tree	2 inches caliper	20 feet (height)
Evergreen Tree	5 feet (height)	20 feet (height)
Intermediate Tree	1.5 inches caliper or 6 feet (height)	15 feet (height)
Upright Shrub	2 feet (height)	-
Spreading Shrub	18 inches (spread)	-

The caliper of the tree trunk shall be measured at twelve (12) inches above the ground level.

Section 16.8 Calculation of Minimum Requirements

- A. The amount of all required landscaping shall be calculated using the point system described in this chapter. The following point allocations shall apply for all required landscaping:

Tree Classifications	Base Value
Canopy Trees	10 points
Evergreen Trees	10 points
Intermediate Trees	6 points
Shrub Classifications	
Evergreen Shrubs	3 points
Deciduous Shrubs	2 points
Ground Cover Classifications (excluding turf grass)	
Flowering Perennials or Annuals	8 points per 100 square feet
Green Perennials or Annuals	4 points per 100 square feet
Ornamental Grasses	6 points per 100 square feet

- B. Existing landscaping that is in a vigorous growing condition and is not specifically prohibited by this ordinance may count toward meeting the point requirements of this ordinance. Furthermore, the following plant materials will be awarded five additional points (added to base value) per tree when preserved:

Type of Tree	Size Requirement
Canopy Tree	12+ inches diameter trunk
Intermediate Tree	15 feet height or taller

Evergreen Tree	15 feet height or taller
----------------	--------------------------

Section 16.9 Front Yard Landscaping

- A. The number of points that must be achieved through landscaping for front yards is the overall length of frontage in feet as measured along the property line divided by two. For example, if the lot frontage of a property is 220 feet in length, then 110 points must be achieved through landscaping.
- B. One-half of the points for front yard landscaping must be achieved by using plants from the tree classification, and one-half must be from the shrub or ground cover classifications.
- C. Front yard landscaping shall be planted between the parking area of a property and the right of way of any public street. The landscaped area must be at least ten feet in width. The Planning Commission or Site Plan Review Committee may allow such planting to be placed anywhere within the front yard if there is no front yard parking.
- D. Undulating earthen berms less than six (6) feet in height, as measured from average grade, are encouraged to be used as a part of required front yard landscaping. The required point total for front yard landscaping will be reduced by 25% if a berm of three (3) feet or higher for at least 50% of the property frontage is included. For example, if 100 points are required, the required points will be reduced to 75 if a berm is used. The slope of a berm shall not exceed one (1) foot of vertical rise to four (4) feet of horizontal distance.

Section 16.10 Parking Lot Landscaping

- A. The number of points that must be achieved for parking lots through landscaping shall be one and a half (1.5) times the total number of parking spaces provided (1.5 x “number of parking spaces”). The points may be achieved through the use of any combination of trees, ground cover, and/or shrubs. The number of required points for parking areas in the rear yard and not adjacent to a street shall be three-quarters (0.75) of the total number of parking spaces provided.
- B. When a parking lot has less than 100 parking spaces, the landscaping may be placed within interior curbed parking islands and/or within ten feet of the perimeter of the parking lot.
- C. When a lot has 100 or more parking spaces, one-half of the required points shall consist of canopy trees planted in curbed islands within the interior of the parking lot. The intent of this provision is to break up large expanses of pavement and to provide shading by locating canopy trees away from the perimeter and within the interior of parking lots.
- D. Up to ten percent (10%) of the total required points can be achieved with landscaping that is within ten feet of the building and visible from the street but is further than ten feet from the perimeter of the parking lot. This provision shall not reduce the points required in the interior of the parking lot.

- E. All parking lot islands shall be at least 162 square feet in area and at least nine (9) feet wide. All parking lot islands shall be curbed.
- F. Interior landscaping shall be designed so it does not obscure traffic signs or fire hydrants, or obstruct drivers' sight distance within the parking area and at driveway entrances.

Section 16.11 Buffer and Screening Requirements

- A. A Type II Buffer is required between the use of a property and the adjacent property in the following situations:
 - 1. When the Side Yards or Rear Yards of any Lot in the “I-1” or the “I-2” Zoning District abut any Zoning District other than an Industrial District.
 - 2. When the Side Yards or Rear Yards of any Lot in the “C-1” and “C-2” Zoning District abut a Lot in any “R” Zoning District.
- B. A Type II Buffer is a linear strip of land within any Yard at least ten (10) feet in width measured horizontally, providing a vegetative buffer, or natural equivalent, consisting of at least the following:
 - 1. one (1) tree for each twenty (20) linear feet, or fraction thereof, not less than twelve (12) in height and capable of growing to a height at maturity at least twenty (20) feet; and,
 - 2. one (1) row of evergreen shrubs not less than five (5) feet in height and spaced not more than five (5) feet apart.
- C. All parking lots for more than five (5) vehicles, including automotive sales and/or service lots, and their driveways shall be effectively screened on each side which adjoins or faces premises situated in any “R” Zoning district by a fence of acceptable design, wall or compact evergreen hedge.
- D. Loading and Refuse Areas: Refuse containers and loading areas must be screened from view from any adjacent residential use or public right of way, except alleys. Screening shall consist of a six-foot high opaque wall or fence. Landscaping is encouraged in addition to the opaque screen.

Section 16.12 Design

The following rules shall apply to any Buffer defined and required by this Ordinance:

- A. Buffer strips cannot be used for the parking of Vehicles or for the placement of any Buildings or Structures other than Buffer Screens or traditional Yard fixtures, such as lampposts, air conditioning condensers, etc.
- B. Buffer Screens, as defined in this Ordinance, may be placed within a buffer as a replacement for shrub planting requirements, provided the number of larger trees has been increased by fifty percent (50%) and, provided further, that the originally required shrub planting shall be replaced in the event the Buffer Screen is removed.

- C. Trees and shrubs required to be planted within a buffer shall be measured from the average surrounding grade to the top of the crown; unless, however, a Buffer Berm has been provided within the buffer in which case the height shall be measured from the crest of the buffer Berm to the top of the crown.
- D. Buffers shall be planted with grass or low growing herbaceous vegetation appropriate for the types and degree of larger plantings required in the buffer; and,
- E. Buffers shall be located at the outward edge of any Yard in which the buffer is required, unless such buffer is specifically authorized elsewhere by this Ordinance or decision of a body responsible for discretionary decisions within this zoning ordinance.

Section 16.13 Residential Landscaping

- A. **Street Trees:** Street trees are required within all residential plats and site condominium projects according to the following standards:
 - 1. At a minimum, one canopy street tree shall be provided every 80 feet of lot frontage along a public or private street.
 - 2. When planted, street trees must be a minimum of 2 inches in caliper as measured at 4 feet above grade. The species of the trees to be planted must be on the Kent County Road Commission’s approved list
 - 3. The street tree shall be located between the sidewalk and the street, unless the Planning Commission finds that such a location is unreasonable. Street trees shall be spaced as uniformly as possible.
 - 4. Existing trees that meet the minimum size requirements of this chapter, preserved in good condition, may be allowed to be counted towards this requirement.
 - 5. Street trees shall be planted before the Township issues a Certificate of Occupancy for the lot on which it is located unless the applicant applies for a longer period and the Planner permits a time extension in writing. The Planner may require as a condition of any time extension that the applicant file a bond, irrevocable letter of credit or cash security (in an amount and form as required by the Planner) with the Township to ensure that all landscaping will be fully completed.
 - 6. Where overhead power lines exist, the type and/or location of street trees shall be adjusted to avoid conflict as the trees mature.
 - 7. Street tree species and proposed planting locations must be shown on the preliminary plat or site condominium plan.
 - 8. Such trees shall be maintained in good condition at all times and shall be replaced within 6 months of death or destruction.
- B. **Residential Buffers:** In any residential plat or site condominium, when lots or dwelling units within the development abut a Primary Arterial Street, all required yard(s) abutting the Primary Arterial Street (*i.e.*, front, side, or rear setbacks, whichever is applicable)

shall be increased by at least 20 feet. A Type I Buffer is required in this additional setback area to screen the inhabitants of the dwellings from the traffic on the roadway. Berms are encouraged. Where a berm at least 3 feet in height for at least 50% of the frontage is constructed in the buffer area, the minimum planting requirements may be reduced by 25% with the approval of the Planning Commission. The Planning Commission can grant exemptions from this standard in unique situations where doing so would clearly result in a higher quality of development.

Section 16.14 Uncredited Species

The following schedule lists species that are permitted but that will not be credited in required landscape areas because of their brittleness, susceptibility to disease and insects, excessive root structure, excessive litter, susceptibility to road salt damage and/or other undesirable characteristics.

List of Undesirable Species			
Botanical Name	Common Name	Botanical Name	Common Name
Acer Negundo	Box Elder	Ailantus Altissima	Tree of Heaven
Betula Spp.	Birch	Catalpa Speciosa	Catalpa
Eleagnus Augustifolia	Russian Olive	Gingko Biloba (Female)	Female Gingko
Maclura Pomifera	Osage Orange	Morus Spp.	Mulberry
Populus Spp.	Cottonwood, Poplar, Aspen	Prunus Spp.	Cherry Plum
Salix Spp.	Willow	Ulmus Spp.	Elm
Pinus Strobus	White Pine	Juglans Nigra	Black Walnut
Robina Spp.	Black Locust	Crateaegus Spp.	Hawthorn
Aesculus Hippocastanum	Horsechestnut	Carya Spp.	Hickory
Acer Saccharinum	Silver Maple	A. Rubram	Red Maple
Gleditsia Triacanthos (with thorns)	Honey Locust	Ulmus Americana	American Elm
Ulmus Pumila	Siberian Elm	Ulmus Rubra	Slippery Elm, Red Elm

CHAPTER 17

Signage Regulations

Section 17.1 Intent

This Chapter is intended to regulate the type, number, physical dimensions, erection, placement and maintenance of signs in Gaines Charter Township. Its purpose is to:

- A. Promote the public peace, health, and safety of residents and visitors;
- B. Eliminate distractions that are hazardous to motorists and pedestrians;
- C. Protect the public's ability to identify establishments and premises;
- D. Protect the natural beauty and distinctive character of Gaines Charter Township;
- E. Protect commercial, business, office and industrial districts and areas from visual chaos and clutter;
- F. Provide an environment that fosters the reasonable growth and development of business and commerce;
- G. Protect and enhance property values; and,
- H. Balance the individual rights of property owners to communicate their message with the public's right to be free of unreasonable distractions and aesthetic intrusions.

Section 17.2 Scope

Except as otherwise expressly provided, this Chapter does not regulate the following:

- A. The content of signs.
- B. Scoreboards at public schools or institutional athletic fields.
- C. Gravestones or cemetery markers.
- D. Religious symbols.
- E. Noncommercial holiday decorations.

Section 17.3 Definitions

For the purpose of this Chapter and where applicable elsewhere in this Ordinance the following words or phrases are defined as follows:

Ambient Light Meter – An electronic device which measures the amount of light within the immediately adjacent surroundings to control the brightness of a digital sign.

Abandoned Sign - A sign which no longer identifies or advertises a currently operating business, lessee, service, owner, product, or activity, and/or for which no legal owner can be found.

Animated Sign - A sign depicting action, motion, light or color changes through electrical or mechanical means. Although technologically similar to flashing signs, the animated sign emphasizes graphics and artistic display.

Awning, Canopy or Marquee - A permanent retractable or fixed shelter constructed of non-rigid materials on a supporting framework that projects from the exterior wall of a building.

Awning, Canopy or Marquee Sign - Letters, numerals or other drawings painted on, printed on, or attached to the surface of an awning, canopy or marquee.

Banner Sign - A temporary sign intended to be hung either with or without frames, possessing characters, letters, illustrations, or ornamentation applied to paper, plastic, or fabric of any kind.

Beacon - Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

Billboard - See Off-Premise Sign.

Commercial Message - Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a for-profit or non-profit business, organization, product, process, location, service, or other commercial activity.

Construction Sign - A sign which displays the name or names of principal contractors, architects, lending institutions, and/or others responsible for the construction on the site where the sign is placed.

Copy - The wording on a sign surface in either permanent form, manual changeable form, or electronic changeable form.

Copy, Manual Changeable - The wording on a sign that contains letters, symbols, figures, depictions, and/or numbers that can be manually removed and replaced.

Copy, Electronic Changeable - The wording on a sign that contains letters, symbols, figures, and/or numbers that can be electronically or digitally changed or that do change electronically or digitally. Such signs can utilize digital, L.E.D., or electronic technology.

Copy, Permanent - The wording on a sign that contains letter, depictions and/or numbers that is permanent in nature.

Development/Building Identification Sign - A sign that identifies a development or building by its recognized name, not including a product or service.

Digital Sign or Billboard - A digital sign or billboard usually consists of (or has a portion comprised of) a computer or playback device connected to a large, bright digital screen such as an L.C.D., L.E.D., computer, plasma, or similar display. Such signs can utilize electronic changeable copy.

Directional Sign - A sign that gives directions, instructions, or facility information for the use on the lot on which the sign is located, such as parking or exit and entrance signs. A directional sign shall not contain advertising display copy and shall be located on the property where the development is located.

Directional Sign, Industrial - A sign that gives directions, instructions, or facility information for the use on the same lot on which the sign is located, such as parking, exit and entrance signs, loading areas, shipping docks or similar traffic control signs. A directional sign shall not contain advertising display copy and shall be located on the same property where the development is located.

Directory Sign - A sign that displays only the names and locations of occupants or the uses of a building, but without advertising display copy.

Electronic Message Center (EMC) – A Sign that is capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

Facade - The entire building front including the parapet.

Face of Sign - The area of a sign on which the copy or display is placed.

Farm Business Sign - A sign advertising the location of a farm or a business associated with that farm, such as a farmer's market, road-side stand or the actual name of the farm itself.

Festoons - A string of ribbons, tinsel, flags, pennants or pinwheels.

Flag - Any fabric, banner, or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government or political subdivision.

Freestanding Sign - A sign structurally separated from a building.

Gas- or Air-Filled Balloon Sign - A sign that is made of a nonporous bag of tough light material filled with gas or air used to convey advertising copy or announce a special event on a temporary basis.

Government Sign - A sign erected and maintained by Gaines Charter Township, Kent County, the state of Michigan, or the federal government.

Ground or Monument Sign - A freestanding sign supported by a base that rests directly on the ground. The width of the base shall be at least fifty (50) percent of the width of the sign in order to be a ground sign.

Home Occupation Sign - A sign that identified the name of a business that is operating from a residential property and is classified as a home occupation according to this Ordinance.

Industrial Park Sign - A freestanding sign that identifies the name of an industrial park or similar land use, but does not contain advertising copy of any business located within that industrial park.

Illuminated Sign - A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

Incidental Sign - A sign, emblem, or decal informing the public of the goods, facilities, or services available on the premises, whose purpose is secondary to the use of the lot involved. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental. Examples of incidental signs include credit card signs, signs indicating the hours of operation, no-smoking signs, signs used to designate bathrooms, and signs providing information on business affiliations.

L.C.D. - Liquid crystal display.

L.E.D. - Light-emitting diode.

Mansard - A sloped roof or roof-like facade architecturally comparable to a building wall.

Municipal Sign - A permanent sign erected and maintained by Gaines Charter Township identifying entrances into the community or a defined district.

Mobile Home Park Identifying Sign - A Ground or Monument Sign identifying or recognizing a platted subdivision, condominium complex, industrial or residential development.

Nameplate - A non-electric on-premise sign giving only the name, address, and/or occupation of an occupant or group of occupants, which does not contain graphics of any kind.

Negative Space - The open space surrounding words, numbers, or other text on a sign.

Neon Sign - An illuminated sign constructed from fluorescent lights in the form of bent glass tubes; the different colors being obtained by adding different noble gases to the neon.

Nonconforming Sign - A sign that was legally erected prior to this Ordinance but that does not conform to this Ordinance or other applicable Township ordinances. Also known as a lawful nonconforming sign.

Noncommercial Message – Any sign wording, logo, or other representation that is not a Commercial Message.

Off-Premise Directional Sign - A sign, not to exceed thirty-two (32) square feet in area, the sole purpose of which is to direct the public to a place of business located off the premises where the sign is located.

Off-Premise Sign - A sign which advertises or designates an establishment, service, merchandise, use, entertainment, activity, product or message which is not conducted, sold, produced, manufactured or furnished upon the parcel or lot where the sign is located (e.g. billboards, off-premise direction signs).

On-Premise Sign - A sign which pertains to the use of the premises on which it is located.

Parapet - A wall-like barrier at the edge of a roof or structure.

Pennant - Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Permanent Sign - A sign which is permanently affixed into the ground or a building and meets the requirements of a structure under the Michigan Building Code or its successor code.

Point-of-Sale Sign - A sign that carries only the name of the firm, major enterprise, or products offered for sale on the premises.

Pole Cover - A material that encloses or decorates a pole or other structural support of a sign.

Pole or Pylon Sign - A sign which is erected upon or supported by the ground on one (1) or more poles, uprights, or braces.

Portable Freestanding Sign - A reusable and movable sign not permanently affixed in the ground or to a structure or building, typically containing changeable copy. Except as otherwise expressly provided in this Chapter, such a sign shall only advertise, reference, identify, or promote a product, service, business or event occurring on the lot or zone lot where the sign is located.

Political Sign - A temporary sign used in connection with a noncommercial message or an official Gaines Charter Township, school district, county state or federal election or referendum.

Projecting Sign - A sign that is attached to and projects from a wall or other structure not specifically designed to support the sign.

Real Estate Sign - A sign advertising the real estate upon which the sign is located for the purpose of offering the property for sale, lease or rent.

Roofline - The top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys, or minor projections.

Roof Sign - A sign erected or constructed wholly upon or above the roof of a building and supported on the roof structure.

Sidewalk Sign - A sign placed on a sidewalk adjacent to a business that advertises daily or weekly specials. Examples of sidewalk signs include A-frame signs and sandwich board signs.

Sign - A device, structure, painting, fixture, or placard using color, graphics, symbols, and/or written copy designed and/or utilized for the purpose of advertising or identifying any event, establishment, product, good, service or displaying or depicting other information.

Sign Owner - A person who owns a sign is the sign owner. The owner of the premises upon which a sign is located is presumed to be the owner of the sign, unless facts showing that someone else is the owner of the sign are submitted to the Zoning Administrator and the Zoning Administrator finds that the sign belongs to another owner.

Sign Walker – A person commissioned by a business to hold or wear a sign for the sole purpose of drawing attention to a specific commercial business, outside of the business’ structure or building.

Snipe Sign - Any sign of any size, made of any material, including paper, cardboard, wood and metal, when such sign is tacked, nailed, posted, pasted, glued, secured, or otherwise attached to trees, poles, wire supports, fences or other objects, and the advertising matter appearing thereon is not applicable to the premises upon which said sign is located.

Street Banner Sign - A sign that is stretched across and hung over a street or road right-of-way or easement.

Subdivision or Site Condominium Advertising Sign - A sign advertising available lots and/or units within a platted subdivision, condominium complex, industrial or residential development.

Subdivision or Site Condominium Identification Sign - A Ground or Monument Sign identifying or recognizing a platted subdivision, condominium complex, industrial or residential development.

Tri-Vision Billboard - A billboard which uses rotating panels, slats, blades, or the equivalent to change images at regular or irregular intervals.

Under-Canopy Sign - A sign suspended beneath a canopy, ceiling, roof, or marquee.

Vehicle Sign - A sign containing a commercial message that is painted on, incorporated in, or attached directly to any mode of transportation, including but not limited to automobiles, trucks, boats, trailers or airplanes. A sign painted on a vehicle identifying the business owning or using the vehicle, or a sign depicting the name of the owner of the vehicle, is not considered a vehicle sign.

Wall or Building Sign - A sign including painted, individual letter, and cabinet signs, and signs on a mansard that are attached parallel to and extending not more than fifteen (15) inches from the wall of a building.

Wayfinding Sign - Signs, maps, and other graphic or audible methods used to convey location and directions to travelers.

Window Sign - A sign placed inside or upon a window facing the outside which is intended to be seen from the street or road right-of- way or the outdoors.

Yard Sign - See Snipe Sign

Zone lot - A parcel or adjoining parcels of land in single or common ownership.

Section 17.4 Signs Permitted In All Zoning Districts

The following signs are permitted in all zoning districts, except as otherwise provided, and do not require a zoning permit, but must conform to all other requirements of this Ordinance:

- A. One property address sign per lot that only identifies the address number and street. Such signs shall not exceed sixteen (16) square feet in Commercial and Industrial zones or five (5) square feet in residential zones.
- B. Nameplate signs, not to exceed two (2) square feet. A limit of one (1) nameplate sign per each side of a building facing a street or parking area shall be permitted per business.
- C. Memorial signs or tablets, names of buildings, and date of erection, monumental citations, commemorative tablets when carved into stone, concrete or similar material or made of bronze, aluminum or other non-combustible material and made an integral part of the structure.
- D. Signs on a bus, truck, trailer, or other vehicle while operated and use for transport in the normal course of a business.
- E. Regulatory, directional and street signs erected by a public agency in compliance with the Michigan Manual of Uniform Traffic Control Devices, the Uniform Federal Accessibility Standards and the Michigan Barrier-Free Manual.
- F. Private traffic control signs which conform to the requirements of the Michigan Manual of Uniform Traffic Control Devices.
- G. Flags bearing the official insignia of a nation, state, municipality, educational institution, or military branch and which do not constitute advertising.
- H. Plaques or signs designating a building or site as a historic in nature and installed by a federal, state or local historical agency or group.
- I. Permanent signs on vending, ice containers or similar devices indicating only the contents, provided that the sign area shall not exceed six (6) square feet per device, and are not legible from the adjacent street.
- J. Political signs shall be removed within ten (10) days after the election to which they apply. Political signs shall not be illuminated and may be placed only on private property and only with the permission of the property owner. Political signs shall not exceed 32 square feet per sign. The total aggregate of permitted signage shall be determined by the largest legally permitted sign in the Zoning District where the sign is displayed.
- K. Any sign that is located completely within an enclosed building and not visible from outside the building.

- L. Incidental signs provided such signs do not occupy more than eight (8) square feet of advertising display area. Incidental signs are not permitted in residential or agricultural zoning districts.
- M. Product dispensers and point of sale displays provided they are not readable at a distance greater than three (3) feet off of the lot. Product dispensers and point of sale displays are not permitted in residential or agricultural zoning districts.
- N. On-premise directional signs up to four (4) square feet in sign area. Each zone lot or development shall not have more than two (2) directional signs per access point.
- O. Any sign providing a public notice or emergency information that is temporary in nature.
- P. Wayfinding signage installed by a government, government agency, or quasi-government agency. Examples of quasi-government agencies include Corridor Improvement Authorities and Downtown Development Authorities.
- Q. One construction sign for each street frontage of a construction project except developments involving one and two family dwellings. The construction sign cannot exceed sixty-four (64) square feet in area. Such signs may be erected thirty (30) days before the beginning of construction and must be removed within thirty (30) days following construction.
- R. One non-illuminated real-estate sign per lot not to exceed sixteen (16) square feet in area involving the sale or rental of the lot. Any such sign shall be located on the lot being advertised for sale or rent.
- S. Any noncommercial sign that is not legible from a distance of more than three (3) feet beyond the zone lot or parcel on which such sign is located.
- T. Any portable freestanding sign which is not legible from a public street. Examples of such locations include inside manufactured home parks or apartment complexes that are used for internal purposes only.
- U. Sidewalk signs located within ten (10) feet of the entrance to the business that it is advertising for.
- V. Any Subdivision or Site Condominium Advertising Sign, provided they are temporary, not illuminated, and do not exceed sixty-four (64) square feet in area. There may be no more than two (2) such signs per subdivision or site condominium development and the signs must be removed when seventy-five (75) percent of the lots/units have buildings located on them, or have been sold or leased to purchasers other than the developer.
- W. Banners, seasonal and decorative in nature and theme that do not advertise a product, service, or business and which pertain to holidays and/or community-wide or governmental events. Banners must be attached to light or utility poles and can be a maximum size of thirty-two (32) square feet..

- X. Banners, commercial in nature and theme, that are no larger than thirty-two (32) square feet in area. Such banners may only be displayed for forty-two (42) days out of any calendar year per business, entity or enterprise. No more than one (1) banner is allowed per lot or parcel, and such banners are allowed only in the C-1, C-2, O-S, I-1 and I-2 zoning districts.

Section 17.5 Prohibited Signs

The following signs are prohibited in all zoning districts, unless expressly permitted in this Chapter:

- A. Any sign not expressly allowed by this Chapter.
- B. Abandoned signs, which shall be removed within thirty (30) days of the cessation of the business, use or activity.
- C. Gas or air-filled balloons intended to draw attention to a business or other commercial activity.
- D. A sign that contains an intermittent or sequential flashing light source used to attract attention to a business or other commercial activity. This does not include electronic changeable copy signs that are otherwise expressly permitted in this Chapter.
- E. A rotating or moving sign in which the sign itself or any portion of the sign moves in a revolving or similar manner. Such motion does not refer to methods of changing copy.
- F. Vehicle Signs not used during the normal course of a lawful business that are parked or located for the primary purpose of displaying the advertising copy.
- G. Festoons, pennants, nongovernmental flags, banners, inflatable figures, and streamers and except as expressly permitted in this Chapter.
- H. Snipe signs.
- I. Signs imitating or resembling official traffic or government signs or signals.
- J. Portable freestanding signs, except where expressly permitted in this Chapter.
- K. Any sign that obstructs free access to or egress from a required door, window, fire escape, or other required exit from a building or structure.
- L. Any sign which makes use of the words "Stop", "Look", or "Danger", or any other words, phrase, symbols, or characters, in such a manner as to interfere with, mislead, or confuse drivers.
- M. Roof Signs.

- N. Signs on street furniture, such as benches and trash receptacles, not including commemorative plaques or engravings which are not larger than one-half (1/2) square foot.
- O. Business logos or other advertisements on directional signs.
- P. Off-premise signs, unless expressly permitted in this Chapter.
- Q. Animated Signs.
- R. Stab Signs

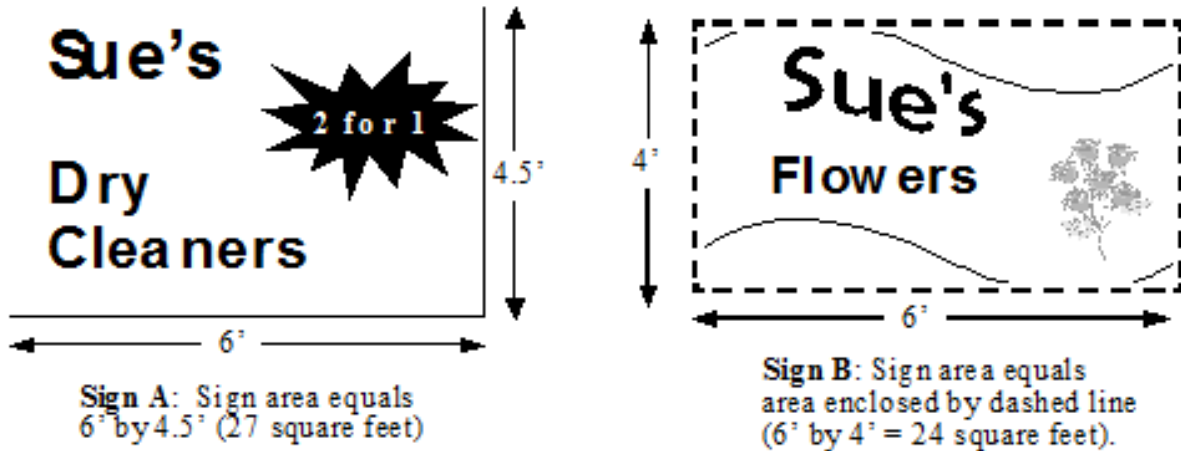
Section 17.6 General Provisions

- A. **General.** It shall be unlawful for any person to erect, place, or maintain a sign in Gaines Charter Township except in accordance with the provisions of this Ordinance. Any sign which is not expressly allowed under an applicable provision of this Chapter is prohibited.
- B. **Permit.** Unless otherwise provided by this Ordinance, no sign may be installed or utilized until and unless the Township has issued a zoning permit for it. The application for the zoning permit must include all of the following:
 - 1. The name of the applicant (and owner of the premises, if different than the applicant).
 - 2. The size of the sign.
 - 3. Plans and specifications for the sign.
 - 4. The proposed method of construction, erection, structural alteration, or relocation, and a description of the equipment to be used for such work.
 - 5. The payment of any required fee or fees.
- C. **General Setbacks.** Unless a different setback is specified for a particular sign elsewhere in this Chapter, all signs must be set back at least ten (10) feet from a road right-of-way and twenty (20) feet from all other property boundaries.
- D. **Landscaping.** The base portion of a freestanding sign shall be landscaped with low maintenance plants. Such landscaping may be placed in stone, masonry or treated wood bases or containers to achieve a pleasant aesthetic arrangement. Such landscaping shall be reasonably maintained at all times.

- E. **Traffic Hazards.** No sign may be constructed, erected, displayed, maintained, reconstructed or located so that it creates a hazard for vehicle or pedestrian traffic. If the Kent County Road Commission or state of Michigan traffic engineers or the Township determines that any sign is a traffic hazard, the Building Inspector shall notify the owner to remove the sign. In determining whether a sign may be causing a traffic hazard, the Township Planning Commission can consider, but is not limited to, the following:
1. Height, area, supporting structure and distance from ground level of the sign;
 2. Lighting of the sign;
 3. Location of the sign in relation to roads;
 4. Drives, points of ingress and egress, parking areas, sidewalks, and other vehicular or pedestrian access ways;
 5. Location of the sign in relation to nearby buildings and structures; and
 6. If it may, by reason of its position, shape, color, or other characteristics, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or be distracting to motorists.
- F. **Maintenance.** All signs shall be properly maintained in good condition and reasonable repair at all times. Exposed surfaces shall be clean and painted, if paint is required. Defective or damaged parts must be replaced in a timely fashion. Any sign that becomes decrepit, dilapidated or damaged shall either be promptly removed or repaired to a reasonable condition. The Building Inspector has the right to order the repair or removal of any sign that is unsafe (as defined by the Michigan Building Code or its successor code), dilapidated, decrepit, or damaged. No sign shall be installed, displayed or maintained on the property, structure or fixture of another person or entity without the express permission of the owner of such property, structure or fixture.
- G. **PUD Signs.** Only signs approved by the Planning Commission and Township Board in authorizing the Planned Unit Development are allowed.
- H. **Lawful Nonconforming Signs.** The regulations for lawful nonconforming signs are contained in Chapter 21 of this Ordinance.

Section 17.7 Measurement and Illumination

A. Display Area.



The display area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the pedestal, poles or other structure necessary to support the sign, or architectural features such as peaks, etc.

- B. Faces.** The area of a freestanding or projecting sign that has two (2) or more faces shall be measured by including the area of all sign faces, except if two (2) such faces are placed back-to-back and are of equal size and are no more than forty-eight (48) inches apart on average, then the area of the two (2) back-to-back faces shall be counted as one (1) face. If the two (2) back-to-back faces are of unequal size, the larger of the two (2) sign faces shall be counted as the one (1) face. As used here, back-to-back means signs that face in opposite directions and are parallel or form an angle of no greater than thirty (30) degrees.
- C. General Height.** The height of a sign shall be measured as the vertical distance measured from the highest point of the sign, including any decorative embellishments, to the grade of the adjacent street or the normally undisturbed surface grade beneath the sign, whichever ground elevation is less.

D. **Sign Characteristics.** Except for billboards (with regulations contained in Section 17.12), permitted characteristics of signs shall be based on the following table, P = Permitted, SPU=Permitted by Special Use Permit

Characteristic	Zoning District										
	A-B	A-R	RL-14	RL-10	R-3	R-4	C-1	C-2	O-S	I-1	I-2
Internal Illumination	P	P	P	P	P	P	P	P	P	P	P
External Illumination	P	P	P	P	P	P	P	P	P	P	P
Manual Changeable Copy	P	P	P	P	P	P	P	P	P	P	P
Electronic Changeable Copy	<i>SPU when eligible. Ref. Section 17.9 Signs Permitted In the A-B, A-R, RL-14, RL-10, R-3 and R-4 Zoning Districts</i>						P	P	P	P	P
Neon								P		P	P

E. Illumination

- a. Except as permitted by Sub-section F “Electronic Messaging Centers”, there shall be no flashing, moving or intermittent illumination of any sign.
- b. If permitted, signs may be illuminated only by continuous indirect white light. Only the sign face shall be illuminated.
- c. Any sign lighting must be enclosed and so directed as to prevent the source of light from shining directly or indirectly onto traffic adjacent or nearby properties

F. Electronic Messaging Centers

1. **Area:** The electronic portion of a sign shall not exceed a maximum of 40% of the permitted sign face, excluding all sign framing. (e.g. a 10 square foot sign would be allowed 4 square feet of LED display excluding the frame of the LED display. The frame of the LED display would be included in the total area of the sign.)
2. **Transition:** There shall be a minimum of eight (8) seconds between copy changes.
3. **Rate of Change:** The rate of change between two (2) static messages shall be instantaneous.
4. **Movement:** All Electronic Copy displays shall be static (i.e. no movement).
5. **Brightness:** All Electronic Messaging Centers shall be equipped with an Ambient Light Meter to adjust the brightness level of the sign face based on the ambient light conditions and shall not exceed a brightness level of 0.3 foot candles above ambient light as measured using a foot candle (Lux) meter at a preset distance depending on the sign area.

Brightness of Electronic Messaging Centers shall be measured as follows:

At least thirty (30) minutes following sunset, a foot candle meter shall be used to obtain an ambient light reading for the location. This is done while the EMC is off or displaying black copy. The reading shall be made with the meter aimed directly at the center of the sign area from a distance determined with the following formula: The square root of the product of the sign area multiplied by one hundred (100).

Example using a twelve (12) square foot sign:

Measurement Distance = $\sqrt{(12 \text{ Sq. Ft.} \times 100)} = 34.6 \text{ ft.}$ as the determined setback from which the measurement will be taken.

The sign shall then be turned on to full white copy to take another reading with the meter at the same location.

If the difference between the readings is 0.3 foot candles or less, the brightness is properly adjusted and the sign is in compliance.

6. **Location:** Electronic Changeable Copy cannot be located on the façade of a building or in windows of a building, and must be contained within a legal monument sign, pylon sign, or freestanding sign.
7. **Hours of Operation:** For institutional uses within Residential Districts, the Electronic Messaging Center shall only display copy between the hours of 6AM – 11PM.

Section 17.8 Portable Freestanding Signs

Portable freestanding signs are permitted in any zoning district, subject to the following regulations and requirements:

- A. Portable freestanding signs shall not be used for more than forty-two (42) days out of any calendar year for a specific lot. For lots with multi-tenant commercial buildings, each lawful business in the multi-tenant building can utilize one (1) portable freestanding sign for not more than forty-two (42) days out of any calendar year.
- B. Portable freestanding signs may be displayed, used, installed, or erected only pursuant to a permit issued by the Zoning Administrator. No portable freestanding sign shall be displayed, used, installed or erected prior to the issuance of a permit by the Zoning Administrator. Each permit shall be valid for seven (7) days. There shall be at least fourteen (14) consecutive days between the issuing of a permit for a specific lot or for a specific business if located in a multi-tenant commercial building. The permit shall identify the period during which the permit is valid. A fee, as established by the Township Board from time to time, shall be required before a permit may be issued. The Zoning Administrator shall have the discretion to require an applicant to post an irrevocable letter of credit or cash deposit with the Township to ensure compliance with the requirements of a permit and this Ordinance. The Zoning Administrator may attach reasonable conditions to a permit.
- C. Portable freestanding signs shall not be used in parking, driveway, or access areas in a manner which obstructs the vision of motorists using parking aisles, traffic, or movement through any parking aisle.
- D. Portable freestanding signs shall not obstruct any public or private sidewalk.
- E. Portable freestanding signs shall not be illuminated in any fashion.
- F. Portable freestanding signs shall be anchored in a safe and secure manner. The anchoring of portable signs by tying or attaching weighted objects (such as cinder blocks or tires) is prohibited.
- G. No portable freestanding sign shall exceed thirty-two (32) square feet in area (thirty-two (32) square feet on each sign face). Support framework shall not be included in sign area calculation.
- H. No portable freestanding sign copy shall be comprised of more than two (2) colors.
- I. Portable freestanding signs shall be located a minimum of twenty (20) feet from the edge of any road or street right-of-way.

- J. No more than one (1) portable freestanding sign shall be allowed on a lot at one time. For lots with multi-tenant buildings, no more than one (1) portable freestanding sign shall be allowed at one time for any particular tenant or business and no more than two (2) freestanding portable signs shall be allowed at one time on the overall lot involved.
- K. There shall be a minimum one-hundred (100) feet separation distance between portable freestanding signs.
- L. The service, sale, or event for which a portable freestanding sign is involved must be located within three-hundred (300) feet of that portable freestanding sign.
- M. In addition to any other penalties or sanctions as provided in this Ordinance, any business, property or property owner which violates any portion of this Section 17.8 (or a permit issued there under) shall lose the right to seek an additional permit or permits for a period of twelve (12) months from the date of violation. Furthermore, the Zoning Administrator may revoke a permit issued for a portable freestanding sign should any violation of this Ordinance or the permit occur with regard to the portable freestanding sign.
- N. Except during the time period specified in a permit as issued by the Zoning Administrator for a portable freestanding sign, no portable freestanding sign shall be stored or kept outdoors on the lot involved and shall not be visible on any such lot. Section N hereof shall not apply to lawful businesses that sell or lease portable freestanding signs, so long that those signs are not being used on the lot of said business for the purpose of off- premise advertising.
- O. When in use, every portable freestanding sign shall be kept in good maintenance and reasonable repair.
- P. Any person, business, property, or establishment which is in violation of this Ordinance shall not be eligible for a portable freestanding sign pursuant to Section B hereof, and furthermore, should any such violation occur after a portable freestanding sign permit has been issued, the Zoning Administrator shall have the authority to revoke any such permit.
- Q. The service, product, sale, or event being advertised must be lawful in order for a portable freestanding sign to be used.

Section 17.9 Signs Permitted In the A-B, A-R, RL-14, RL-10, R-3 and R-4 Zoning Districts

A. In addition to signs permitted elsewhere in this Chapter, signs are permitted in the A-B, A-R, RL-14, RL-10, R-3, and R-4 Zoning Districts according to the following table (but such a sign is so allowed only where the sale, business, or event being advertised is lawful in the zoning district involved):

Permitted Signs	Development Standards			
	Maximum Size	Number Allowed	Maximum Height	Other Requirements
Off-Premise Directional Sign	32 square feet	1 per lot	4 feet	
Ground or Monument Sign (For permitted Institutional uses, Farm Business and other permitted or special land uses, except home occupations.)	48 square feet	1 per each street frontage	6 feet	Signs for institutions and business uses that require the issuance of a Special Land Use permit shall be reviewed as part of the discretionary SPU permitting process.
Wall or Building Sign	32 square feet	1 per each street frontage	N/A	Subject to the findings of Planning Commission relative to the General Standards of Section 19.8, “ground mounted/monument signs” and “wall signs” may be further restricted as part of the special use review and approval process.*
Subdivision or Site Condominium Identification Sign	48 square feet	2 per development	6 feet	Must be located at the entrance to a primary arterial street.
Mobile Home Park Identifying Sign	48 square feet	2 per development	6 feet	Must be located at the entrance to a primary arterial street.
Home Occupation Sign	<i>See Section 20.7(H)</i>			
Subdivision or Site Condominium Advertising Sign	<i>See Section 17.4(V)</i>			
Portable Freestanding Sign	<i>See Section 17.8</i>			
Real Estate Signs	<i>See Section 17.4 (R)</i>			

*Signs may be authorized subsequent to the principle uses initial approval, as an amendment to special use permit.

Section 17.10 Signs Permitted In the O-S, C-1 and C-2 Zoning Districts

A. In addition to signs permitted elsewhere in this Chapter, signs are permitted in the A-B, A-R, RL-14, RL-10, R-3, and R-4 Zoning Districts according to the following table (but such a sign is so allowed only where the sale, business, or event being advertised is lawful in the zoning district involved):

	Zoning District		Other Requirements
	O-S	C-1 and C-2	
Freestanding Pole or Pylon Sign			
Permitted	Not Permitted	SPU	
Maximum Height	N/A	20 feet or Building Height, whichever is less	
Maximum Display Area	N/A	1.5 square feet per each 5 feet of street frontage, up to a maximum of 100 square feet.	
Maximum Number	N/A	1 per lot	
Freestanding Ground or Monument Sign			
Permitted	Yes		Not permitted if a freestanding pole or pylon sign is located on the same lot.
Maximum Height	8		
Maximum Display Area	64 square feet		
Maximum Number	1 per lot		
Wall or Building Sign – 1 or 2 Tenant Building			
Permitted	Yes		Signs must be located on a wall facing a street or parking area.
Maximum Display Area	100 square feet total	100 square feet total	
Maximum Number	No limit on total number of signs		
Wall or Building Signs – 3 or More Tenant Building			
Permitted	Yes		Signs must be located on a wall facing a street or parking area
Maximum Display Area	1.5 square feet per each 1 lineal foot of suite space		
Maximum Number	1 per business, per each side of a building facing a street or parking area		
Directory Sign			
Permitted	Yes		1 per each side of a building
Maximum Display Area	20 square feet		
Portable Freestanding Signs: See Section 17.8			
Real Estate Signs: See Section 17.4 (R)			

Section 17.11 Signs Permitted In the I-1 and I-2 Zoning Districts

A. In addition to signs permitted elsewhere in this Chapter signs shall be permitted in the I-1 and I-2 Zoning Districts according to the following table (but such a sign is so allowed only where the sale, business, or event being advertised is lawful in the zoning district involved):

Permitted Signs	Size	Number	Height	Other Requirements
Wall or Building Sign	Area equal to 2% of the area of the wall up to 100 square feet.	1 per each street frontage	N/A	
Freestanding Sign	Area equal to 2% of the front wall of the building or 50 square feet, whichever is less.	1 per each street frontage	5 feet	A minimum of 300 feet of road frontage is required for additional signs. Additional signs shall not be placed along the same frontage that contains another freestanding sign.
Industrial Park Sign	50 square feet	1 per park entrance	4 feet	May be either a freestanding monument sign or a Wall/Building Sign
Industrial Directional Signs	32 square feet	No maximum	N/A	May be located within 2 feet of any property line.

Section 17.12 Billboards

A. Billboards are only permitted within one-hundred (100) feet of the M-6 freeway on property in the I-1 and I-2 zoning districts, and within PUDs that allow for industrials uses.. The lot on which the billboard is located must abut and have frontage on the M-6 right-of-way.

B. If a billboard qualifies for zoning approval as stated in subsection "A", a zoning permit is required prior to the erection or alteration of the billboard. In addition, a zoning permit is required before any existing billboard is rebuilt, structurally altered, or materially changed (but no zoning permit is required simply to change the copy or depictions on the billboard). The application for the zoning permit must contain the following:

1. A colored rendering of the proposed billboard containing the proposed dimensions.
2. A site plan indicating the location of the proposed billboard and the appropriate setback information.
3. Information on how the billboard will be illuminated, if applicable.

- C. The billboard must be approved subject to the review process as outlined in Section 25.4. In considering the application for Site Plan Approval, the Planning Commission shall only consider the review standards contained in this Chapter 17 and Section 17.12.
- D. Double-faced billboard structures and V-type billboard structures shall be considered as one billboard, but with multiple faces. No billboard shall contain more than one sign panel facing the same direction of traffic on the M-6 freeway.
- E. The area of a sign panel on a billboard shall not exceed six hundred seventy-two (672) square feet.
- F. The height of a billboard shall not exceed (forty-five) 45 feet. The height of a billboard shall be measured as the vertical distance measured from the highest point of the billboard, including any decorative embellishment, to the grade of M-6, or the surface grade beneath the sign, whichever ground elevation is lower.
- G. Minimum distances between static and digital billboards shall be subject to the Michigan Highway Advertising Act of 1972, as amended.
- H. No billboard shall be located within three hundred (300) feet of an existing dwelling. No digital billboard shall be located within seven hundred fifty (750) feet of an existing dwelling. For the purposes of this subsection, the distance between a billboard and an existing dwelling shall be measured as a straight line between the billboard and the existing dwelling.
- I. No billboard shall be located closer than fifty (50) feet to any property line, except for those property lines that abut the M-6 freeway, where no billboard shall be located closer than ten (10) feet from the M-6 right-of-way, as measured from the closest point or edge of the billboard.
- J. All billboards must be constructed with a monopole-type support structure.
- K. Except as otherwise provided in this section, a billboard may be illuminated, provided that such illumination is concentrated on the surface of the sign and is so located as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of oncoming vehicles, or any adjacent premises. No billboard shall have one or more flashing, strobing, intermittent, moving, rotating, or oscillating lights or images.
- L. The slat, panel, or blade twirl time of a tri-vision billboard shall be two (2) seconds or less and the blade dwell time (i.e., stationary and able to be read) shall be eight (8) seconds or more.
- M. Digital billboards are allowed if the digital or Electronic Changeable Copy portion of the billboard, and the billboard itself, meet all of the following additional standards:
 - 1. There shall be no animation, cartoon, or movie or television-style pictures or depictions.

2. There shall be no movement at all.
 3. No design shall have a white background in order to reduce glare.
 4. The rate of change between two (2) static messages shall be one (1) second or less.
 5. There shall be a minimum of eight (8) seconds between copy changes.
 6. The face of the sign shall be dimmed automatically from thirty (30) minutes before sunset to thirty (30) minutes before sunrise down to five (5) percent of its daylight brightness setting.
 7. The maximum brightness levels for digital billboards shall not exceed 0.2 (two tenths) foot-candles over ambient light levels measured at a distance of one hundred fifty (150) feet from the face of the sign.
 8. The owner(s) of a digital billboard must reasonably coordinate with relevant public agencies to allow for the display of real-time emergency information such as Amber Alerts or natural disaster directives.
 9. The digital billboard will not distract, endanger, or disorient motorists.
 10. The digital billboard will not cause glare onto, or illumination of, any adjoining properties.
- N. The following modifications to existing billboards shall not occur except in full compliance with this Chapter 17 and Section 17.12:
1. Changing or altering a billboard to provide for Electronic Changeable Copy of a different type or manner of Electronic Changeable Copy.
 2. Changing or altering a billboard to become a Digital Billboard.
- O. No billboard shall be approved, installed, or erected at any time when there are six (6) or more existing billboards (including digital billboards), located within Gaines Charter Township. In addition, no digital billboard shall be approved, installed or erected at any time when there are two (2) or more existing digital billboards located within Gaines Charter Township. Notwithstanding the aforementioned limitation on digital billboards, one (1) additional digital billboard beyond this limit may be constructed for every two nonconforming billboards removed within the Township by an applicant.
- P. The setback requirements of this section shall apply regardless of jurisdictional or governmental boundaries.

Section 17.13 Substitution Clause – Noncommercial Messages

- A. Any sign allowed under this Ordinance may contain, in lieu of any other text or message, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit or to a commodity or service for sale and that complies with all other provisions of this Ordinance including the specific provisions for signage in the land use category on which the sign is placed, including but not limited to construction standards, setback, size limitations, principal use requirement and limits on the aggregate signage or number of signs per lot or parcel.
- B. The owner of any sign which is otherwise allowed by this Ordinance may substitute a noncommercial message in lieu of any other copy without additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any noncommercial message over any other noncommercial message. This section prevails over any more specific provision to the contrary.
- C. This section applies to lawfully erected signs only.

CHAPTER 18

Lighting Regulations

Section 18.1 Purpose

The purpose of this Chapter is to regulate certain outdoor lighting in order to reduce or prevent light pollution. These regulations are intended to reduce or prevent glare and light trespass, conserve energy, promote safety and security, and protect the health, safety and general welfare of the Township and its residents.

Section 18.2 Definitions

For the purpose of this Chapter the following words or phrases are defined as follows:

Fixture – The assembly that holds a lamp and may include an assembly housing, a mounting bracket or pole socket, lamp holder, ballast or support, reflector, mirror and a refractor or lens.

Flood Light- A luminaire or bulb designed to project light in a specific direction in a wide beam, typically 100 degrees or more.

Foot Candles – A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one candle.

Full-Cutoff Fixture (FCO) – A fixture which cuts off all upward transmission of light.

Glare – Direct light emitted by a luminaire at a higher level than which the average eye is adapted and causes reduced vision, momentary blindness, or discomfort.

Illuminance – The level of light measured on a surface.

Light Shield – Any attachment which interrupts and blocks the path of light emitted from a luminaire or fixture.

Light Trespass – Light projected onto a property from a fixture not located on that property.

Lumens – Measurement of brightness exiting a bulb or fixture.

Luminaire – A complete lighting system including the fixture and lamp or lamps.

Mounting Height – The vertical distance between the surface to be illuminated and the bottom of the light source.

Nonconforming Lighting – Lighting not conforming to the requirements of this ordinance that were installed prior to the effective date of this ordinance.

Pole Height – The vertical distance between the grade of the ground or street, whichever is highest, to the peak of the pole.

Section 18.3 Applicability

The regulations and standards contained in this Chapter apply to any site plan, special use, or planned unit development request (or any use involving any such zoning approval or approvals) that is subject to review and approval by the Planning Commission or Site Plan Review Committee, subject to the following limitations:

- A. The standards and regulations of this Chapter do not apply to the following:
 - 1. Single and two family dwellings.
 - 2. Official traffic or government lighting.
 - 3. Signs and flags as defined in Chapter 17.3.
 - 4. Church steeple lighting.
 - 5. Athletic field lighting.
 - 6. Lawful nonconforming lighting.
 - 7. Assistance lighting in emergency procedures.
 - 8. Lighting associated with lawful holiday displays.
- B. The standards and regulations contained in this Chapter apply to the expansion of existing uses or development only if they are subject to site plan review (i.e. for example, where an expansion exceeds 25% of the original floor area of the building or exceeds more than five parking spaces), with the following exceptions:
 - 1. Property subject to site plan review which are not adding new light poles or outdoor light fixtures are not required to submit a photometric plan. All other lighting on the site shall comply with the provisions of this Chapter.

Section 18.4 Prohibited Lighting

The following are prohibited:

- A. Laser, flashing, pulsing, and rotating lights.
- B. Tower lighting unless required otherwise by the Federal Aviation Administration.
- C. Light schemes depicting an advertisement and not included in Chapter 17.
- D. Glare producing lighting.
- E. Trespass lighting.

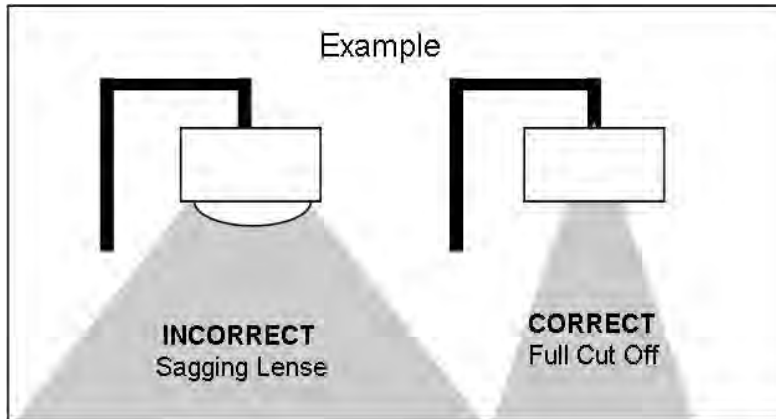
Section 18.5 Submittal Requirements

A photometric plan prepared in compliance with this Chapter shall be submitted to the Township along with the required site plan, special use permit application, or Planned Unit Development application (or expansion thereof). The photometric plan shall include, but shall not be limited to, the following items:

- A. The type of illuminating devices, fixtures, lamps, supports, reflectors and other devices, and the mounting height of the light.
- B. A description of the illuminating devices, fixtures, lamps, supports, reflectors and other devices may include, but is not limited to, catalog cuts by manufacturers and drawings (including sections where required).
- C. Illumination levels on the property, measured in footcandles, at the property lines and just beyond the property lines, as well as other data such as that furnished by manufacturers or similar data showing the angle of cut off for light emissions.
- D. The above required plans, description, and data shall be sufficiently complete to enable Township staff, the Planning Commission or the Site Plan Review Committee to readily determine whether compliance with the requirements of this ordinance will be secured. If such plans, description and data cannot enable this ready determination, by reason of the nature of configuration of the devices, fixtures or lamps proposed, the applicant shall submit additional evidence of compliance to enable such determination.
- E. Prior to issuance of a Certificate of Occupancy, the applicant shall submit to the Planning and Zoning Department an as-built photometric plan, stamped by a certified testing laboratory or engineering firm that the installed lighting is in compliance with this ordinance.
- F. Should any outdoor lighting fixture or type of light source be changed therein after the building permit has been issued, a change request must be submitted to the Planning and Zoning Department for approval together with the adequate information to assure compliance with this Ordinance, which must be received and approved by the Township prior to substitution.
- G. Any other information required by the Planning Commission or Site Plan Review Committee.

Section 18.6 Lighting Regulations

- A. All required lighting shall be fully installed before occupancy of the building or structure unless the applicant applies for a longer time period and the Zoning Administrator permits a time extension in writing. The Zoning Administrator may require as a condition of any time extension that the applicant file a bond, irrevocable letter of credit or cash security (in an amount and form as required by the Zoning Administrator) with the Township to ensure that all lighting will be fully completed as approved in the Site Plan Review.
- B. Any fixture or luminaire with a lamp shall be a full cut off type fixture.



- C. All light poles shall be no taller than 20 feet in height.
- D. All light poles must be setback a minimum of 10 feet from any property line.
- E. All pole lighting must access wiring through the ground and not from the top of the pole.
- F. The limit of illumination on adjacent property from one (1) establishment shall be based on the zoning of the adjacent property. Maximum computed maintained and maximum measured footcandles at the adjacent property line shall not exceed the levels in the following table.

Zoning of Adjacent Property	Maximum Footcandles at Property Lines
RL-10, RL-14, A-R, A-B	0.2
R-3, R-4	0.5

- G. The maximum outdoor maintained computed and measured illuminance level on the property where the light originates shall not exceed twenty (20) footcandles outdoors at any point, with the following exceptions:
 - 1. Lighting under canopies (such as service stations) shall not exceed thirty (30) footcandles. All other lighting on the site shall comply with the provisions of this Chapter.
- H. The Planning Commission or Site Plan Review Committee may impose reasonable conditions on the approval of any photometric plan.

Section 18.7 Alternative Compliance

The Planning Commission or Site Plan Review Committee in its review of the photometric plan has the authority to increase, decrease, or otherwise modify the lighting requirements of this Chapter. In doing so, the Planning Commission or Site Plan Review Committee shall consider the following criteria:

- A. The amount of space on the site available for lighting.
- B. Existing lighting on the site and on adjacent properties.

- C. The type of use on the site and the size of the development.
- D. Existing and proposed adjacent land uses.
- E. The effect that the required lighting would have on the operation of the existing or proposed land use.

Chapter 19

Special Land Uses

Section 19.1 Intent and Purpose

This Chapter provides a set of standards for special uses of land or structures that, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards, herein, are designed to allow, on one hand, practical latitude for the investor or developer, but at the same time maintain adequate provision for the protection of the health, safety, convenience, and general welfare of the community. These standards are in addition to the standard regulations of the zone districts within which the use is proposed.

Section 19.2 Application Procedure

The following procedures shall be followed in making application for a Special Use Permit:

- a. A written application for a Special Use Permit is submitted to the Planning Commission indicating the section of this Ordinance under which the special use is sought and stating the grounds on which it is requested.
- b. Required fees shall be paid at the time of application in accordance with the fee schedule established by the Township Board.
- c. A site plan, as defined and specified in Chapter 25 of this Ordinance, for the total property involved in the special use request shall be submitted with each application.

Section 19.3 Public Hearing

The Planning Commission shall hold a public hearing on all applications for Special Use Permits. The Planning Commission will give notice and conduct public hearings as required in Chapter 24 of this Ordinance.

Section 19.4 Issuance of a Special Use Permit

The Planning Commission shall grant a Special Use Permit upon the finding that all of the requirements of this Ordinance pertaining to the special use are fulfilled in each case; provided that the Planning Commission may stipulate additional conditions and guarantees that all conditions will be complied with when, in order to fully comply with the intent of this Ordinance, such additional conditions and guarantees may be deemed necessary. In rendering a decision on whether to deny, approve, or approve with conditions a Special Use Permit, the Planning Commission shall incorporate their decision in a statement containing the conclusions relative to the special use which specifies the basis for the decision and any additional conditions imposed for full compliance with this Ordinance. Such a statement shall be recorded in a record of the approval action together with the special use application and Site Plan. All conditions of the special use approval shall remain unchanged except upon mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of all conditions which are changed. The breach of any conditions shall automatically invalidate the Special Use Permit.

Section 19.5 Reapplication

No application for a Special Use Permit which has been denied wholly or in part by the Planning Commission shall be resubmitted until the expiration of one (1) calendar year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions found to be sufficient to justify reconsideration by the Planning Commission. If the Planning Commission determines that the request can be resubmitted, the Planning Commission will give notice and conduct public hearings as required in Chapter 24 of this Ordinance.

Section 19.6 Expiration

Any Special Use Permit authorized pursuant to the terms of this Chapter shall expire one (1) year from the date of such authorization unless the authorized use, activity or construction has commenced prior to such expiration.

Section 19.7 Amendments

An amendment to an approved Special Use Permit shall be processed as a new Special Use Permit.

Section 19.8 General Standards for All Special Land Uses

The Planning Commission shall review the particular circumstances and facts of each proposed special use and in addition to the specific standards of consideration stated for each special use type within this Ordinance, shall be guided in rendering a decision by the following general standards:

- a. The proposed special use shall be sufficiently designed to maintain adequate provision for the protection of the health, safety, conveniences, and social and economic welfare of those who will use the special use, residents and landowners adjacent to the special use, and the community as a whole.
- b. The proposed special use shall be consistent with the intent of this Ordinance and the intent of the Master Plan.
- c. The special use shall not create or substantially add to traffic hazards in the area.
- d. Public services and facilities such as roads, police and fire protection, drainage structures, water and sewage facilities or schools, shall be sufficiently extended to the proposed special use such that load capacities are not exceeded.
- e. The proposed special use shall not set precedents for development which could adversely affect the long term plans or policies of the Township.
- f. The proposed special use shall not have significant adverse environmental, ecological or natural resource impacts.
- g. The proposed special use shall not have significant adverse impacts upon adjoining properties or uses.

Section 19.9 List of Uses with Additional Specific Standards

The special land use general standards of Section 19.8 are basic to all uses authorized by special land use approval in this Ordinance. The following sections identify specific requirements that shall be met for individual special land uses which may or may not be listed elsewhere in this Ordinance, in addition to the general standards of Section 19.8. The special land uses with specific site and/or use standards described on the following pages are as follows:

- A. **Agriculture and Agricultural Buildings that include slaughtering and livestock operations exceeding the animal confinement densities listed in Section 5.2**
1. The use must be subordinate to the single family residential dwelling.
 2. **Buffers:** The location of animal enclosures shall be buffered from adjacent Non-farm residential Dwellings by a Type II Buffer.
 3. **Health Department Approval:** Processes used in all animal operations shall be as approved by the Kent County Department of Public Health.
 4. **Odors and Waste:** Appropriate measures shall be observed for controlling odors and animal waste production. The Planning Commission shall consider whether other agencies' requirements are met, such as those of the Michigan Department of Environmental Quality and the U.S. Department of Agriculture.
- B. **Agricultural/Rural Enterprises**
1. The use must be subordinate to the single family residential dwelling.
 2. **Design:** All Buildings and Structures shall be designed and constructed to follow a "rural," "country" or "farm" character or architectural scheme
 3. **Location and Layout:** The location and layout of Buildings, Structures, screening, fencing, buffering, signs, lighting and other structural features of the Agricultural Marketing Business or Rural Enterprises shall be designed or so located as to create the least amount of conflict with agricultural uses and the prevailing "rural" character. The site shall be laid out, to the greatest extent feasible, to achieve the following design objectives (listed in order of priority, since some conflict between design objectives is expected):
 - a. On the most suitable soils for on-site sewage disposal.
 - b. To minimize the permanent loss of soils in Capability Class I or II as identified by the Soil Conservation Service and to maximize the area remaining for agricultural use in such areas.
 - c. Within any woodland contained in the parcel, or along the far edges of the open fields adjacent to any woodland.
 - d. In locations least likely to block or interrupt scenic vistas as seen from the public roadway.

4. **Buffers:** A Type II Buffer shall be provided where an Agricultural Rural Enterprise is adjacent to any Dwelling Units existing at the time the business is approved as a Special Use.
5. **Required Permits:** Driveway and on-site sewage disposal permits shall be obtained from the respective County agencies.
6. **Parking:** Parking shall be provided entirely within the boundaries of the Agricultural Rural Enterprise and shall be in an amount similar to that required by this Zoning Ordinance for other similar businesses. Such spaces, however, are not required to be paved or improved as specified elsewhere in this Zoning Ordinance.
7. **Retail or Customer Service:** Gross Floor Area attributed to new construction for the purpose of retail trade or on-site customer service shall not exceed 2000 square feet. Incidental sales of products other than Agricultural or Rural-Area Products may be stocked and sold, but shall not exceed 25% of total product inventory.
8. **Minimum Setbacks:**
 - a. Front Yard: 60 feet
 - b. Side Yard: 60 feet
 - c. Rear Yard: 100 feet

C. Agricultural Service Business

1. The use must be subordinate to the single family residential dwelling.
2. **Design:** The location and layout of Buildings, Structures, curbs, parking areas, sidewalks, Signs, Fences, and similar site features shall be designed to create the least amount of conflict with adjacent Agricultural or Residential use.
3. **Location:** Properties for such uses shall meet one of the following criteria:
 - a. Be a Corner Lot adjacent to 2 existing public streets.
 - b. Be immediately adjacent to a “C” or “I” designated zoning district.
4. Be located more than 300 feet from any Dwelling Unit existing at the time the Special Use is approved.
5. **Site Design Objectives:** The site shall be laid out, to the greatest extent feasible, to achieve the following design objectives (listed herein below in order of priority, since some conflict between design objectives is expected):
 - a. On the most suitable soils for on-site sewage disposal
 - b. To minimize the permanent loss of soils in Capability Class I or II as identified by the Soil Conservation Service and to maximize the area remaining for agricultural use in such areas
 - c. Within any woodland contained in the parcel, or along the far edges of the open fields adjacent to any woodland

- d. In locations least likely to block or interrupt scenic vistas as seen from the public roadway
- 6. **Parking:** Parking shall be provided entirely within the boundaries of the Agricultural Service Business and shall be constructed in a manner similar to that required by this Zoning Ordinance for other similar businesses.
- 7. **Minimum Setbacks:**
 - a. Front Yard: 60 feet
 - b. Side Yard: 60 feet
 - c. Rear Yard: 100 feet

D. **Attached Accessory Dwelling**

- 1. **Location:** The proposed accessory dwelling must be located either within or attached to a single-family dwelling. Free-standing units are not permitted. The accessory dwelling must have a common wall, floor, or ceiling with the single-family dwelling or garage.
- 2. **Access to dwelling:** The accessory dwelling and the principal dwelling shall have at least one common interior door.
- 3. **Limit on Number:** Only one accessory dwelling may be created attached to or within a single-family detached dwelling unit.
- 4. **Occupation:** If constructed at the same time as the principal dwelling, an accessory dwelling may be occupied no sooner than the principal dwelling.
- 5. **Exterior Appearance:** The accessory dwelling may not result in any new door entrances on an exterior wall facing a front yard property line. The property shall retain a single-family appearance from the street and an exterior addition shall be otherwise architecturally compatible with the primary dwelling. Compatibility includes coordination of architectural style, exterior building materials and colors, roofing form and materials, and other architectural features.
- 6. **Setback and Height Requirements:** Accessory dwellings shall maintain all applicable setback and height standards set forth for the principal dwelling in the subject zoning district.
- 7. **Separate Unit:** The accessory dwelling shall be designed as a separate and complete housekeeping unit with living, sleeping, cooking, and bathroom areas that can be isolated from the remaining original dwelling unit. It shall have a minimum floor area of 500 square feet but shall not exceed a maximum 800 square feet or 30% of the floor area of the primary dwelling.
- 8. **Parking:** If the proposed accessory dwelling is created by the conversion of a garage, additional off-street parking spaces may be required.
- 9. **Owner Residence:** The owner of the property shall occupy the primary dwelling and the principal dwelling shall serve as the owner's principal place of residence.

10. **Ownership:** As a condition of special use approval, the owner shall execute and record at the Kent County Register of Deeds, deed restrictions or other legal documentation that states, “The principal structure and the attached accessory dwelling shall remain in the same ownership”.

E. Bed & Breakfast Establishment

1. The use must be subordinate to the single family residential dwelling.
2. **Access:** All Bed and Breakfast Establishments shall be located on parcels that have frontage along a Primary Arterial Street.
3. **Area:** In all zoning districts the principal dwelling used for the bed and breakfast must be a minimum of 2,000 square feet of finished floor area.
4. **Restaurant Use:** Meals may be served but only to overnight guests. The establishment shall not be used for public restaurant purposes.
5. **Parking:** Two off-street parking spaces for the owner operator and one off-street parking space per room to be rented shall be provided.
6. **Length of Stays:** A guest may not exceed 14 days of executive stay, or exceed a total of 30 days of stay per calendar year.
7. **Area of Use:** The bedrooms and bathrooms utilized in the Bed and Breakfast Establishment may not exceed 50% of the dwelling’s total square footage.
8. **Occupancy:** The bedrooms shall be limited to a maximum of two adults or one family per room.

F. Private Cemeteries and Burial Grounds

1. The total land area available for the proposed cemetery,
2. The financial resources and financial solvency of the cemetery owner,
3. The need in the Township for additional cemetery,
4. The arrangements proposed by the owner of the proposed cemetery for development of the cemetery and insurance of its continuity and continued upkeep and maintenance,
5. Any traffic congestion which would be caused by the proposed cemetery, and
6. The effect of the proposed cemetery on adjoining lands and the surrounding neighborhood.

G. Churches and Schools

1. **Access:** Lots must directly abut or have direct access to a Primary Arterial.
2. **Minimum Lot and Setback dimensions:**
 - a. Front Yard: 60 feet.
 - b. Side Yards: 60 feet.
 - c. Rear Yards: 100 feet
 - d. Minimum Lot Width: 330 feet
 - e. Minimum Lot Area: 5 acres

H. Fuel Depot

1. Automated Dispense Systems with quantity restrictions are required.
2. Limited to privately owned commercial/industrial fleet sales.
3. Product sales are restricted to only fuels and motor oils.
4. No washing, maintenance, or service facilities are permitted
5. On-site containment around fueling area is required.
6. The State Fire Marshal must approve overfill and wash down procedures.
7. The applicant shall submit a Pollution Incidence Protection Plan (PIPP) as part of the application. The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as: special check valves, drain catch basins and automatic shut off valves.
8. The applicant must provide plans to the appropriate Fire Chief for review.

I. Junkyard

1. Outdoor storage of any materials related to any salvage operation shall not exceed 30% of the Lot Area. Materials shall be completely screened in an attractive manner compatible with the surrounding area. Screening must be by a solid fence or wall of not more than 10 feet in height erected in such a manner that an average person standing at existing ground level anywhere within 660 feet of the proposed use cannot view the salvaged materials.
2. Materials stored outdoors shall not be placed or piled against the required screening and shall be organized and stacked in such a manner that any person entering the yard will be reasonably safe from falling materials, rodents, electrical shock, or other potential hazards.
3. No part of any junkyard operation, except for offices and employee or customer parking, shall be conducted within 150 feet of any existing or proposed Street.
4. No part of any junkyard operation shall be conducted within 660 feet of any "R" residential district or within 660 feet of any residential dwelling.

J. Kennels

1. The use must be subordinate to the single family residential dwelling.
2. The size, nature and character of the Kennel.
3. The proximity of the Kennel to adjoining lands.
4. The possibility of noise or other disturbances for adjoining lands and the surrounding neighborhood on account of the operation of the Kennel.
5. Potential traffic congestion on account of the Kennel.
6. The nature and character of the Buildings and Structures to be utilized for the Kennel operation.

K. Landscaping Business

1. The use must be subordinate to the single family residential dwelling.
2. **Retail and Wholesale Sales:** The Planning Commission must specifically approve on-site retail and wholesale activities. The retail and wholesale activities are limited to products used by the operator in carrying out the trade.
3. **Lighting:** No freestanding light poles shall be erected or lights placed on buildings unless specifically approved by the Planning Commission. Light poles shall not exceed 20 feet in height. Light shall be directed downward and shall not reflect off the premises. The Planning Commission may prescribe time limits for lighting.
4. **Buffers:** The Planning Commission may require complete or partial screening of buildings and outside storage, activity and display areas. Required screening can include fencing, berming, a landscape buffer, or a combination of these elements.
5. **Equipment Storage:** All machinery and equipment, except for motor vehicles and trailers used in the conduct of the business, shall be stored within a completely enclosed building unless expressly approved by the Planning Commission.
6. **Refuse:** Exterior refuse storage facilities shall be screened from view on all sides by a solid decorative fence or landscaping.
7. **Outdoor Storage and Activity:** The applicant must clearly indicate all outdoor storage, display, or activity areas on a site plan. These areas must meet the following requirements:
 - a. Motor Vehicles, trailers, and stockpiled materials shall be stored a minimum of 100 feet from the front property line and 60 feet from any side or rear property line, in locations that minimize visual impacts of such materials on adjoining properties and public roads. The only activities that can occur within the required setback are employee/customer parking and growing of plants.

- b. Surface areas on which the outdoor storage or activity is to take place shall be reviewed for adequacy of drainage and dust control measures. The Planning Commission may require that areas be paved depending on the level of activity and or type of material or product involved.
- c. The storage of any fertilizer, chemical or loosely packed material shall be maintained and contained so as to prevent adverse effects upon adjacent properties. The Planning Commission shall consider whether other agencies' requirements are met, such as those of the Michigan Department of Environmental Quality and the U.S. Department of Agriculture.

8. **Minimum Lot and Setback dimensions:**

- a. Front Yard: 100 feet
- b. Side Yards: 60 feet limited to privately owned commercial/industrial fleet sales.
- c. Rear Yards: 100 feet Product sales are restricted to only fuels and motor oils.
- d. Lot Width: 300 feet
- e. Lot Area: 3 acres

L. **Outdoor Recreational Facilities**

- 1. **Access:** Lots must directly abut or have direct access to a Primary Arterial.
- 2. **Retail Sales:** Only on-site customer sales and service related to the applicable recreational use are allowed.
- 3. **Buffers:** Where recreational activities are to be conducted within any required setback, a Type II Buffer shall be located between such activity and any adjacent occupied property.
- 4. **Lighting:** Lighting shall be shielded to reduce glare and shall be so arranged and maintained as to direct the light away from all residential lands that adjoin the site.
- 5. **Hours of Operation:** No daily operations, including outdoor lighting, shall take place beyond the hours of operation prescribed by the Planning Commission. The Planning Commission shall take into account residential and business interests in the surrounding area to determine such hours of operation.
- 6. **Vehicular and Pedestrian Traffic:** Vehicular and pedestrian traffic shall be handled so as to minimize conflict both on-site and off.
- 7. **Utilities:** Potable water and sanitary on-site waste disposal shall be provided per the requirements of Kent County Health Department.
- 8. **Refuse:** Removal of rubbish shall be provided in screened receptacles located for both easy access and minimal visibility.

9. **Minimum Lot and Setback dimensions:**

- a. Front Yard: 60 feet
- b. Side Yards: 60 feet
- c. Rear Yards: 100 feet Product sales are restricted to only fuels and motor oils.
- d. Lot Width: 660 feet
- e. Lot Area: 10 acres of appropriate size for use

M. **Recreational Vehicle Storage Business**

1. The use must be subordinate to the single family residential dwelling.
2. **Location of Storage:** The storage shall be carried out only in fully enclosed buildings lawfully existing as of March 23, 2006.
3. **Repairs/Sales:** No repairs or maintenance of vehicles can occur on site and no sales of vehicles, merchandise, or equipment can occur on site.
4. **Parking:** There must be adequate on-site parking to accommodate the customers dropping off recreational vehicles.
5. **Hours of Operation:** The hours of operation for the picking up and dropping off of vehicles and other dealings with customers are limited to daylight hours only.
6. **Safety:** The storage permitted by the terms of this section shall be carried out only in a safe and non-hazardous manner. The application shall include information on whether gasoline or other fuel will be kept in the tanks of any stored boats or other vehicles. The Township Fire Inspector is to review the application to ensure that proper safety measures are taken.
7. **Outside Appearance:** Except for normal maintenance, no changes shall be made to the outside appearance of any building and there shall be no other visible evidence of such rental storage business upon the rental storage area.
8. **Signs:** No outdoor signage is allowed for the recreational vehicle storage business.
9. **Minimum lot area:** 10 acres.
10. No provision of this section shall be deemed to prohibit storage of personal recreational vehicles as permitted elsewhere in this Ordinance.

N. **Recycling Facility**

Applicants must submit information to the Township about the types of materials that are being recycled upon application and whenever there are changes in the materials recycled.

O. **Temporary Amusement Event**

1. Must be operated and supervised by a charitable organization which have been found to be tax exempt under Section 501(c) of the Internal Revenue Code, as amended, or a substantially similar successor statute.
2. **Minimum lot area:** 1 acre.
3. **Access:** Lots must directly abut or have direct access to a Primary Arterial Street.
4. **Proximity:** Lots must be located a minimum of 300 feet from any occupied residential dwelling.
5. **Residential Character:** The proposed use shall not cause any Alterations which remove or diminish residential characteristics of the site.
6. **Parking:** On-site parking shall be provided such that there is at least one (1) parking space for each four (4) projected users-customers; provided, however, that the Planning Commission may authorize parking on other Lots or parcels of land upon the written consent of the person owning the Lot or parcel of land upon which the parking has been proposed.
7. **Attendance:** The attendance of the proposed use shall not exceed one thousand (1,000) persons at one time.
8. **Length of Event:** The use shall be operated for no more than thirty (30) days in any twelve (12) month period.
9. **Additional Approvals:** The applicants shall submit written statements showing:
 - a. That the Township Building and Electrical Inspectors approve of the proposed use of any Buildings or Structures involved in the request,
 - b. That the Fire Chief of the jurisdiction in which the use is proposed has approved the use for fire safety and emergency vehicle access, and
 - c. That the Kent County Sheriff and Director of the Kent County Road Commission approve the applicant's plan for access and traffic control.
10. **Performance Bond:** The applicants shall submit a corporate surety bond from a corporate bonding company authorized to do business in the State of Michigan, the amount of which shall be determined by the Zoning Administrator. The bond shall be in a form approved by the Township Attorney and shall be conditioned upon the applicant's faithful compliance with all the terms and provisions of the Special Use Permit and other applicable provisions of this Ordinance, other local ordinances and state and federal statutes, and proper clean-up and restoration.
11. **Insurance:** The applicants shall submit a policy for public liability insurance, co-insuring the Township with a minimum coverage of one million (\$1,000,000.00) dollars bodily injury coverage and five hundred thousand (\$500,000.00) property damage coverage.

P. Adult-Oriented Businesses

1. Please see the standards contained in Section 4.16 of this Ordinance.
2. Such uses must also comply with Division 2 of Chapter 28 of the Gaines Charter Township Code.

Q. Probation, Parole, or Sex Offender Home

1. A probation, parole, or sex offender home shall be at least 1,000 feet from an adult foster care family home; adult foster care group home; substance abuse rehabilitation home; school; and other probation, parole, or sex offender homes.
2. The facility shall comply with all State of Michigan requirements, as applicable.

R. Substance Abuse Rehabilitation Home

1. A substance abuse rehabilitation home shall be at least 1,000 feet from an adult foster care family home; adult foster care group home; probation, parole, or sex offender home; school; and other substance abuse rehabilitation homes.
2. The facility shall comply with all State of Michigan requirements, as applicable.

Chapter 20 Residential Accessory Uses

Section 20.1 Introduction

This Chapter provides a set of standards for certain uses of land and structures that are considered accessory to the residential use of land. The regulations and standards are designed to allow, on one hand, practical latitude for a private property owner, but at the same time maintain adequate provision for the protection of the health, safety, convenience, and general welfare of the community. These standards are in addition to the standard regulations of the zone districts within which the use is proposed and other applicable regulations contained elsewhere in this Ordinance.

Section 20.2 Accessory Buildings

Detached accessory buildings are permitted in all Residential and Agricultural districts and on residentially used lots according to the following regulations.

- A. **Principal Dwelling:** There must be a principal dwelling, or one under substantial construction, on the lot for an accessory building to be permitted.
- B. **Architectural Character:** The architectural character of all accessory buildings shall be compatible with and similar to the principal Building.
- C. **Setback and Height Requirements:**

Accessory Building Standards	Zoning District				
	A-B	A-R	RL-14	RL-10	R-3
Accessory Buildings - less than 200 square feet and in the rear yard					
Front Setback	60' -Only permitted in front yard if screened by a Type 1 Buffer.		Not permitted in front yard		
Side Setback	3'		3'		
Rear Setback	0		0		
Corner lot - Street side yard	60'		35'		
Corner lot – Rear Setback	3'		3'		
Accessory Buildings – 200 square feet or greater or located in a side yard					
Front Setback	60' -Only permitted in front yard if screened by a Type 1 Buffer.		Not permitted in front yard		
Side Setback	20'		8'		
Rear Setback	3'		3'		
Corner lot - Street side yard	60'		35'		
Corner lot – Rear Setback	20'		8'		
Setback from Principal Building					
Separation Distance	10'		10'		
Accessory Building Height					
Maximum Height	20'		16'		

- D. **Maximum Floor Area:** The combined floor area of all Accessory Buildings on a lot cannot exceed the following limits, unless authorized by the Planning Commission with a special use permit:
1. A-B and A-R Zoning Districts: 3% of the Lot area or 2400 square feet, whichever is less.
 2. RL-14, RL-10 and R-3 Zoning Districts: 1.5% of the Lot area or 1200 square feet, whichever is less.
 3. Regardless of the above limits, the permitted accessory building floor area shall never be below:
 - a. 200 square feet for any lot.
 - b. 576 square feet for a lot where the principal dwelling does not have an attached garage
 4. In considering a special use permit for an accessory building exceeding the maximum floor area, the Planning Commission shall consider the standards stated in Chapter 19 and the following additional standards:
 - a. The intended use for the Building(s).
 - b. The size, proposed location, type and kind of construction and general architectural character of the Building(s).
 - c. The type and kind of principal and Accessory Buildings and Structures located on properties in the same neighborhood.
 - d. Whether the Building(s) will affect the light and air circulation or views of any adjoining properties.
 - e. The reason why the applicant has requested an Accessory Building(s) in excess of the maximum floor area.
 - f. The extent the Building(s) absorbs required Yards and other open spaces.
- E. A detached accessory building cannot be used for residential dwelling purposes.

Section 20.3 Nuisance Parking

- A. **Residential Zoning Districts:** The following rules apply to all Residential Zoning Districts:
1. **Recreational Vehicles:** No Mobile Home, boat, trailer, or Recreational Vehicle can be parked in the front yard or on the street for more than 48 hours during any one week time period. No more than two Recreational Vehicles may be stored outside in any yard.
 2. **Commercial Vehicles:** No commercial vehicle with a rated capacity exceeding 1.5 tons shall be parked on any property or street unless stored within a completely enclosed Private Garage. This section shall not prevent the temporary parking of such Vehicles for deliveries, pick-ups or service calls.

3. **Inoperable Vehicles:** All inoperable vehicles must be stored within a completely enclosed building.
- B. **Agricultural Zoning Districts:** The following rules apply to the A-R and A-B Zoning Districts:
1. **Recreational Vehicles:** No Mobile Home, boat, trailer, or Recreational Vehicle can be parked in the front yard or on the street for more than 48 hours during any one week time period.
 2. **Commercial Vehicles:** No commercial vehicle with a rated capacity exceeding 1.5 tons shall be parked in the required front or side yard unless stored within a completely enclosed Private Garage. This section shall not prevent the temporary parking of such Vehicles for deliveries, pick-ups or service calls.
 3. **Inoperable Vehicles:** All inoperable vehicles must be stored within a completely enclosed building.

Section 20.4 Fences and Walls

All fences or walls shall meet the following regulations:

A. **Height Regulations**

1. A solid fence or wall cannot be taller than 36 inches when it is within 15 feet of the Front Lot Line or any other Lot line that is adjacent to a Street.
2. A fence in an Agricultural or Residential Zoning District cannot be taller than 6 feet unless the Planning Commission grants a Special Use Permit to allow a taller fence. In granting such authorization, the Planning Commission shall, in addition to standards required by Chapter 19, consider the following standards:
 - a. The effect upon adjacent property, including effect on light and air circulation and on view from the adjacent properties.
 - b. The reason for the request to construct a fence higher than that permitted by this Ordinance
 - c. The size, type and kind of construction, proposed location, and general character of the fence.
 - d. The size of other fences in the surrounding neighborhood.

B **Construction and Materials**

1. Barbed wire fences are permitted only:
 - a. To enclose essential public service structures and wireless communication structures over 35 feet tall.
 - b. In Commercial and Industrial Zoning Districts.Barbed wire strands must be at least 6 feet above the bottom of the fence.

2. No fence shall be constructed in a manner that creates a hazard, nuisance, or unsightly conditions on adjoining properties.
 3. Fences with posts exposed on only one side shall be erected such that the side with the exposed posts faces the fence owner's property.
- C. This section shall not apply to lands utilized as a part of a farming operation.

Section 20.5 Swimming Pools and Ponds

- A. **Swimming Pools:** No pool shall be located in the Front Yard. Pools must meet the following setback requirements:
1. In-ground pool: At least 6 feet from any property line.
 2. Above-ground pool: At least 10 feet from any property line.
- Setbacks are measured from the outside edge of the pool wall.
- B. **Fencing for In-Ground Pools:** All swimming pools shall be enclosed by a fence. The fence must meet all of following requirements:
1. The fence must be at least 4 feet in height.
 2. The fence must be a type that children cannot readily climb.
 3. All gates and doors must be capable of being locked and shall be locked at all times when no person is present on the Lot or parcel of land on which the pool is located.
 4. All gates and doors shall be of a self-closing and latching type, with the latch on the inside of the gate positioned in such a manner that it is not readily available for children to open.

The Building Inspector may waive the requirements for a fence if the entire yard in which the pool is located is enclosed by a fence that meets the requirements specified above.

- C. **Fencing for Above-Ground Pools:** The Building Inspector may waive the fencing requirements described in Subsection B for above ground pools if:
1. The top of the pool is 4 or more feet above grade
 2. The pool does not have a deck with readily climbable supports, and is, itself, constructed in such a manner that it is not readily climbable.
 3. The gate and door arrangements meet the requirements of Subsection B.

If an above ground pool does have readily climbable supports, such pool shall either be fenced as provided in Subsection B or appropriate means shall be taken to make the supports to the deck and/or pool not readily climbable, as determined by the Building Inspector.

- D. **Ponds:** Except in the Agricultural zoning districts, no person shall erect, install, locate or construct a pond unless it has first been approved by the Zoning Administrator. Application for a pond must include the following information:
1. The land area where the pond will be located.
 2. A sketch of the pond including the depth, slope, water capacity and the general configuration of the pond.
 3. The distance of the pond to all existing or proposed structures.
 4. Any structural precautionary measures which will be taken to protect those making use of the pond or those who might be endangered thereby. If, in the course of approving a pond, the Zoning Administrator determines that the protection of the general public requires that a pond be enclosed, such enclosure shall be made by a wall or a fence not less than four (4) feet above the grade level and constructed in such a manner as to make the pond inaccessible to small children.

If the Zoning Administrator determines that the creation of a proposed pond or lake will present potential safety, environmental, or other significant impacts within the community involved, the Zoning Administrator shall have the discretion to refer the matter to the Planning Commission and the Planning Commission shall determine whether or not the pond or lake shall be allowed pursuant to the special use review and approval process.

- E. **Slope of Pond:** The slopes of the banks or sides of the pond shall be constructed so that for each one (1) foot rise there shall be a minimum of three (3) feet of run. The minimum slope angle must be maintained and extended into the pond water to a depth of three (3) feet.
- F. No pond shall be constructed, installed or maintained which either causes or contributes to the erosion of any adjacent abutting, or nearby lands.

Section 20.6 Recreational Vehicles

One Recreational Vehicle may be used for a temporary Dwelling if it is in the Rear Yard of a Lot upon which a One Family Dwelling has been erected. Such use shall be permitted for no more than 7 days in any calendar year unless the Zoning Administrator issues a permit for a longer period of time. Each permit shall be issued for a period not to exceed two weeks, which the Zoning Administrator may renew for not more than two successive periods of two weeks or less. In no case shall said temporary use of a Recreational Vehicle be permitted for more than 60 days in any calendar year. The Recreational Vehicle shall be no closer to any side Lot Line than the principal Building is permitted.

Section 20.7 Home Occupations

Home Occupations are permitted in any Agricultural or Residential Zoning District or on any residentially used lot, subject to the following restrictions:

- A. **Residential Character:** The use of the dwelling for a Home Occupation shall not alter the residential character of the premises.
- B. **Prohibited Uses:** A Home Occupation cannot include the following uses:
 - 1. Restaurants
 - 2. Repair of Vehicles
- C. **Effect on Adjacent Properties:** A home occupation shall not result in an adverse or disrupting effect on other properties or on the residential character of the neighborhood by way of noise, odor, vibration, dust, electronic interference, traffic, safety or other attribute or emission.
- D. **Sale of Goods:** No merchandise or articles for sale shall be displayed on the premises.
- E. **Machinery and Equipment:** No mechanical equipment shall be used in the operation of the Home Occupation except equipment that is clearly similar in power and type to mechanical equipment normally used for domestic purposes.
- F. **Operation of home occupation:** The amount of floor area used by the Home Occupation shall not exceed 25% percent of the Dwelling Floor Area. All operations other than parking associated with the Home Occupation must take place within the Dwelling unless the Planning Commission approves a special use permit to allow operations within an accessory building.
- G. **Outside Operations and Storage:** No outside operations or storage associated with the home occupation are permitted.
- H. **Signs:** One non-illuminated stationary sign is permitted to identify a Home Occupation. The maximum permitted sign area is 2 square feet or 4 square feet if the property fronts on a primary arterial street.
- I. **Parking:** Parking for the Home Occupation shall at no time exceed 1 Vehicle, unless the Planning Commission approves a special use permit allowing parking for up to 4 vehicles.
- J. **Number of Employees:** No more than 1 person who is not a member of the family residing on the premises shall be engaged in any operation of the Home Occupation, unless the Planning Commission approves a special use permit allowing a greater number of employees.

Section 20.8 Personal Property Sales

Personal property sales include garage sales, yard sales, basement sales, or any other sales of a similar nature. Personal property sales are allowed within any Residential or Agricultural zones, provided:

- A. It has a duration of less than 3 days.

- B. It does not occur within 120 days of the last personal property sale held on or at the same location or parcel of property.
- C. All articles of property, except for farm machinery and equipment that are offered for sale shall be totally enclosed within a lawful Structure or Building between the hours of 9:30 p.m. and 8:30 a.m.
- D. All articles of property that are offered for sale shall be removed from display when the sale has been completed.
- E. All signs advertising the personal property sale must be removed upon completion of the sale.

Section 20.9 Sale of Vehicles

A property owner is permitted to display and sell up to two motor vehicles in any calendar year in a Residential or Agricultural District or on a residentially used lot. No such sales or vehicle displays shall occur for more than ninety (90) days during any calendar year on a given lot.

Section 20.10 Holiday Sales

Holiday sales are defined as a one time, temporary sale of Christmas trees, Halloween pumpkins, Mother’s Day flowers, or similar naturally grown, unprocessed, Agricultural Products related specifically to a nationally recognized holiday. They are permitted in any Zoning District if all of the following conditions are met and maintained:

- A. **Product Limitations:** Only those Agricultural Products found to be directly associated with the holiday or observance may be offered for sale.
- B. **Duration:** Any such sale shall only be conducted in association with an annual holiday or observance (such as Christmas or Halloween), found by the Zoning Administrator to be widely accepted and nationally recognized. The use cannot begin any more than 35 days before the officially recognized date of that holiday or observance and must finish on the day of the holiday. The site shall be fully restored to its pre-sale condition by the removal of all remnants of the holiday sale including signage, inventory, temporary structures, trash, debris and any other similar site effects resulting from the holiday sale within 5 days of the date of the holiday.
- C. **Lot Size and Location.** The Lot or parcel of land upon which a holiday sales operation will be conducted must meet the following requirements:
 - 1. It must be a legally occupied premise.
 - 2. It must be a minimum of 1 acre in area.
 - 3. It shall not be located within an approved plat or site condominium project.
 - 4. It shall abut a Primary Arterial Street.
- D. **Hours of Operation.** In any residential zone, no sales or other parts of the operation shall be conducted after 9:30 p.m., nor before 8:00 a.m. Additional lighting in a

residential zone shall be considered a part of the operation and must be turned off after 9:30 p.m. For a commercial premise, sales operations shall only be conducted during the business hours of the existing principal commercial operation.

- E. **Off-Street Parking.** An off-street parking area shall be provided on the same Lot as the proposed sales use. The parking area shall have direct access to and from a Primary Arterial as designated in this Ordinance. Each parking space shall be at least 9 feet wide and 18 feet long. Aisles in the parking area must be at least 10 feet in width for each one-way lane of proposed parking traffic. The minimum number of spaces to be provided in the off-street parking area shall be 1 parking space for each 4 projected customers accessing the site at any one time, and shall be in addition to any parking already required to be on the Lot pursuant to this Ordinance. Loading areas for re-stocking of product shall be provided in a manner that required parking spaces are not used for this purpose during business hours.

- F. **Safety.** Any additional lighting shall be shielded from neighboring parcels and Streets. Parking and stocking areas shall be laid out so as to not require pedestrians to cross any main driveways or a public Street. Parking, loading, product stocking areas, Signs, and other site features shall be located so as to not obstruct vision for traffic on any public Street or for customers entering or leaving the site. Valid copies of all other permits required by Gaines Township, Kent County, or state or federal authorities for conducting business shall be obtained before commencing the operation.

- G. **Signs.** One freestanding Sign is permitted to advertise a holiday sales use. It must meet the following requirements:
 1. It cannot not exceed 32 square feet in area.
 2. It shall not be placed in any public Street Right-of-Way.
 3. It shall not be lighted.
 4. It must be removed immediately after the sale.

Section 20.11 Residential Child, Adult Day, and Foster Care Facilities

- A. Residential Child, Adult Day, and Foster_Care Facilities are allowed in the “R” and “A” Zoning Districts according to the following table:

Facility Type	“R” or “A” Zoning Districts
Adult Foster Care Family Home	Permitted
Adult Foster Care Small Group Home	SPU
Adult Day Care Home	Permitted
Foster Family Home	Permitted
Foster Family Group Home	Permitted
Family Child Day Care Home	Permitted
Group Child Day Care Home	SPU

Child Day Care Center	SPU
-----------------------	-----

P: The use is permitted by right in the district
SPU: The use is allowed only if the Planning Commission grants a Special Use Permit for the use after finding that the applicable standards in this chapter and Chapter 19 have been met

B. Special Use Permit Standards:

1. Child Day Care Center

- a. **Appearance:** The building shall have an appearance that is non-intrusive and consistent in color, materials, roofline and architecture with the area in which it is located, as determined by the Planning Commission.
- b. **Location and Access:** The lot must abut a primary arterial street and all access must be from the primary arterial street.
- c. **Lot Requirements:** The minimum lot area and width shall be the same as the zoning district within which the day care center is located, except that in the A-R district the minimum lot area is reduced to 40,000 square feet. The minimum setbacks shall be the same as those for a principal dwelling in the zoning district
- d. **Drives:** An on-site drive shall be provided for drop-offs and loading with a sufficient number of stacking spaces to accommodate the number of children to be cared for at the center. The drive must be arranged to allow maneuvers without creating a hazard to traffic flow on the public street.
- e. **Parking and Landscaping:** The parking requirements in Chapter 15 “Parking and Loading Regulations” and the landscaping requirements for the front yard and parking lots in Chapter 16 “Landscaping Regulations” apply to the use.
- f. **Signs:** Signs shall be no larger than 42 square feet with a maximum height of 6 feet and must be attractively landscaped.
- g. **Buffers:** The Planning Commission may require such buffers and screening as it considers appropriate.
- h. **Outdoor Areas:** Outdoor play areas must be fenced.
- i. **Other Requirements:** The applicant must be able to demonstrate that all applicable state requirements will be met, such as compliance with State Building and Fire Codes and compliance with state licensing requirements.

2. Adult Foster Care Small Group Home

- a. The applicant must be able to demonstrate that all applicable state requirements will be met, such as compliance with State Building and Fire Codes and compliance with state licensing requirements.

- b. The building shall have an appearance that is non-intrusive and consistent in color, materials, roofline and architecture with the area in which it is located, as determined by the Planning Commission.
- c. An on-site drive shall be provided for drop offs/loading. This drive shall be arranged to allow maneuvers without creating a hazard to traffic flow on the public street.

3. Group Child Day Care Home

Group Day Care Homes shall be permitted in A-B, A-R, RL-14, RL-10 and R-3 Zoning Districts when authorized as a Special Use by the Planning Commission. Special Use approval shall be granted if the group day care home meets the following standards:

- 1. Is located no closer than one thousand five hundred (1,500) feet to any of the following:
 - (a) Another licensed group day care home.
 - (b) Another adult foster care small group home or large group home licensed under the Adult Foster Care Facility Licensing Act, Michigan Act No. 218 of the Public Acts of 1979, (MCL 400.701 – 400.737, MSA 16.610(51) – 16.610(87)).
 - (c) A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people licensed under article 6 of the Public Health Code, Act No. 368 of the Public Acts of 1978, (MCL 333.6101 – 333.6523, MSA 14.15(6101) – 14.15(6523)).
 - (d) A community correction center, resident home, halfway house, or other similar facility, which houses an inmate population under the jurisdiction of the department of corrections.
- 2. Has appropriate fencing for the safety of the children in the group day care home as determined by the Planning Commission.
- 3. Maintains the property consistent with the visible characteristics of the neighborhood.
- 4. Does not exceed sixteen (16) hours of operation during a twenty-four period. The Planning Commission may limit but not prohibit the operation of a group day care home between the hours of 10:00 p.m. and 6:00 a.m.
- 5. Meets the requirements governing the signs used by a group day care home to identify itself.
- 6. Meets the requirements of the ordinance requiring a group day care home operator to provide off-street parking accommodations for his or her employees.

The distance specified in item (a) above shall be measured along a road, street, or place maintained by the State of Michigan or a political subdivision thereof and generally open

to use by the public as a matter of right for the purpose of vehicle traffic, not including an alley.

Section 20.12 Amateur Radio Services

- A. This section is intended to:
1. Provide for the reasonable accommodation of Amateur Radio Support Structures in the Township.
 2. Constitute minimum practicable regulation to accomplish the Township's legitimate purposes consistent with state and federal laws including Federal Communication Commission regulations pertaining to Amateur Radio Services, as noted in PRB-1 (1985), as amended and reconsidered. Legitimate purposes include, but are not limited to, preserving the public health, safety, and general welfare of the Township and its residents.

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

Amateur Radio Service: A federally licensed radio-communication service for the purpose of self-training, intercommunication and technical investigations carried out by amateurs, that is, duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest particularly with respect to providing emergency communications. (As per Code of Federal Regulations, Title 47, Part 97).

Amateur Radio Antenna: Any combination of materials or equipment used exclusively for the purpose of sending and/or receiving electromagnetic waves for Amateur Radio Services.

Amateur Radio Antenna Support Structure: Any structure, such as a mast, pole, tower or any combination thereof, whether ground or roof mounted, freestanding or guyed, used exclusively for supporting Amateur Radio Antenna(e).

Ground Mounted Amateur Radio Antenna Support Structure: Amateur Radio Antenna Support Structures that are not fixed to any building or accessory structure.

Roof Mounted Amateur Radio Antenna Support Structure: Amateur Radio Antenna Support Structures that are fixed to any building or accessory structure.

Overall Height: The total height of the Amateur Radio Antenna Support Structure as measured from mean grade to the highest point of the Antenna Support Structure. For Roof Mounted Antenna Support Structures, the mean grade is measured from the established grade adjoining the exterior walls of the structure upon which the antenna or support structure is affixed. For Ground Mounted Antenna Support Structures, the mean grade is measured at the established grade adjoining such antenna and/or support structure.

- C. Amateur Radio Antenna and Amateur Radio Antenna Support Structures are permitted by right, without the need for a zoning permit, in all zoning districts subject to the following regulations:

1. No Amateur Radio Antenna Support Structure shall be taller than 75 feet in height.
 2. No Roof Mounted Amateur Radio Antenna Support Structure shall be fixed to the side of a structure that faces a public street.
 3. Ground Mounted Amateur Radio Antenna and/or Amateur Radio Antenna Support Structures shall not be allowed in the front yard or a side yard facing a street.
 4. Ground Mounted Radio Antenna and Amateur Radio Support Structures shall have a minimum setback equal to one-third (1/3) its height to any property line.
 5. No more than two (2) Amateur Radio Antenna Support Structures shall be permitted on a single lot or parcel of land.
- D. If any of the standards contained in Section 20.9(C) cannot be met or maintained, a zoning permit shall be required. In considering whether or not a zoning permit shall be issued, the Zoning Administrator shall consider the following standards:
1. **Structural Ability and Soundness:** The applicant shall demonstrate structural stability and soundness of the proposed Amateur Radio Support Structure. This can be achieved through either of the following:
 - a. Providing a copy of the manufacturer’s specification on assembly, construction and erection, and a certification that such a specification has been followed.
 - b. A certification by a licensed professional engineer confirming the structural stability and soundness of the proposed Amateur Radio Support Structures.
 2. **Location:** The proposed Amateur Radio Support Structures shall be so located and installed as to be safe and to create minimum impact to the surrounding properties.
 3. **Height:** The applicant shall demonstrate the need for the proposed Amateur Radio Support Structure to exceed 75 feet in height. This can be accomplished by providing information regarding the topography of the subject property or other information that would affect the operation of the Amateur Radio Service.

20.13 Basement Dwellings

The use of any basement as a dwelling is prohibited. Any dwelling without a full floor above grade level shall be considered a basement dwelling.

20.14 Temporary Storage Unit

Temporary Storage Units (TSUs) are permitted in all Residential and Agricultural districts subject to all of the following requirements and regulations:

- A. No more than one (1) TSU may be located outdoors on a lot at a time.
- B. One (1) TSU may be kept outdoors on a lot for up to 15 days, twice a year, with a minimum of 30 days per lot between each placement of a TSU. Apart from such allowed TSU usage, no other TSU shall be placed or located outdoors on a lot.
- C. The maximum TSU size allowed is 200 square feet.
- D. The maximum TSU height allowed is 8 feet.
- E. All TSU locations must meet the Accessory Building development requirements for setbacks contained in Section 20.2.

CHAPTER 21

Nonconforming Lots, Structures and Uses

Section 21.1 Description and Purpose

The purpose of this chapter is to regulate nonconforming uses, structures, and lots as follows:

- A. The zoning districts established by this Ordinance are designed for the future use of the Township's land by encouraging the development of desirable uses, with appropriate groupings of compatible and related uses and thus to promote and protect the public health, safety, and general welfare.
- B. It is the stated intent of the state of Michigan (and also Gaines Charter Township) that lawful nonconformities be discourage and gradually be eliminated over time. Absent unusual circumstances, lawful nonconformities should not be allowed to expand or increase in size, scope, intensity or duration.
- C. The continued existence of certain nonconformities is frequently inconsistent with this Zoning Ordinance and the Master Plan, and thus, the gradual elimination of such nonconformities is often desirable. Other nonconformities may continue to exist and afford adaptive reuse opportunities that can contribute to neighborhood character, diversity, and services.
- D. The regulations of this chapter are intended to restrict further investments, alterations, or changes that would make nonconformities more permanent in their location in inappropriate districts as well as to afford opportunities for creative use and reuse of those other nonconformities that contribute positively to a neighborhood and are consistent with the goals of the Master Plan.
- E. Restrictions and standards are hereby established for nonconforming uses of land and of structures designed for a permitted use; nonconforming uses of structures not designed for a permitted use; nonconforming structures; and nonconforming lots of record.

Section 21.2 Development of Nonconforming Lots of Record

- A. In any zoning district in which single-family dwellings are permitted, notwithstanding other limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record after the effective date of this Ordinance, subject to the following conditions:
 - 1. Lot coverage by said dwelling and accessory buildings shall not exceed twenty-five (25%) percent of the total lot area.
 - 2. Side yards may be reduced by the same percentage that the width of such lots bears to its own district requirements, provided that each side yard in no instance shall be less than five (5) feet. All other setback requirements shall be met.

3. If two (2) or more parcels or lots, one of which does not contain a principal building, are located adjacent to each other or have contiguous frontage and are held or owned in single ownership of record, and if all or part of such lots do not satisfy the minimum requirements for lot width, lot area, street frontage, or other dimensions, such lots and parts of lots shall be used so as to meet the requirements for lot width and area.
- B. Any parcel of land in any Commercial, Office, or Industrial District that does not comply with the minimum lot area requirement and/or minimum lot width requirement for the district in which the parcel of land is located, may nevertheless be used for a use permitted in that district if all structures comply with the regulations and requirements of that zoning district, as well as the site plan review requirements of Chapter 25 – Site Plan Review, if applicable.

**Section 21.3 Alteration of Buildings and Structures and
Enlargement of Facilities, Equipment or Structures;
Lawful Nonconforming Uses; Abandonment**

- A. Any structure existing and lawful at the time of the enactment of this Ordinance, or amendments thereto, may be continued although the structure does not conform to the current provisions of this Ordinance.
- B. Lawful nonconforming structures may be altered so long that any alteration meets the requirements of the zoning district where it is located or makes the structure more conforming.
- C. If a proposed alteration would reduce parking spaces such that it would make parking less conforming, such changes must be approved by the Site Plan Review Committee.
- D. The lawful use of any land or premises exactly as it existed at the time of enactment of the Zoning Ordinance, or relevant amendment thereto, may be continued although the use does not conform to the current provisions of the Zoning Ordinance.
- E. Except as otherwise specifically provided in this Chapter, no lawful nonconforming use shall be increased, expanded, altered, or intensified.
- F. If a lawful nonconforming use is abandoned for any reason for a period of six months or more, any subsequent use shall fully conform to the requirements of this Ordinance. A lawful nonconforming use shall be considered abandoned (even if six months have not passed) if one or more of the following conditions exists, and shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
 1. Utilities, such as water, gas and electric to the property, have been disconnected.
 2. The property, buildings, or grounds, have fallen into disrepair.
 3. A building, sign, or other indications of the existence of the nonconforming use have been removed.

4. Removal of equipment or fixtures that are necessary for the operation of the lawful nonconforming use.
- G. Existing residential lawful nonconforming uses can be altered or expanded so long as such alteration or expansion meets the requirements for the zoning district where the property is located.
- H. A lawful nonconforming use may be expanded or extended throughout any portion of a completed existing lawful building that was manifestly designed, constructed, and arranged to accommodate such use when the use was made lawfully nonconforming by this Ordinance. However, a lawful nonconforming use may not be extended to additional buildings, out of doors, or to land outside the original building.
- I. Nonresidential lawful nonconforming uses shall not be expanded in terms of area, size, intensity, buildings, facilities, equipment, or structures unless approved as a special use by the Planning Commission. The Planning Commission shall only grant the special use permit if all of the following standards are met:
1. The expansion shall not result in the conversion of a seasonal operation to a year-round operation, nor shall it result in the hours of operation being extended into the hours of 10:00 p.m. through 7:00 a.m.
 2. Additional traffic generated by an expansion or construction must be reasonably incorporated into the neighborhood and community transportation network and cause no negative impacts to the neighborhood.
 3. The expansion shall not go beyond the limits of the parcel of property upon which such use existed at the time it became lawfully nonconforming.
 4. The noise, vibration, and dust levels that may be generated shall not be increased beyond the levels that existed prior to the expansion.
 5. Outdoor storage areas shall not be expanded or located any closer to an adjoining residential property.
 6. The expansion shall not add more than 50% of new floor area. This percentage shall be based on the floor area originally in use when the use became lawfully nonconforming.
 7. The expansion shall conform to the setback, height, parking, and other applicable requirements for the zoning district involved.
 8. The expansion shall not hinder the future development of surrounding properties in accordance with the Master Plan.
 9. The expansion shall not present a threat to the health, safety, and general welfare of the Township or its residents.
- J. A lawful nonconforming use shall not be changed to another type of lawful nonconforming use, as determined by the Zoning Administrator, unless approved by the Planning Commission as a special use, using the standards of review in Section 21.3(I).

- K. Any nonresidential lawful nonconforming use expansion that is approved is also subject to the Site Plan Review requirements of Chapter 25 of this Ordinance.
- L. Any lawful nonconforming use that is listed as a conditional or special use allowed with a special use permit in the district in which it is located, shall be required to seek a special use permit before any nonconforming use expansions are approved.

Section 21.4 Repair of Buildings and Structures

- A. Except as expressly otherwise provided herein, routine repairs and maintenance work may be done as required to keep a lawful nonconforming building or structure in a sound condition.
- B. Any building or structure shall be considered existing and lawful and, for the purposes of Chapter 21, to have been in use for the purpose for which constructed if, on the effective date of this Ordinance, all of the following shall apply:
 - 1. A building permit (as well as all other permits and approvals) had been obtained and lawful construction was substantially begun.
 - 2. If a building permit is not required, construction must be progressing substantially.
 - 3. Construction on said structure must have been complete within one year of the date when the building permit was issued.
 - 4. The structure or building was lawful when commenced or constructed.
- C. Destruction.
 - 1. *Residential Structures and Buildings.* Except for signs (as specified below), any lawfully nonconforming residential structure or building destroyed or damaged by fire, flood, explosion, wind, earthquake, war, riot, or other public calamity or act of nature, may be replaced or reconstructed to the same size, footprint, location, and extent as before the damage occurred, provided that rebuilding substantially commences not later than six (6) months after the destruction and so long thereafter as the building permit remains valid.
 - 2. *Nonresidential Structures and Buildings.* Except for signs (as specified below), lawful nonconforming uses or structures shall not be reestablished, rebuilt, or restored to their prior nonconforming condition in any zoning district after damage or destruction of the lawful nonconforming use or structure if the estimated expense of reconstruction exceeds fifty percent (50%) of the estimated replacement cost of the use or entire building or structure. The estimated expense of reconstruction or estimated replacement cost shall be determined by the Township Building Inspector, upon advice from the Township Assessor. Persons aggrieved by the determination of the estimated replacement cost or the estimated reconstruction cost by the Building Inspector may appeal such determination to the Zoning Board of Appeals.

3. *Signs.* If a sign loses its lawful nonconforming designation or status, the sign (and all portions thereof) shall be removed immediately and shall not be repaired, moved, replaced or rebuilt unless it fully complies with all requirements of this Ordinance. A lawful nonconforming sign shall lose its lawful non-conforming designation and status if the Zoning Administrator determines that any of the following is applicable:
- a. The sign is relocated, removed, moved, rebuilt or replaced.
 - b. The sign is destroyed. A sign shall be deemed destroyed if any of the following occurs:
 - i. The sign is torn down or demolished;
 - ii. The sign is wrecked or ruined;
 - iii. Such damage has been done to the sign that it cannot be returned to its prior state by routine repair, but only by replacement or material rebuilding; or
 - iv. More than 50% of the face of the sign has been shattered, or a portion of the sign face touches the ground.
 - c. Even if a sign has not been destroyed, but damage or deterioration has occurred to the point of 50% or more, the sign shall be deemed to have lost its lawful nonconforming status.
 - d. The structure or size of the sign is altered in any material way other than a change of copy or normal maintenance which does not physically alter the sign.
 - e. There is a material change in the use of the premises where the sign is located.
 - f. A building permit is issued for any construction on the premises where the sign is located which increases the total building square footage by more than 5% or 5,000 square feet, whichever is less.

If a lawful nonconforming sign suffers 50% or more damage or deterioration, it loses its lawful nonconforming status and must be brought into full compliance with this Ordinance or be removed. In order to determine whether or not a sign has been damaged or has deteriorated by 50% or more, the costs of physically repairing the sign shall be compared to the costs of physically replacing the sign. If less than 50% damage or deterioration has occurred pursuant to such comparison, the sign may be repaired to its exact original state.

Section 21.5 Elimination of Nonconforming Lots, Structures and Uses

The Township may eliminate any and all nonconforming lots, structures and/or uses it deems in the best interest of the Township to eliminate, by whatever means are provided by law in such cases.

Section 21.6 Burden of Proof

The burden of proof for establishing or proving the existence or any aspect of a lawful nonconforming structure, lot or use (as well as the size, scope, intensity, and extent thereof) is on the owner of the property involved.

CHAPTER 22

Private Streets and Driveways

Section 22.1. Intent and Applicability

A. Intent. This Chapter intends to ensure that newly created parcels, lots, and condominium units have safe and efficient year-round permanent vehicle access and utilities to protect the health, safety, and welfare of the public. Safe conditions are preserved by ensuring that private streets and driveways are constructed and maintained to support year-round traffic and also emergency vehicles, including but not limited to fire, police, ambulance, delivery, and utility service vehicles. The procedures, standards, and specifications established in this Chapter are provided to ensure fair and consistent application to meet this intent.

B. Applicability.

1. No private street or shared driveway shall be constructed, extended, used, or upgraded unless approved in accordance with this Chapter.
2. Compliance with this Chapter will allow applicants to satisfy the accessibility requirements of the Michigan Land Division Act (Act 288 of 1967, as amended) and the frontage requirements of Section 4.2 F of this Ordinance for land divisions, platted subdivisions, and condominium developments.
3. A land division, final plat, final site condominium plan, or final condominium project plan in which parcels, lots, or condominium units utilize access from a private street or shared driveway shall not be approved without Township approval and completed installation of a private street or shared driveway that is constructed and approved in accordance with this Chapter.
4. A private driveway must also be approved and installed in accordance with this Chapter prior to the issuance of a certificate of occupancy for a new dwelling by the Building Official.

Section 22.2. Nonconforming Private Streets and Shared Driveways

A. Continuation of Use. All lawfully existing parcels, lots, and units that are accessed by existing lawful nonconforming private streets and shared driveways may continue to be accessed by the nonconforming private street or shared driveway.

B. Normal Maintenance. The requirements of this Chapter do not prohibit the normal maintenance of nonconforming private streets and shared driveways.

C. Serving Undeveloped Property. Construction of a building on an existing lawful parcel, lot, or condominium unit which fronts on an existing lawful nonconforming private street or shared driveway is permitted, so long as the surface condition of the street or driveway is determined by the Zoning Administrator to be freely passable for normal traffic and emergency service vehicles year-round.

- D. **Extension.** A lawful nonconforming private street or shared driveway may only be extended in length or have one or more new lots, parcels or units added to it under any one of the following two situations:
1. The entire length of the private street or shared driveway is upgraded to comply with all of the current requirements of this Chapter; or
 2. The extension is part of a phased PUD project which received preliminary Township approvals (including for the private road or shared driveway modification), and future phases shall reflect approved preliminary designs.
- E. **Serving Additional Properties without an Extension.** An existing lawful nonconforming private street or shared driveway may serve two (2) additional parcels, lots, or units (pursuant to an approved land division) without the need to upgrade the entire length and surface area of the private road or shared driveway to comply with the requirements of this Chapter, as long as:
1. It is not extended in length;
 2. The traveled surface and condition of the street or driveway are determined to be freely passable year-round for general traffic and emergency vehicles and is approved by the Zoning Administrator, after consultation with the Township Engineer, Building Official, and Fire Official; and
 3. An easement maintenance agreement as approved by the Township is recorded or amended in full compliance with Section 22.9 of this Chapter.

The Zoning Administrator may attach reasonable conditions to the approval.

Section 22.3 Permits and Approvals

- A. **Application and Fee.** Unless reviewed in conjunction with a platted subdivision, site condominium plan, or condominium project plan, a request for approval of a private street or shared driveway shall be submitted by an applicant to the Township, along with all required materials and a fee or fees as set by the Township Board. A private driveway is reviewed in conjunction with a building permit application for the building for which the driveway is proposed to serve.
- B. **Private Driveway Approval.**
1. Private driveways serve a single parcel, lot, or condominium unit (and are located entirely with the lot, parcel or unit served) and cannot be used to meet street frontage requirements.
 2. Private driveways are approved by the Building Official as part of the building permit process.
- C. **Shared Driveway Approval.**
1. Shared driveways may serve up to four (4) parcels, lots, or condominium units and can be used to meet street frontage requirements.

2. Shared driveways are approved by the Zoning Administrator if serving a non-PUD land division reviewed under the Gaines Charter Township Land Division Ordinance and the Michigan Land Division Act.
3. Shared driveways are approved by the Township Board if serving a platted subdivision, site condominium plan, condominium project plan, or PUD. The Zoning Administrator and Planning Commission shall provide a recommendation to the Township Board based on a technical review pursuant to the requirements of this Chapter.

D. Private Street Approval.

1. Private streets serve five (5) or more parcels, lots, or condominium units and can be used to meet street frontage requirements.
2. Private streets are approved as a special land use by the Planning Commission if serving a non-PUD land division reviewed under the Gaines Charter Township Land Division Ordinance and the Michigan Land Division Act or a commercial development concurrently during the site plan review process. The Zoning Administrator shall provide a recommendation to the Planning Commission based on a technical review pursuant to the requirements of this Chapter.
3. Private streets are approved by the Township Board if serving a platted subdivision, site condominium plan, condominium project plan, or PUD. The Zoning Administrator and Planning Commission shall provide a recommendation to the Township Board based on a technical review pursuant to the requirements of this Chapter.

E. Completeness Review. If an application is determined to be incomplete by the Zoning Administrator, the applicant will be informed in writing, and the review process will cease until the application is determined to be complete.

F. Interdepartmental Review. As a part of the review process, the Zoning Administrator, Planning Commission, and Township Board, as applicable, shall consult with the Township Engineer, Fire Official, Township Attorney, and Building Official as deemed necessary.

G. Modifications and Waivers. The Township Board shall review and act upon all requests for modifications and waivers to the requirements of this Chapter. The Zoning Administrator and Planning Commission shall provide a recommendation to the Township Board based on a technical review in accordance with the standards of Section 22.10. The Township Board shall not waive or lessened any of the requirements under this Chapter for a private street or shared driveway unless the standards in subsection 22.10 D hereof are met.

H. Conditions of Approval. The Township Board or Planning Commission may require reasonable conditions of approval pertaining to the ultimate design, layout, composition, and function of a private street.

I. Conflict with Planned Public Road Extensions. Approval from both the Township Board and the Kent County Road Commission is required prior to the approval and construction of any private street or shared driveway that could affect or preclude the extension of any existing public road or utility or any planned public road or utility as represented on any transportation or utility plan officially adopted or approved by the Township.

Section 22.4 General Requirements

- A. **Fire Department Inspections.** All private streets, shared driveways, and private driveways approved in accordance with this Chapter are subject to periodic inspection by the Fire Department having jurisdiction to ensure that surfaces and conditions are fully maintained in conformance with this Chapter.
- B. **Gates.** All gates blocking access to buildings or a private street or shared driveway must have an access code given by the Fire Department and be equipped with a keyed switch that will keep the gate open. The keyed switch must use a Knox Box Key, with the Fire Department having all applicable current keys.
- C. **Street Name Signage; Stop Signs.** Signage naming the private street or shared driveway meeting Kent County Road Commission standards shall be installed and maintained at all times where a private street or shared driveway intersects with any public road. Also, a stop sign shall be installed and maintained at all times where a private street or shared driveway meets a public road.
- D. **Addressing and Signage.**
 - 1. Address numbering shall be based on the private street or shared driveway and not the public road. Addressing shall be approved by the Kent County Road Commission.
 - 2. Principal buildings shall display an address number in a manner so that the number is readily visible from the private street or shared driveway. Principal buildings served by a private driveway extending from a public road shall display an address number in a manner so that the number is readily visible from the public road. In all cases, address numbers shall be a minimum of three (3) inches in height.
- E. **Entrance Location and Design.** The spacing, geometric design, and surface requirements for all private street, shared driveway, and private driveway entrances within the public right-of-way are subject to the current “Rules to Regulate Work Driveways, Banners and Parades Upon and Over Public Highways,” as amended, as adopted by the Kent County Road Commission (KCRC).

Section 22.5 Private Driveways for One Parcel, Lot, or Condominium Unit

- A. **Submittal Requirements.** A driveway sketch prepared to scale shall be provided to the Township to demonstrate compliance with the requirements of this Chapter, in addition to a driveway permit containing an approved street address issued by the Kent County Road Commission, as applicable.
- B. **Construction Requirements.**

1. **Surface Material.** The driveway must support sustained vehicle use and allow for easy all-weather emergency vehicle access.
2. **Minimum Surface Width.** 12 feet if exceeding 250 feet of length, and 10 feet if less, excluding shoulders.
3. **Turn-Outs.** If the surface width of the driveway is less than 20 feet, tapered turn-outs at a ratio of one (1) per 300 feet shall be provided. Turn-outs (travel plus bypass lanes) shall be no less than 20 feet wide by 40 feet long (excluding tapers). Driveway throats and intersections may satisfy turn-out requirements if properly spaced and sized.
4. **Turn-Arounds.** An improved area having dimensions adequate for maneuvering and also the turn-around of firefighting apparatus shall be available in a location acceptable to the Fire Official.
5. **Maximum Grades.**
 - a. Six (6) percent, provided that for short lengths and limited frequency, grades of up to 10 percent may be approved by the Building and Fire officials in consultation with the Township Engineer.
 - b. Four (4) percent within 30 feet of the intersection of the driveway with a street right-of-way or easement.
6. **Minimum Clearance.**
 - a. 14 feet of vertical clearance.
 - b. 15 feet of horizontal clearance, except where turn-outs require a greater width.
7. **Cross-Section.** The private driveway shall be crowned and/or sloped to facilitate drainage.
8. **Drainage and Soil Erosion.** Roadside swales or ditches shall be designed to comply with the requirements of Chapter 40, Art. III of the Gaines Charter Township Code of Ordinances and State of Michigan environmental regulations, as applicable. Excavation, grading, and restoration must all comply with Kent County soil erosion permitting requirements.
9. **Minimum Curve and Turn Radius.** Curves on driveways must be traversable by fire equipment to a point within 150 feet of a structure.

Section 22.6 Shared Driveways

A. General Requirements.

1. A shared driveway must have direct access to a public road.
2. On a corner lot at the intersection of a public road and a shared driveway, a private driveway shall connect to the shared driveway, and the lot shall not have direct access onto the public road.

3. Shared driveways shall not serve commercial properties.

B. Construction Requirements.

1. **Minimum Easement Width.** 50 feet. All easements shall expressly provide for utilities and use by delivery and emergency public vehicles.
2. **Surface Material.** Shared driveways shall be paved with at least two and a half (2.5) inches thick of hot mix asphalt (HMA) placed in two lifts. Concrete surface materials, a minimum of four (4) inches of thickness, may be used in the place of HMA.
3. **Sub-Surface Materials.** Shared driveway HMA pavement shall be placed on a prepared sub-base consisting of a minimum of six (6) inches of gravel, compacted in place (CIP). Where poorly drained soils or unsuitable soils are encountered, additional sub-surface improvements shall be included in the shared driveway design and construction and shall include a minimum of eight (8) inches of MDOT Class II sand, CIP. Unsuitable soils shall be removed beforehand in their entirety from beneath the influence of the paved surface. Shared driveway concrete pavement shall be placed on a prepared sub-base consisting of a minimum of four (4) inches of MDOT Class II sand, CIP.
4. **Minimum Surface Width.** Shared driveways shall have a hard-paved surface with a minimum width of at least 16 feet, and in addition, two (2) foot wide gravel shoulders shall be installed and maintained on both sides.
5. **Cul-de-Sacs.** Shared Driveways in excess of 500 feet in length shall provide a cul-de-sac at the end of the shared driveway with a paved surface and a minimum radius of 41.5 feet to allow emergency and other vehicles adequate room to turn around without backing up. Alternative designs may be approved by the Zoning Administrator in consultation with the Fire Department and the Township Engineer.
6. **Maximum Grades.** The maximum grade shall be six (6) percent. Up to 10 percent may be approved for short lengths if no feasible alternative design can be implemented. The Zoning Administrator may approve maximum grades in excess of six (6) percent in consultation with the Fire Department and the Township Engineer.
7. **Minimum Clearance.** A minimum of 15 feet horizontal distance shall be kept clear at all times of brush and trees measured from both edges of the hard-paved surface. A minimum of 14 feet of vertical clearance shall be maintained for the entire length of the shared driveway at all times.
8. **Cross-Section.** The shared driveway shall be crowned and/or sloped a minimum of two (2) percent to facilitate drainage. Inverted crowns will not be approved.
9. **Drainage and Soil Erosion.**
 - a. Shared driveway drainage design shall comply with the Township's Stormwater Ordinance. Increases in stormwater run-off shall be mitigated

- when the total area of the impervious surface of the shared driveway exceeds one (1) acre. Existing drainage patterns shall not be altered or changed. Cross culverts shall be provided where necessary to maintain the existing drainage patterns and shall be a minimum of 12 inches in diameter. All culverts and storm sewer systems shall be designed by a licensed engineer to pass a 10-year design storm without surcharging. All culverts and storm sewers must be constructed with premium joints and with the structural strength to support a fire truck and shall be maintained in a good working and clear condition at all times.
- b. Excavation, grading, and restoration work must comply with Kent County soil erosion permitting requirements. All disturbed areas must be restored with a thick stand of grass.
10. **Minimum Curve and Turn Radius.** Horizontal curves shall have a minimum 150-foot centerline radius.
11. All shared driveways shall be maintained in good condition and repair at all times and shall be regularly cleared of snow.

Section 22.7 Private Streets

A. General Requirements.

- 1. A private street must have direct access to a public road or be an approved extension of an existing private street. All primary access points must meet the minimum construction standards of this Section and Chapter. The design shall consider traffic safety and accessibility in emergencies and evenly distribute traffic within developments and onto public roads. The following thresholds shall apply to ensure adequate emergency access and efficient traffic circulation:
 - a. Where more than 30 parcels, lots, condominium units, or dwellings are to be located on a private street or private street system, two or more full and primary access points to the public road system shall be required. These may be in addition to a requirement for separate emergency access.
 - b. Single access road intersections where motor vehicle trips are expected to exceed 600 per day will be discouraged.
 - c. No private road shall extend more than 2,000 feet without an intervening direct access point onto a public road.
 - d. In any case, the Fire Department may require a separate emergency vehicle access road.
- 2. On a corner lot at the intersection of a public and private street, a private driveway shall connect to the private street, and the lot shall not have direct access onto the public road.

B. Construction Requirements.

1. Minimum Easement Width and Utilities:
 - a. 66 feet for a residential private street.
 - b. 86 feet for a commercial private street.
 - c. All easements shall expressly provide for utilities and use by delivery and emergency public vehicles.
2. **Surface Material.** Residential and commercial private streets shall be designed and constructed in conformance with the current edition of the Kent County Road Commission *Requirements and Specifications for Plat Development; as amended*, for public roads as applicable.
3. **Minimum Surface Width.**
 - a. Residential private street. The paved surface of a residential private street shall be a minimum of 26 feet in width.
 - b. Commercial private street. The paved surface of a commercial private street shall be a minimum of 30 feet in width.
4. **Cul-De-Sacs.**
 - a. Residential private street. All residential private streets shall terminate at an intersection, or they shall terminate at a cul-de-sac with a paved surface and a minimum radius of at least 41.5 feet to allow emergency and other vehicles room to turn around without backing up. The design for all residential private street cul-de-sacs shall conform with the requirements of the current edition of the Kent County Road Commission *Requirements and Specifications for Plat Development, as amended*, for public roads.
 - b. Commercial private street. All commercial private streets shall terminate at an intersection, or they shall terminate at a cul-de-sac with a paved surface and a minimum radius of 51 feet to allow emergency and other vehicles room to turn around without backing up. The design for all commercial private street cul-de-sacs shall conform with the requirements of the current edition of the Kent County Road Commission *Requirements and Specifications for Plat Development, as amended*, for public roads.
5. **Maximum Grades.** For residential and commercial private streets, the maximum grade shall be six (6) percent. Up to 10 percent may be approved for short lengths if no feasible alternative design can be implemented. The Township Board may approve maximum grades in excess of six (6) percent in consultation with the Fire Department and the Township Engineer.

6. Minimum Clearance.

- a. Residential private street. A minimum of 15 feet of horizontal distance shall be kept clear at all times of brush and trees from both edges of the hard-paved surface. A minimum of 14 feet of vertical clearance shall be maintained at all times for the entire length of the private residential street at all times.
- b. Commercial private street. A minimum of 20 feet of horizontal distance shall be kept clear at all times of brush and trees from both edges of the hard-paved surface. A minimum of 14 feet of vertical clearance shall be maintained at all times for the entire length of the private residential street at all times.

7. Cross-Section. Residential and commercial private streets shall be crowned and/or sloped a minimum of two (2) percent to facilitate drainage. Inverted crowns will not be approved.

8. Drainage and Soil Erosion.

- a. Residential and commercial private street drainage design shall comply with the Township’s Stormwater Ordinance. Existing drainage patterns shall not be altered or changed. Cross culverts shall be provided where necessary to maintain the existing drainage patterns and shall be a minimum of 12 inches in diameter. All culverts and storm sewer systems shall be designed by a licensed engineer to pass a 10-year design storm without surcharging. All culverts and storm sewers must be constructed with premium joints and with the structural strength to support a fire truck, and shall be maintained in good working condition at all times.
- b. Excavation, grading, and restoration must comply with Kent County soil erosion permitting requirements. All disturbed areas must be promptly restored with a thick stand of grass.

9. Minimum Curve and Turn Radius. For residential and commercial private streets, horizontal curves shall have a minimum 300-foot centerline radius. Vertical curves shall be designed to provide the minimum stopping sight distance as per current AASHTO standards.

10. Intersections. Residential and commercial private street intersections shall be designed and constructed in conformance with the requirements of the current edition of the Kent County Road Commission *Requirements and Specifications for Plat Development, as amended*, for public roads.

11. Private Streets shall be kept in reasonable repair and maintained at all times, and shall be regularly snowplowed during snow conditions.

Section 22.8 Procedures for Review and Approval

A. Shared Driveway and Private Street Submittal Requirements. An applicant shall submit all of the following information to the Township:

1. The name(s) of the owners and any others having a legal interest in the property involved.
2. The permanent parcel number and legal description of the property over which the private street or shared driveway is to be constructed and the legal description and drawing of the proposed easement/right-of-way within which the private street or shared driveway will be constructed.
3. A small-scale site location map showing the location of the parcel as well as all properties and roadways within one-half mile.
4. A scaled drawing showing the route; topographic elevations; dimensions, specifications, and design of the private street or shared driveway; the location and distance to any public road which the private street or shared driveway is to intersect; and buildings within 100 feet of the proposed private street or shared driveway.
5. A scaled drawing of not more than 60 feet to the inch illustrating all proposed parcels, lots, and condominium units to be served by or lying within 100 feet of the proposed private street or shared driveway.
6. A maintenance agreement, access easement agreement, and deed restrictions as described in Section 22.9.
7. Kent County Road Commission preliminary review comments or approval notice.
8. A statement from the Kent County Road Commission indicating there is no known duplication of the name of the proposed private street or shared driveway.

B. Plan Review and Construction Permitting.

1. Once approved by the Zoning Administrator, Planning Commission, or Township Board, and once the Township Engineer's comments and any other conditions of approval are satisfied, a construction permit may be issued by the Zoning Administrator. Two copies of plans shall be signed as approved by the Township official—one copy shall be kept by the applicant and one by the Township.
2. In the event that a private street or shared driveway is reviewed in conjunction with a platted subdivision, site condominium plan, or condominium project plan, a construction permit shall not be issued until such plans are approved by the Township Board.
3. Once issued, the construction permit is valid for a period of one (1) year. If substantial construction has not commenced within one (1) year of the date of issuance and an extension has not been granted by the Township for good cause prior to the expiration of one (1) year, a new permit shall be required.

C. Close-Out.

1. Upon completion of construction, the applicant shall provide to the Zoning Administrator a written statement from a registered professional engineer that the private street or shared driveway was built in full compliance with the approved

construction plans. The registered professional engineer shall provide to the Township a copy of all inspection reports, all density testing reports, all grade check reports, and all material sources and certifications.

2. Documentation that the private street or shared driveway maintenance agreement, access easement, and any applicable deed restrictions as approved by the Township have been recorded with the Kent County Register of Deeds office shall be provided to the Township prior to the Township issuing a building permit for any building located on a lot served by the private street.
3. Upon final field inspection and receipt of all items required for final compliance, the Zoning Administrator shall issue a certification of project close-out for the private street or shared driveway involved.

Section 22.9 Maintenance Agreements

- A. **Maintenance Agreement.** A recorded easement maintenance agreement or master deed is required to guarantee the perpetual private maintenance, upkeep, and snowplowing of a private street or shared driveway. These documents shall be approved by the Township and be recorded prior to the issuance of building permits for any parcel, lot, or condominium unit served by the private street or shared driveway, and shall contain all of the following provisions:
1. A method of initiating and financing the maintenance and snowplowing of the private street or shared driveway and other improvements within the easement so that they are kept in a passable and safe condition year-round.
 2. Provisions apportioning the costs of maintenance and improvements as follows:
 - a. Original Users. The method by which the original users will apportion the costs of construction, maintenance and improvements.
 - b. Subsequent Users. The method for apportioning to subsequent users a proportionate share of the maintenance costs and costs of improvements, whether the subsequent users are a result of: (1) extension of the private street or shared driveway beyond its initial length, or (2) connection to another private street or shared driveway, or (3) division of property that is to be served by the private street or shared driveway.
 3. A notice that if repairs and maintenance are not made, the Township Board may upgrade the private street or shared driveway to the design standards specified in this Chapter and assess all owners of property served by the private street or shared driveway for the improvements, plus an administrative fee in the amount of five (5) percent of the total cost of the improvements.
 4. A notice that no public funds of the Township are to be used to build, repair, snowplow, or maintain the private street, shared driveway, or associated improvements.

5. A provision stating that the Township will be held harmless by the lot owners for any personal or property damage claims or liabilities arising from accidents occurring on or in connection with the private street or shared driveway.
 6. Easements to the public for purposes of utilities, emergency, and other public vehicles for whatever public services are necessary.
 7. A provision indicating that the owners of any and all of the property using the private street or shared driveway shall refrain from prohibiting, restricting, limiting, or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, utility personnel, delivery vehicles, invitees, tradesmen, and others bound to or returning from any of the properties having a right to use the private street or shared driveway.
 8. Any other provision required by the Township Attorney.
- B. **Extension of Existing Shared Driveways and Private Streets.** Prior to the extension of a private street or shared driveway which does not have a recorded legally enforceable or complete easement, master deed, and/or easement maintenance agreement conforming to this Section, the owners of all lots shall submit an easement and easement maintenance agreement or master deed (or amendments thereto) for review and approval by the Township.
- C. **Addition of Lot(s) to Existing Shared Driveways and Private Streets.** The owner of any parcel, lot, or condominium unit added to a private street or shared driveway shall be responsible for its proportionate share of maintenance as required by an approved easement maintenance agreement or amendment thereto. If there is no approved easement or easement maintenance agreement, or if the addition of new parcels, lots, and condominium units is not addressed by an existing agreement, the new parcel, lot, or condominium unit shall not be created until and unless a new Township approved easement maintenance agreement is created, or the easement maintenance agreement is changed to acknowledge the addition of new parcels, lots, or condominium units.
- D. **Approval.** Every new and amended easement maintenance agreement or master deed must be approved by the Township Attorney before execution and recording.

Section 22.10 Modifications and Waivers

- A. **Intent.** It is the intent of this Section to allow for the consideration of modification and waivers in cases of exceptional site conditions or special conditions that make compliance with the Chapter extraordinarily difficult, as long as the flexibility is reasonable and the proposal complies with the intent of this Chapter.
- B. **Authority.** The Township Board shall have the discretion to approve modifications and waivers to the requirements of this Chapter for a particular property.
- C. **Request.** A written request for a modification or waiver shall be submitted to the Township with an application for a private street or shared driveway approval.

D. **Standards of Approval.** The following criteria shall be applied by the Township Board regarding a modification waiver:

1. Strict compliance with the requirement(s) would be unreasonable and unnecessarily burdensome because of prior construction; previously established easement arrangements; unique physical surroundings, shape, or topographical conditions of the property as distinguished from a mere inconvenience; or property dispute or economic hardship.
2. The modification or waiver may be granted without detriment to the public safety, health, or general welfare, or damage to any other property by way of the utilization of alternative design features.
3. The conditions upon which the request for a waiver or modification is based are unique to the property involved and not applicable generally to other properties or other private streets or shared driveways.
4. Approval of a waiver or variance will not otherwise result in a violation of any other Township ordinance, including the Zoning Ordinance, or of any other requirement of law.
5. The conditions making the waiver request necessary were not created by the applicant.

Section 22.11 Land Divisions

- A. No land division involving a new private street or shared driveway (or the extension of any existing private street or shared driveway) shall be given final approval by the Township unless and until the private street or shared driveway (or extension thereof) is approved by the Township, and the private street or shared driveway is fully constructed, installed and completed.
- B. The Township may tentatively approve such a land division, but the land division approval shall not be final unless and until the approved private street or shared driveway (or extension thereof) is fully installed and completed.

CHAPTER 23

Wireless Communication Facilities

Section 23.1 Purpose

It is the general purpose and intent of this Section to comply with the requirements of the Federal Telecommunications Act of 1996, as amended, and to exercise the Township’s zoning powers under state law, by authorizing towers and antennas needed to operate wireless communications systems, subject to certain conditions and requirements. It is the further purpose and intent of this Section to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values, and overall quality of life of the Township.

Section 23.2 Applicability

All new, expanded or altered wireless communication facilities in the Township shall be subject to this Section. There will be additional costs (which will be charged to the applicant) for professional review of the application and related matters, including by an independent consultant or consultants.

- A. **New Towers.** All new wireless towers shall require a Special Use Permit in accordance with the requirements of Chapter 19 – Special Land Uses, as well as this Chapter.
- B. **Colocation.** The Township encourages the colocation of antennas on existing towers, monopoles, utility poles located in a public right-of-way, water towers, and other existing similar structures. Colocation requests shall be expedited by the Township and approved or denied by the Township Planner in accordance with this Section. The Township Planner may also forward the request to the Site Plan Review Committee if it is determined that the request warrants additional review.

Section 23.3 General Submittal Requirements

All applications for all wireless communication facility requests shall include the following:

- A. **Application.** A fully completed, signed, and dated application, indicating the property owner, service provider, and the provider’s ownership or lease interest in the property, building or structure upon which facilities are proposed for placement, construction, or modification.
- B. **Site Plan.** A detailed site plan showing the following:
 - 1. The location, size, height, design and setbacks of the tower, and the number, size, mounting height, and design of antennas.
 - 2. The location, size, design and setbacks of any accessory structures, fences, and outdoor equipment.
 - 3. The location of all structures within two-hundred (200) feet of the subject site.

4. A landscape plan, showing the location, number, and species of plants.
 5. The location of any drives and/or access easements.
 6. Legal description of the parent parcel and leased parcel (if applicable).
 7. Other information required for site plans under Chapter 25.
- C. **Fees.** All applicable fees (including zoning escrow fees where applicable).

Section 23.4 New Tower Submittal Requirements

Applications for new cell towers shall require the following additional information:

- A. **Statement of Need.** A statement of what is proposed and demonstrating the need for the proposed facility based upon the presence of one or more of the following factors:
1. Inability to find a suitable colocation site.
 2. Proximity to an interstate highway or major thoroughfare.
 3. Areas of population concentration.
 4. Concentration of commercial, industrial and/or other business centers.
 5. Areas where signal interference has occurred due to buildings, masses of trees or other obstructions.
 6. Topography of the proposed facility location in relation to other facilities within which the area where the proposed facility is to operate.
 7. The need for additional coverage, capacity and/or quality.
 8. Other specifically identified reason(s) for creating the need for the facility.
- B. **Facilities Map.** A map showing existing and known proposed wireless towers, and existing buildings and/or other structures of the same approximate height within a one-half (1/2) mile radius of the proposed site, including sites outside of the Township, which are relevant in terms of potential colocation or in demonstrating the need for the proposed facility. This information will be used in determining the necessity of a new tower.
- C. **Supplemental Information.** The following information shall also be submitted:
1. **Technology.** The existing form of technology being used and any changes to that technology
 2. **ERP.** The proposed and existing service area of the tower and the attached wireless communication facility, and tower height and type, and signal power expressed in Effective Radiated Power (ERP) upon which the service area has been planned.
 3. **Fall Zone.** A certification by a state of Michigan licensed and registered professional engineer regarding the manner in which the proposed tower will fall. The certification will be utilized in determining appropriate setbacks to be required for the tower.

4. **Other Agencies.** If required, evidence of applicable approvals and licenses from the Federal Aviation Administration, the Federal Communication Commission and the Michigan Aeronautics Commission.
5. **Maintenance.** A maintenance plan to ensure the long term, continuance maintenance of the facility, along with the name, address and telephone number of the person to contact for engineering, maintenance and other notice purposes. This information must be continuously updated and provided to the Township during all times the facility is on the premises.

Section 23.5 Requirements and Standards of Review

All new wireless communications facilities shall comply with all of the following requirements in addition to the requirements as detailed in Chapter 19 – Special Land Uses:

- A. **General.** The proposed tower or antennae shall not be injurious to the neighborhood or otherwise detrimental to the public safety and welfare. The proposed tower shall be located and designed to be harmonious with the surrounding areas, and to be aesthetically and architecturally compatible with the natural environment, as well as the environment as altered by development.
- B. **Location.** New towers shall be permitted on a priority basis in descending priority upon the following sites, subject to application of all other standards contained within this Chapter and Chapter 19:
 1. I-1 and I-2 Zoning Districts
 2. C-1 and C-2 Zoning Districts
 3. Municipal and Institutional sites
 4. Public parks and large permanent open spaces
 5. A site with an existing tower
 6. A-B, A-R, and O-S Zoning Districts
 7. RL-14, RL-10, R-3, and R-4 Zoning Districts
- C. **Need.** A proposal for a new tower shall not be approved until and unless it can be documented by the applicant that the communications equipment planned for the proposed tower cannot be feasibly collocated and accommodated on an existing or approved tower (or other existing structure) due to one or more of the following reasons as documented by a qualified and licensed professional engineer:
 1. The planned equipment would exceed the structural capacity of the existing tower, and could not be reinforced, modified or replaced to accommodate planned or equivalent equipment.
 2. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the existing tower or other existing structure and the interference cannot be prevented by any other means.

3. Existing towers within a ½ mile radius cannot accommodate the planned equipment at a height necessary for the coverage area and capacity needs to reasonably function.
 4. Refusal of the existing provider to permit a feasible colocation.
 5. Other unforeseen reasons that make it unfeasible to locate the planned communications equipment upon an existing tower or structure.
- D. **Colocation.** Any proposed commercial tower shall be designed to accommodate at least 4 antennae platforms unless shown to be unreasonable given the tower height and type. Proposed towers must be designed to allow for future rearrangement of attached wireless communication facilities upon the tower and to accept attached wireless communication facilities mounted at varying heights.
- E. **Height.** The height of all proposed towers and attached antennae shall be the minimum height necessary to serve its intended function, provided that no tower shall be higher/taller than 195 feet (measured at natural grade) so that the structure does not require lighting per FAA/FCC Regulations. The accessory structures (not on the tower) shall be limited to the maximum height for accessory structures within the respective district.
- F. **Setbacks.** Setbacks for wireless communications facilities shall conform to the following:
1. **Monopole towers.** Monopole tower setbacks shall not be less than the required setbacks for principal buildings in the zoning district in which it is located.
 2. **Other towers.** The setback of all non-monopole towers from any lot line shall be no less than the height of the tower.
 3. **Accessory structures (not on the tower).** Accessory structures setbacks shall conform to the minimum setbacks for accessory structures for that zoning district.
- For good cause shown, the Planning Commission may alter the required setbacks, based on tower height, tower fall zone, and the proximity of any structures or public rights-of-way.
- G. **Access.** There shall be unobstructed access to the tower and accessory structures for maintenance, repair, inspection and emergency purposes, which may be provided through an easement. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic circulation within the site; utilities needed to service the wireless communication support structure and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbances to the natural landscape; and the type of equipment which will need to access the site.
- H. **Use of Existing Building.** Where a wireless communication facility is proposed on the roof of a building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building, provided that it conforms to all district requirements for accessory buildings.

- I. **Visual Impact.** The Planning Commission shall, with respect to the color of the proposed tower and all accessory buildings, review and approve such items so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings.
- K. **Radio Frequency.** Wireless communication facilities shall comply with all applicable federal and state standards, including, without limitation, those standards relative to the environmental effects of radio frequency emissions.
- L. **Landscaping.** Landscaping shall be provided which screens the tower base, accessory buildings and enclosures. In all cases, there shall be fencing of at least six feet in height surrounding the accessory buildings and equipment enclosures.

Section 23.6 Colocation Refusal

If a provider refuses to permit a feasible colocation on a tower owned or otherwise controlled by it, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to, the basic policy, intent and purpose of the Township. The provisions of this subsection are designed to carry out and encourage conformity with the policy of the Township.

- A. **Nonconforming.** If a party who owns or otherwise controls an existing tower fails or refuses to accommodate a proposed and otherwise feasible colocation, such tower shall be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.
- B. **Penalty.** A party who fails or refuses to allow a feasible colocation shall be prohibited from receiving approval for a new tower within the Township for a period of five (5) years from the date of the failure or refusal to permit the colocation. Such a party may seek and obtain a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five (5) year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication service.

Section 23.6 Facilities Removal

If, for any reason, a tower ceases operations or is abandoned, the Township may order its removal as well as the removal of any related structures. The owner of the tower and/or property owner will have six (6) months to remove the tower upon receiving notification from the Township to do so. If the tower is not removed within the specified time period, and a time extension is not granted by the Township, the Township may cause the removal of the tower. After removal of the tower by the Township, a notice shall be mailed to the tower owner and the property owner stating the nature of the work done and demanding payment of the costs as certified by the Building Inspector together with an additional twenty (20) percent for inspection and incidental costs. If the amount specified in the notice is not paid within ninety (90) days, it shall become a lien against the property and will be certified as an assessment against the property.

CHAPTER 24

Administration and Enforcement

Section 24.1 Interpretation

In the interpretation and application of this Ordinance, the provisions shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare.

It is not intended by this Ordinance to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of law or ordinance other than this Zoning Ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this Ordinance imposes a greater restriction than in required by existing ordinance or by rules, regulations or permits, the provisions of this Ordinance shall govern and control.

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary for the protection of the public health, safety and general welfare.

Section 24.2 Zoning Administrator

This Ordinance shall be administered by the Zoning Administrator and designees of same. References throughout this Ordinance to the Building Inspector shall also be deemed to include the Zoning Administrator unless the duties relate solely to the interpretation or the enforcement of the State Construction Code. The Zoning Administrator shall among other duties, be responsible for the following:

- A. Interpretation of the Zoning Ordinance.
- B. Issuance of all permits as required by the Zoning Ordinance.
- C. Enforcement of the Zoning Ordinance.
- D. Record keeping of all zoning related documents.
- E. Such other duties and obligations as are specified by state law.

Section 24.3 Unclassified Uses

Any use, use of land, activity, structure, or development activity not expressly allowed by this Ordinance is prohibited, unless the Zoning Administrator finds that the use is substantially similar in character to a use or item listed in this Ordinance. Uses, activities, enterprises, or purposes that are contrary to, or violate federal, state, or county laws or regulations, this Ordinance, or other Township ordinances are prohibited. An individual may apply to the Planning Commission for consideration of an amendment to the Zoning Ordinance to include a

proposed use in one (1) or more of the zoning districts of this Ordinance, either as a Permitted Use or a Special Land Use. At their option and discretion, the Planning Commission and Township Board may consider an appropriate amendment to the Zoning Ordinance, but are not required to do so.

Section 24.4 Building Permits; Zoning Permits

- A. A building or structure shall not be erected, moved, placed, reconstructed, extended, enlarged or altered unless such activity is performed in accordance with a building permit issued pursuant to the State Construction Code, as enforced by the Township, and unless such activity is performed in accordance with any zoning approval issued pursuant to this Ordinance, nor shall any use on any property be changed to another use unless such change is performed in accordance with any zoning approval issued pursuant to this Ordinance and a building permit when required under the State Construction Code. No building, plumbing, electrical, mechanical or other permit shall be issued until the Zoning Administrator has determined that the plans and use will conform to the provisions of this Ordinance. No building permit shall be issued until and unless a zoning permit has been issued by the Zoning Administrator (in a situation where a zoning permit is required).
- B. No person shall commence any use of a property or begin construction of a building or structure (including excavating for a basement or foundation of a building) without first obtaining a zoning permit from the Zoning Administrator. No zoning permit shall be required for farming or agricultural operations other than the construction or alteration of an agricultural building or structure for which a building permit is required. The Zoning Administrator shall not issue a zoning permit until a complete application has been submitted to the Township showing that the proposed construction or use complies with all of the provisions of this Ordinance. The Zoning Administrator may attach reasonable conditions and time limits to the issuance of a zoning permit.

Section 24.5 Fees

Except as may be provided for otherwise in this Ordinance, the Township Board shall determine and set fees to be collected for all applications for zoning matters and approvals. These fees shall be collected prior to the issuance of any permit or certificate, and other official actions required by this Ordinance. No application shall be considered complete until all applicable fees have been paid to the Township. Furthermore, Township employees and officials shall not commence work on a given zoning application or matter until any and all fees have been paid to the Township in full. The fee schedule shall be that adopted by resolution of the Township Board as amended from time to time.

In addition to regularly established fees, the Township Board at its discretion may also require an applicant to submit to the Township, at any time during the zoning review process, an amount of money determined by the Township to be a reasonable estimate of the fees and costs which may be incurred by the Township in reviewing and acting upon any such application or related matters. The Township shall not charge fees or assess costs to the applicant for the time expended by Township employees (except when authorized under appropriate provisions of the

Freedom of Information Act) or for incidental costs and expenses, but may charge or assess the applicant for all other reasonable costs and expenses incurred by the Township during and in connection with the review process and other related proceedings, whether or not the application is granted wither in whole or in part.

Such costs and expenses to be charged or assessed to the applicant for reimbursement of the Township’s reasonable costs and expenses, may include but shall not be limited to Township attorney fees, Township engineering fees, costs and fees for services of outside consultants, fees and expenses of other professionals who may assist the Township, costs and fees for studies and reports pertaining to the matters in questions, special meeting costs and other reasonable costs and expenses. Such monies shall be retained by the Township for reimbursement of such costs and expenses. Any monies, paid or deposited by an applicant, which are not used or spent by the Township pursuant to an escrow fee shall be refunded.

If, for some reason, the applicant does not pay, or the Township does not collect, zoning escrow fees during the zoning review process, the Township can still bill such costs and expenses to the applicant after the zoning review process has been completed and the applicant or landowner shall promptly pay/reimburse the Township for the same.

Section 24.6 Expiration of Zoning Approval

If a zoning approval under this Ordinance has been granted with a specific time limit and the use has not commenced or substantial construction has not begun pursuant to that approval within the time limit specified, the zoning approval shall automatically expire (and be void) at the end of that time limit. No extension to that time limit shall be granted except by the Township body, commission, or official which granted the initial zoning approval. If a zoning approval is silent with regard to a time limitation, the time limitation shall be deemed to be one (1) year, and the zoning approval shall expire (and be void) after one (1) year if the use has not been commenced or substantial construction has not begun within said one (1) year time limitation. A time extension may be granted by the body, commission, or official which granted the initial zoning approval

Section 24.7 Public Notices – Publication, Mailing, and Delivery

Except where expressly stated otherwise in this Ordinance, whenever a public hearing on a zoning application or matter is required by this Ordinance or by the Zoning Act, notice of the public hearing shall be published and delivered in accordance with the requirements of this Section.

- A. The notice shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the Township.
- B. For applications involving the rezoning of ten (10) or fewer adjacent properties; for applications to the Board of Appeals involving a specific parcel; and for all planned unit development and special use applications, a notice of public hearing shall be mailed by way of U. S. first class mail or be personally delivered to the following persons, at least 15 days prior to the date of the public hearing:

1. The applicant;
2. All persons to whom real property is assessed for property tax purposes within 300 feet of the property that is the subject to the application; and
3. The occupants of all structures within 300 feet of the property that is the subject of the application.

If the above-described 300-foot radius extends outside of the Township’s boundaries, then notice must be provided outside of the Township boundaries, within the 300-foot radius, to all persons in the above-stated categories.

C. The notice of public hearing shall include the following information:

1. A description of the nature of the application or request.
2. An identification of the property that is the subject of the application or request. The notice shall also include a listing of all existing street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven (11) or more adjacent properties are being proposed for rezoning.
3. A statement of where and when the application or request will be considered.
4. Indicate where and when written comments will be received concerning the application or request.

Section 24.8 Performance Guarantees

As a condition of approval of a site plan review, special land use, variance, or other zoning approval, the Township Board, Planning Commission, Zoning Administrator, or the Zoning Board of Appeals may require a performance guarantee to ensure compliance with the zoning approval. The performance guarantee shall be in an amount, form, and type with language which is approved by the Township body or official involved. The Township shall have the discretion to require a bond, irrevocable letter of credit, or monetary deposit with the Township.

With regard to required improvements, the Township can require a performance guarantee of a sufficient amount and form to assure the installation of required improvements or components of the approved use, activity, or construction which are considered reasonably necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development.

The features or components, hereafter referred to as "improvements," may include, but shall not be limited to, survey monuments and irons, streets, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, paving, driveways, utilities, and similar items.

Performance guarantees shall be processed in the following manner:

- A. Prior to the issuance of a Certificate of Occupancy, the applicant or their agent shall submit an itemized estimate of the cost of the required improvements that are subject to the performance guarantee, which shall then be reviewed by the Building Inspector. The

amount of the performance guarantee shall be one hundred percent (100%) of the cost of purchasing of materials and installation of the required improvements, plus the cost of necessary engineering and inspection costs and a reasonable amount for contingencies.

- B. The required performance guarantee shall be payable to the Township and may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township.
- C. Upon receipt of the required performance guarantee, the Building Inspector shall issue a building permit for the subject development or activity, provided it is in compliance with all other applicable provisions of this Ordinance and other applicable Ordinances of the Township.
- D. The Building Inspector, upon the written request of the obligor, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvements.
- E. When all of the required improvements have been completed, the obligor shall send written notice to the Building Inspector of completion of the improvements. Thereupon, the Building Inspector shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections.
- F. If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
- G. The Building Inspector shall maintain a record of required performance guarantees.
- H. In lieu of providing performance guarantees, the Township and the applicant for a development proposal may agree to enter into a development agreement that would be recorded with the Register of Deeds.

Section 24.9 Violations and Penalties

- A. A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$50 nor more than \$500 for the first offense and not less than \$100 nor more than \$2,500 for subsequent offenses, in the discretion of the Court, and such fine shall be in addition to all other costs, attorney fees, damages, expenses, and other remedies as provided by law. For purposes of this section, “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall all be considered separate first offenses.

- B. In addition to pursuing a municipal civil infraction proceeding pursuant to subsection A hereof, the Township may also institute an appropriate action in a court of competent jurisdiction seeking injunctive, declaratory, or other equitable relief to enforce or interpret this Ordinance or any provision of the Ordinance.
- C. All remedies available to the Township under this Ordinance and Michigan law shall be deemed to be cumulative and not exclusive.
- D. Any use of land which is commenced or conducted, any activity, or any building, item or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained, or changed, in violation of any provision of this Ordinance is hereby declared to be a nuisance per se.
- E. Each and every day during which a violation of this Ordinance shall exist shall be deemed to be a separate offense.

Section 24.10 Stop Work Orders

- A. **Notice to Owner.** Upon notice from the Zoning Administrator or Building Inspector that any use is being conducted or that any work on any building or structure is being prosecuted contrary to the provisions of this Ordinance or any permit or approval thereunder, such work or use shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to the owner's agent, or to the person doing the work and shall state the conditions, if any, under which work or the use will be permitted to resume.
- B. **Unlawful Continuance.** Any person who shall continue to work in or about a structure, land or building or use it after having been served with a stop work order, except such work as that person is directed by the Township to perform to remove a violation, shall be in violation of this Ordinance.

Section 24.11 Proof of Ownership

The Zoning Administrator or Building Inspector may require proof of ownership from an applicant (including copies of a recorded deed or land contract) before issuance of a zoning permit or a building permit if it appears that the applicant may not be the owner (or sole owner) of the property involved. The Township may also require that all owners of a particular property join in and sign the application or applications for any zoning or building request or application, including a building permit, variances, special use requests, site plan review, zoning permits, and any other zoning or building code action.

Section 24.12 Surveys

The Zoning Administrator or Building Inspector shall have the authority to require that an applicant or property owner provide the Township with a current survey by a registered surveyor or engineer for one (1) or more boundary or property lines of the lot or parcel involved (including providing a sealed survey drawing by such professional surveyor or engineer and with

property boundaries staked by such professional) if the Zoning Administrator or Building Inspector determines that it is reasonably necessary in order for the Township to determine whether the zoning setback, area, and other applicable requirements are met. The Zoning Administrator or Building Inspector may also require that the professional surveyor or engineer place stakes at specified relevant areas along the property line(s) and any setback lines or building envelopes. All such surveying costs shall be paid for by the applicant or property owner.

Section 24.13 Drainage

During the construction process, both the owner of the property involved and the contractor doing the work shall be jointly and severally responsible and liable for stormwater runoff, flooding, or other water problems or damages to other properties or public roads caused by or attributable to such construction. The Zoning Administrator shall have the authority to suspend or revoke a zoning permit should the requirements of this section be violated. No such suspended or revoked zoning permit shall be reinstated until the property owner posts monetary security with the Township as determined by the Zoning Administrator. Once construction has been completed and thereafter, the owner of the property involved shall be responsible for ensuring that drainage and stormwater from that property do not adversely impact adjoining properties, lakes, streams, or wetlands.

Section 24.14 Damage During Construction

During the construction process, both the owner of the property involved and the contractor doing the work shall be jointly and severally responsible for and liable for any damage to roads, littering, flooding, or other damage or casualty caused by or attributable to such construction. No construction or supply equipment or other equipment or vehicles associated with construction on a particular property shall block roads or present a safety hazard. The Zoning Administrator shall have the authority to suspend or revoke a zoning permit should the requirements of this section be violated. No such suspended or revoked zoning permit shall be reinstated until the property owner posts monetary security with the Township as determined by the Zoning Administrator.

CHAPTER 25

Site Plan Review

Section 25.1 Intent and Purpose

The intent and purpose of this Chapter and the site plan review process is to establish a consistent process and uniform standards for reviewing and approving, or rejecting, proposed plans (including, but not limited to, development configurations, uses, buildings, structures, utilities, roads, improvements and other items to be developed, installed, or used) for development or use. The site plan review process is intended to:

- A. Promote high quality site design and implementation.
- B. Conserve and promote natural amenities, features, and resources.
- C. Minimize negative effects on adjacent properties and the community.
- D. Achieve safe and convenient traffic and pedestrian control and movement.
- E. Ensure compliance with the provisions of the Master Plan and this Ordinance and all other applicable Township ordinances, and county, state, and federal laws.

Section 25.2 Applicability

A site plan shall be submitted to the Township for review and approval by the Planning Commission for all of the following:

- A. New commercial, office and industrial uses and buildings.
- B. New multiple-family residential uses and buildings.
- C. New nonresidential uses and buildings in any residential or agricultural district, except agriculture and Agricultural Marketing or Rural Enterprise businesses.
- D. New uses and buildings requiring Special Land Use approval in any district.
- E. New Condominium or Site Condominium Developments in any district.
- F. New Planned Unit Developments and new uses and buildings within Planned Unit Development districts.
- G. New Rural Open Space Community Developments in any district.
- H. New Platted Subdivisions or plats.
- I. New parking areas with 25 or more parking spaces or parking area expansions of 25 parking spaces or greater.
- J. Where otherwise required by this Ordinance.
- K. Any expansion of or any alteration, addition, or changes in or to any of the above-mentioned uses, items or buildings.

Section 25.3 Applications - Submittal Requirements

Unless expressly waived by the Planning and Zoning Department in writing, an applicant shall submit to the Township the following items herein described. The Planning and Zoning Department may deny final acceptance by the Township of any application and site plan until such time as all of the requirements are fulfilled and all required items have been filed with the Township. An application and site plan shall not be deemed complete or ready for Township review until all of the following have been submitted to the Township in complete form. Every request for site plan approval shall include all of the following:

- A. **Application.** A completed application (signed by all owners of the property involved) on a form provided by the Township, including paying all applicable zoning and escrow fees.
- B. **Site Plan.** Three full size, folded and complete Site Plans, drawn to a minimum scale of 1 inch to 50 feet. Site Plans shall be dated with any subsequent revisions noted and shall be signed and sealed by a Michigan licensed professional engineer. In addition, a digital copy in Portable Document Format (PDF) (or in another form as deemed acceptable by the Planning and Zoning Department) of the Site Plan shall also be provided to the Township via electronic mail (e-mail) or via a Compact Disc. Each site plan shall indicate and show all of the following existing and proposed:
 - 1. General plan information, including the name of applicant (and also all of the owner or owners, if different than the applicant), name of the development, location map, north arrow, scale, revision date, and legal description for the property.
 - 2. The zoning of the site and adjacent properties, including zoning district lines where applicable.
 - 3. The location and dimensions of all buildings, structures, and freestanding signs on the lot as well as the distances all buildings, structures, and freestanding signs are set back from property lines and street right-of-way lines.
 - 4. Outside storage areas, with a description of the materials or equipment to be stored and height of stored materials.
 - 5. Dumpsters, including an elevation of the proposed dumpster screening.
 - 6. Lot dimensions.
 - 7. Berms, fences, walls, buffers, and all other screening provisions, with a description of type and character.
 - 8. Access, utility, service road, and all other easements.
 - 9. Location of traffic regulatory and directional signs.
 - 10. Areas intended to remain as open space, common areas, and dedicated items.

11. Outdoor illumination with lighting fixtures sufficiently identified to demonstrate compliance with this Ordinance.
 12. Streets, labeled by street name. Private roads shall also be shown and clearly labeled as such.
 13. Vehicle accommodation areas (including parking areas, handicapped parking areas, loading areas, and circulation areas), all designated by surface material and showing the dimensions and layouts of proposed parking spaces and the dimensions and direction of travel for lanes, aisles, and driveways.
 14. Sidewalks, trails, and walkways, showing widths and surface material.
 15. Designation of fire lanes.
 16. Curbs and gutters, curb inlets and curb cuts, and drainage grates.
 17. Storm water or drainage facilities with proposed sizes and materials, including manholes, pipes, drainage ditches, retention ponds, and detention ponds.
 18. Indication of site grading drainage patterns, and stormwater management measures.
 19. Location of sanitary sewers and septic systems.
 20. Location and size of water mains, wells, water service and fire hydrants.
 21. Location of gas, electric, telephone lines, and other utilities both above and below ground.
 22. New and existing contour lines with no larger than two-foot contour intervals, resulting from earth movement or grading.
 23. Existing natural features, including wooded areas, streams, ponds, drainage ditches, wetlands, and boundaries of floodways and floodplains, and other natural features.
- C. **Landscape Plan** – See “Section 16.3 – Approval Process” of this Ordinance for required information.
- D. **Photometric Plan** – See “Section 18.5 – Submittal Requirements” of this Ordinance for required information.
- E. **Building Elevations** – Building façade elevations for all sides, including a description of the materials and colors to be used on the building(s).
- F. **Documents and Written Information in Addition to Plans** – The following documents are required, if applicable:
1. Project description including proposed use, floor area by use, existing and proposed building area, area of impervious surfaces, number of dwelling units, and estimated number of employees.

2. Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person.
3. Calculations for drainage and stormwater detention/retention.
4. Calculations for determining required number of parking spaces.
5. Time schedules for the completion of phases in staged development.

G. **Development Impact Statement:** The Planning and Zoning Department or the Planning Commission may require the applicant to prepare and submit to the Township developmental impact statement. It must describe in detail the effects that the proposed development may have and how those effects can be mitigated. The Planning and Zoning Department or the Planning Commission can require that the development impact statement address any or all of the following:

1. Environmental impacts and factors, such as streams, wildlife, rivers, air pollution, wetlands, and the quality of surface and ground waters.
2. Traffic congestion and impacts.
3. Lighting, including a photometric grid overlaid on the proposed site plan indicating the overall light intensity throughout the site (in foot candles).
4. Local school systems.
5. Additional service impacts and other related costs to governmental units, school districts and public safety agencies.
6. Aesthetic qualities and potential blighting influences upon surrounding properties.
7. Noise, vibration, dust and dirt, litter, gas smoke, odor, and glare.
8. Drainage and stormwater impacts.
9. Surrounding property values.
11. Sanitation, including water supply and sewage disposal.
12. Historical structures and places.
13. Such other matters as the Planning Commission may request to be included.

The developmental impact statement shall, if requested by the Planning and Zoning Department or the Planning Commission, include statements and comments from relevant public agencies or officials concerning any aspects of the proposed land use within their respective responsibilities and jurisdictions.

H. Such additional information, plans, or reports as the Planning and Zoning Department, Township Engineer, Township Fire Chief or Planning Commission may request that is reasonably necessary to evaluate the proposed development of the site.

Section 25.4 Review Process – Planning Commission

- A. A preapplication conference with the Planning and Zoning Department, Township Engineer and Township Fire Chief is recommended to obtain information and guidance prior to preparation of site plans. There shall be no fee for such conference.
- B. The application for Site Plan Approval, proposed site development plans, and all other submission requirements, as herein described, and the payment of all fees as established by resolution of the Township Board, must be submitted to the Township.
- C. Following receipt by the Township of a site plan, complete application, and a determination by the Township that all necessary information is present and complete, the request for Site Plan Approval shall be placed on the next Planning Commission regular meeting agenda as provided by the approved application deadlines of the annual meeting schedule. At its next or subsequent meetings, the Planning Commission shall approve, approve with conditions, deny, or table for further revisions or information.
- D. After approval by the Planning Commission, a digital copy in Portable Document Format (PDF) (or in another form as deemed acceptable by the Planning and Zoning Department) of the final approved Site Plan shall be provided to the Township via electronic mail (e-mail) or via a Compact Disc. The Site Plan shall be modified to reflect any conditions attached to the approval by the Township and any required performance guarantees before the applicant will be able to obtain a building permit.
- E. Upon receiving notice of an approved site plan, the applicant may apply for a building permit.

Section 25.5 Administrative Site Plan Approval

Minor changes to a previously approved site plan, or new site plans, may be approved administratively by the Planning and Zoning Department, in consultation with the Township Engineer and Township Fire Chief, provided that the site plan complies with all applicable requirements of this Ordinance and all other Township regulations and state law. The Planning and Zoning Department may approve a site plan, or approve minor changes to an approved site plan, for the following:

- A. Additions to existing buildings that do not exceed 5,000 square feet or twenty-five (25) percent of the existing gross floor area, whichever is smaller.
- B. A building or structure which does not exceed 5,000 square feet of gross floor area and for any use which does not require a Special Land Use approval, as provided by Chapter 19 of this Ordinance.
- C. The moving of a building or structure no more than ten (10) feet or five (5) percent of the distance to the closest property line, whichever is smaller.
- D. A decrease in the number, height, or size of buildings.

- E. Changes made to exterior materials, if the changes provide for the use of materials of equal or higher quality than those originally approved, as determined by the Planning and Zoning Department.
- F. A revision in floor plans, if consistent with the character of the use.
- G. An increase or expansion of areas designated on the approved Site Plan as "not to be disturbed."
- H. The substitution of plant materials included in the approved Site Plan, provided they are substituted with similar types of landscaping on a 1-to-1 or greater basis, as determined by the Planning and Zoning Department.
- I. Minor alterations made to access and circulation systems, such as the addition of acceleration/deceleration lanes, boulevards, curbing, or sidewalks/bicycle paths.
- J. The substitution, addition or deletion of outdoor lighting fixtures.
- K. A reduction in the size of signs, or an increase in sign setbacks.
- L. The internal rearrangement of parking spaces in a parking lot, if the total number of parking spaces remains sufficient and circulation hazards or congestion are not created by the redesign as determined by the Planning and Zoning Department.
- M. A change in the name of the approved project or in the names of streets within the project.
- N. A decrease in the number of lots or units.
- O. Any approvals expressly delegated to the Planning and Zoning Department by the Planning Commission.
- P. Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the use which are deemed by the Zoning Administrator to be not material or significant in relation to the entire use and which the Zoning Administrator determines would not have any significant adverse effect on adjacent or nearby lands or the public health, safety or welfare.

The Planning and Zoning Department may decline to review a minor change to a previously approved site plan, or new site plans, and instead refer the matter to the Planning Commission for final action.

Any applicant aggrieved by the decision of the Planning and Zoning Department in granting administrative site plan approval or denial may appeal the decision to the Planning Commission. The appeal must be in writing and shall be filed with the Township within twenty-one (21) days of the date when the decision was made by the Planning and Zoning Department.

Section 25.6 Site Plan Review Standards

The following are the standards for site plan review. No site plan shall be approved unless all of the following standards are met:

- A. **Adequacy of Information:** Whether the required information has been furnished in sufficiently complete and understandable form so as to allow an accurate description of the proposed use(s) and structure(s) in terms of density, location, area, height, bulk, placement, setbacks, performance characteristics, parking, and traffic circulation.
- B. **Compliance with Township Master Plan:** The site plan must comply with the Township Master Plan and its goals and objectives and any secondary plans that may have been adopted by the Township for the area containing the site.
- C. **Compliance with all Township Ordinances and Other Laws:** The site plan must comply with the standards of this Ordinance and all other applicable Township ordinances, as well as all county, state, and federal regulations and laws.
- D. **Configuration of Uses:** Whether there are ways in which the configuration of uses and structures could be changed that would improve the effect of the development on adjoining and nearby properties, persons, activities, and on the community, while allowing reasonable use of the property within the scope of district regulations and other regulations of this Ordinance that are applicable to the property and the proposed use and structures.
- E. **Preservation of Natural Features:** The landscape, natural features, and topography shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal and alteration of natural features, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.
- F. **Privacy:** The site design must provide reasonable visual and sound screening and privacy for dwelling units on the site and on adjacent properties using fences, buffers, berms, and other measures, as appropriate.
- G. **Safety:** Buildings and uses shall be arranged and designed to provide emergency vehicle access. Site plans shall conform to all applicable fire codes.
- H. **Vehicular Circulation:** The site design shall provide safe, convenient, and well defined vehicular and pedestrian circulation within and to/from the site. Access to/from the site shall be designed to minimize conflicts with traffic on adjacent streets. Shared curb cuts and service drives shall be utilized as necessary to reduce traffic conflicts and improve the functionality of the site.
- I. **Pedestrian Circulation:** The site plan shall provide a pedestrian circulation system that is insulated as completely as is reasonably possible from the vehicular circulation system for safety and convenience.
- J. **Drainage:** Site plans shall conform with the Kent County Drain Commission’s surface water drainage standards and to the Township Stormwater Ordinance (and other applicable Township ordinances) with special attention given to proper site drainage so that removal of storm water will not adversely affect neighboring property owners. Stormwater management system and facilities shall preserve the natural drainage characteristics and enhance the aesthetics of the site to the maximum extent possible.

- K. **Traffic Impact:** Measures must be taken to reduce any adverse effects on existing roads, circulation patterns on the roads, or access to the site from the expected volume of traffic to be generated by the proposed use.
- L. **Hazardous Materials:** Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals shall be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater or nearby surface water bodies. Each site shall be designed to meet all applicable state and federal regulations.
- M. **Public Health, Safety, or Welfare:** The site plan must be adequate to provide for the health, safety, and general welfare of the persons and property on this site and in the neighboring community. The site plan and proposed buildings and uses must be reasonable and promote the goals and intent of this Ordinance. All elements of the site plan shall be designed to take into account the site’s topography, the size and type of lot involved, the character of the adjoining properties, and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding properties for uses permitted in this Ordinance. The site plan must be harmonious with and not injurious to existing and projected uses in the immediate area.

Section 25.7 Conditions

Reasonable conditions may be attached by the Planning Commission or the Planning and Zoning Department to the approval of a site plan. The conditions may include, but are not limited to, conditions necessary to:

- A. Ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
- B. Protect the natural environment and conserve natural resources and energy.
- C. Ensure compatibility with adjacent uses of land.
- D. Ensure compatibility with this Ordinance and other applicable ordinances.
- E. Promote the use of land in a socially and economically desirable manner.

The conditions imposed with respect to the approval of a site plan shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual express and written consent of the Township body or committee which approved the original site plan and the landowner. The Township shall maintain a record of conditions which are changed.

Section 25.8 Changes in an Approved Site Plan

- A. All uses, buildings, structures, signs, items, and activities shall comply fully and completely with the approved site plan for the property involved. Any deviation from an approved site plan or violation of a site plan or its conditions shall constitute a violation

of this Ordinance. No use, structure, building, item, or activity which requires site plan approval shall commence, be constructed, or occur prior to formal final site plan approval by the Township.

- B. All requirements of this Ordinance, and any other applicable Township ordinance, standard, specification or regulation shall be complied with even if not specifically included or referenced in an approved site plan or this Chapter.
- C. An approved site plan (and any conditions attached thereto) shall remain unchanged and fully binding on the land involved (as well as all owners and the applicant if different than the landowner) except upon the mutual express and written consent of both the landowner and the Township body which approved the original site plan (except for those limited circumstances where the Planning and Zoning Department can consent to a site plan change under this Ordinance, and both the landowner and such Township official consent to the change in writing). Any purported change to an approved site plan (and/or any conditions attached thereto) which is not in a writing executed by the appropriate Township body, committee, or official, and the landowner is invalid.

Section 25.9 Site Plan Approval – Duration of Validity

- A. Site plan approval shall automatically expire one (1) year after the date of approval or from the date of issuance of the building permit if the building permit is issued within one year of the site plan approval.

Section 25.10 Limitations on Variances

Neither the denial of a site plan nor any aspect of an approved site plan (including conditions) is appealable to the Zoning Board of Appeals. However, the Planning Commission may, at its discretion, approve a site plan contingent upon a variance being obtained from the Zoning Board of Appeals for one or more area, size, or dimensional requirements of this Ordinance.

CHAPTER 25

Site Plan Review

Section 25.1 Intent and Purpose

The intent and purpose of this Chapter and the site plan review process is to establish a consistent process and uniform standards for reviewing and approving, or rejecting, proposed plans (including, but not limited to, development configurations, uses, buildings, structures, utilities, roads, improvements and other items to be developed, installed, or used) for development or use. The site plan review process is intended to:

- A. Promote high quality site design and implementation.
- B. Conserve and promote natural amenities, features, and resources.
- C. Minimize negative effects on adjacent properties and the community.
- D. Achieve safe and convenient traffic and pedestrian control and movement.
- E. Ensure compliance with the provisions of the Master Plan and this Ordinance and all other applicable Township ordinances, and county, state, and federal laws.

Section 25.2 Applicability

A site plan shall be submitted to the Township for review and approval by the Planning Commission for all of the following:

- A. New commercial, office and industrial uses and buildings.
- B. New multiple-family residential uses and buildings.
- C. New nonresidential uses and buildings in any residential or agricultural district, except agriculture and Agricultural Marketing or Rural Enterprise businesses.
- D. New uses and buildings requiring Special Land Use approval in any district.
- E. New Condominium or Site Condominium Developments in any district.
- F. New Planned Unit Developments and new uses and buildings within Planned Unit Development districts.
- G. New Rural Open Space Community Developments in any district.
- H. New Platted Subdivisions or plats.
- I. New parking areas with 25 or more parking spaces or parking area expansions of 25 parking spaces or greater.
- J. Where otherwise required by this Ordinance.
- K. Any expansion of or any alteration, addition, or changes in or to any of the above-mentioned uses, items or buildings.

Section 25.3 Applications - Submittal Requirements

Unless expressly waived by the Planning and Zoning Department in writing, an applicant shall submit to the Township the following items herein described. The Planning and Zoning Department may deny final acceptance by the Township of any application and site plan until such time as all of the requirements are fulfilled and all required items have been filed with the Township. An application and site plan shall not be deemed complete or ready for Township review until all of the following have been submitted to the Township in complete form. Every request for site plan approval shall include all of the following:

- A. **Application.** A completed application (signed by all owners of the property involved) on a form provided by the Township, including paying all applicable zoning and escrow fees.
- B. **Site Plan.** Three full size, folded and complete Site Plans, drawn to a minimum scale of 1 inch to 50 feet. Site Plans shall be dated with any subsequent revisions noted and shall be signed and sealed by a Michigan licensed professional engineer. In addition, a digital copy in Portable Document Format (PDF) (or in another form as deemed acceptable by the Planning and Zoning Department) of the Site Plan shall also be provided to the Township via electronic mail (e-mail) or via a Compact Disc. Each site plan shall indicate and show all of the following existing and proposed:
 - 1. General plan information, including the name of applicant (and also all of the owner or owners, if different than the applicant), name of the development, location map, north arrow, scale, revision date, and legal description for the property.
 - 2. The zoning of the site and adjacent properties, including zoning district lines where applicable.
 - 3. The location and dimensions of all buildings, structures, and freestanding signs on the lot as well as the distances all buildings, structures, and freestanding signs are set back from property lines and street right-of-way lines.
 - 4. Outside storage areas, with a description of the materials or equipment to be stored and height of stored materials.
 - 5. Dumpsters, including an elevation of the proposed dumpster screening.
 - 6. Lot dimensions.
 - 7. Berms, fences, walls, buffers, and all other screening provisions, with a description of type and character.
 - 8. Access, utility, service road, and all other easements.
 - 9. Location of traffic regulatory and directional signs.
 - 10. Areas intended to remain as open space, common areas, and dedicated items.

11. Outdoor illumination with lighting fixtures sufficiently identified to demonstrate compliance with this Ordinance.
 12. Streets, labeled by street name. Private roads shall also be shown and clearly labeled as such.
 13. Vehicle accommodation areas (including parking areas, handicapped parking areas, loading areas, and circulation areas), all designated by surface material and showing the dimensions and layouts of proposed parking spaces and the dimensions and direction of travel for lanes, aisles, and driveways.
 14. Sidewalks, trails, and walkways, showing widths and surface material.
 15. Designation of fire lanes.
 16. Curbs and gutters, curb inlets and curb cuts, and drainage grates.
 17. Storm water or drainage facilities with proposed sizes and materials, including manholes, pipes, drainage ditches, retention ponds, and detention ponds.
 18. Indication of site grading drainage patterns, and stormwater management measures.
 19. Location of sanitary sewers and septic systems.
 20. Location and size of water mains, wells, water service and fire hydrants.
 21. Location of gas, electric, telephone lines, and other utilities both above and below ground.
 22. New and existing contour lines with no larger than two-foot contour intervals, resulting from earth movement or grading.
 23. Existing natural features, including wooded areas, streams, ponds, drainage ditches, wetlands, and boundaries of floodways and floodplains, and other natural features.
- C. **Landscape Plan** – See “Section 16.3 – Approval Process” of this Ordinance for required information.
- D. **Photometric Plan** – See “Section 18.5 – Submittal Requirements” of this Ordinance for required information.
- E. **Building Elevations** – Building façade elevations for all sides, including a description of the materials and colors to be used on the building(s).
- F. **Documents and Written Information in Addition to Plans** – The following documents are required, if applicable:
1. Project description including proposed use, floor area by use, existing and proposed building area, area of impervious surfaces, number of dwelling units, and estimated number of employees.

2. Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person.
3. Calculations for drainage and stormwater detention/retention.
4. Calculations for determining required number of parking spaces.
5. Time schedules for the completion of phases in staged development.

G. **Development Impact Statement:** The Planning and Zoning Department or the Planning Commission may require the applicant to prepare and submit to the Township developmental impact statement. It must describe in detail the effects that the proposed development may have and how those effects can be mitigated. The Planning and Zoning Department or the Planning Commission can require that the development impact statement address any or all of the following:

1. Environmental impacts and factors, such as streams, wildlife, rivers, air pollution, wetlands, and the quality of surface and ground waters.
2. Traffic congestion and impacts.
3. Lighting, including a photometric grid overlaid on the proposed site plan indicating the overall light intensity throughout the site (in foot candles).
4. Local school systems.
5. Additional service impacts and other related costs to governmental units, school districts and public safety agencies.
6. Aesthetic qualities and potential blighting influences upon surrounding properties.
7. Noise, vibration, dust and dirt, litter, gas smoke, odor, and glare.
8. Drainage and stormwater impacts.
9. Surrounding property values.
11. Sanitation, including water supply and sewage disposal.
12. Historical structures and places.
13. Such other matters as the Planning Commission may request to be included.

The developmental impact statement shall, if requested by the Planning and Zoning Department or the Planning Commission, include statements and comments from relevant public agencies or officials concerning any aspects of the proposed land use within their respective responsibilities and jurisdictions.

H. Such additional information, plans, or reports as the Planning and Zoning Department, Township Engineer, Township Fire Chief or Planning Commission may request that is reasonably necessary to evaluate the proposed development of the site.

Section 25.4 Review Process – Planning Commission

- A. A preapplication conference with the Planning and Zoning Department, Township Engineer and Township Fire Chief is recommended to obtain information and guidance prior to preparation of site plans. There shall be no fee for such conference.
- B. The application for Site Plan Approval, proposed site development plans, and all other submission requirements, as herein described, and the payment of all fees as established by resolution of the Township Board, must be submitted to the Township.
- C. Following receipt by the Township of a site plan, complete application, and a determination by the Township that all necessary information is present and complete, the request for Site Plan Approval shall be placed on the next Planning Commission regular meeting agenda as provided by the approved application deadlines of the annual meeting schedule. At its next or subsequent meetings, the Planning Commission shall approve, approve with conditions, deny, or table for further revisions or information.
- D. After approval by the Planning Commission, a digital copy in Portable Document Format (PDF) (or in another form as deemed acceptable by the Planning and Zoning Department) of the final approved Site Plan shall be provided to the Township via electronic mail (e-mail) or via a Compact Disc. The Site Plan shall be modified to reflect any conditions attached to the approval by the Township and any required performance guarantees before the applicant will be able to obtain a building permit.
- E. Upon receiving notice of an approved site plan, the applicant may apply for a building permit.

Section 25.5 Administrative Site Plan Approval

Minor changes to a previously approved site plan, or new site plans, may be approved administratively by the Planning and Zoning Department, in consultation with the Township Engineer and Township Fire Chief, provided that the site plan complies with all applicable requirements of this Ordinance and all other Township regulations and state law. The Planning and Zoning Department may approve a site plan, or approve minor changes to an approved site plan, for the following:

- A. Additions to existing buildings that do not exceed 5,000 square feet or twenty-five (25) percent of the existing gross floor area, whichever is smaller.
- B. A building or structure which does not exceed 5,000 square feet of gross floor area and for any use which does not require a Special Land Use approval, as provided by Chapter 19 of this Ordinance.
- C. The moving of a building or structure no more than ten (10) feet or five (5) percent of the distance to the closest property line, whichever is smaller.
- D. A decrease in the number, height, or size of buildings.

- E. Changes made to exterior materials, if the changes provide for the use of materials of equal or higher quality than those originally approved, as determined by the Planning and Zoning Department.
- F. A revision in floor plans, if consistent with the character of the use.
- G. An increase or expansion of areas designated on the approved Site Plan as "not to be disturbed."
- H. The substitution of plant materials included in the approved Site Plan, provided they are substituted with similar types of landscaping on a 1-to-1 or greater basis, as determined by the Planning and Zoning Department.
- I. Minor alterations made to access and circulation systems, such as the addition of acceleration/deceleration lanes, boulevards, curbing, or sidewalks/bicycle paths.
- J. The substitution, addition or deletion of outdoor lighting fixtures.
- K. A reduction in the size of signs, or an increase in sign setbacks.
- L. The internal rearrangement of parking spaces in a parking lot, if the total number of parking spaces remains sufficient and circulation hazards or congestion are not created by the redesign as determined by the Planning and Zoning Department.
- M. A change in the name of the approved project or in the names of streets within the project.
- N. A decrease in the number of lots or units.
- O. Any approvals expressly delegated to the Planning and Zoning Department by the Planning Commission.
- P. Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the use which are deemed by the Zoning Administrator to be not material or significant in relation to the entire use and which the Zoning Administrator determines would not have any significant adverse effect on adjacent or nearby lands or the public health, safety or welfare.

The Planning and Zoning Department may decline to review a minor change to a previously approved site plan, or new site plans, and instead refer the matter to the Planning Commission for final action.

Any applicant aggrieved by the decision of the Planning and Zoning Department in granting administrative site plan approval or denial may appeal the decision to the Planning Commission. The appeal must be in writing and shall be filed with the Township within twenty-one (21) days of the date when the decision was made by the Planning and Zoning Department.

Section 25.6 Site Plan Review Standards

The following are the standards for site plan review. No site plan shall be approved unless all of the following standards are met:

- A. **Adequacy of Information:** Whether the required information has been furnished in sufficiently complete and understandable form so as to allow an accurate description of the proposed use(s) and structure(s) in terms of density, location, area, height, bulk, placement, setbacks, performance characteristics, parking, and traffic circulation.
- B. **Compliance with Township Master Plan:** The site plan must comply with the Township Master Plan and its goals and objectives and any secondary plans that may have been adopted by the Township for the area containing the site.
- C. **Compliance with all Township Ordinances and Other Laws:** The site plan must comply with the standards of this Ordinance and all other applicable Township ordinances, as well as all county, state, and federal regulations and laws.
- D. **Configuration of Uses:** Whether there are ways in which the configuration of uses and structures could be changed that would improve the effect of the development on adjoining and nearby properties, persons, activities, and on the community, while allowing reasonable use of the property within the scope of district regulations and other regulations of this Ordinance that are applicable to the property and the proposed use and structures.
- E. **Preservation of Natural Features:** The landscape, natural features, and topography shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal and alteration of natural features, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.
- F. **Privacy:** The site design must provide reasonable visual and sound screening and privacy for dwelling units on the site and on adjacent properties using fences, buffers, berms, and other measures, as appropriate.
- G. **Safety:** Buildings and uses shall be arranged and designed to provide emergency vehicle access. Site plans shall conform to all applicable fire codes.
- H. **Vehicular Circulation:** The site design shall provide safe, convenient, and well defined vehicular and pedestrian circulation within and to/from the site. Access to/from the site shall be designed to minimize conflicts with traffic on adjacent streets. Shared curb cuts and service drives shall be utilized as necessary to reduce traffic conflicts and improve the functionality of the site.
- I. **Pedestrian Circulation:** The site plan shall provide a pedestrian circulation system that is insulated as completely as is reasonably possible from the vehicular circulation system for safety and convenience.
- J. **Drainage:** Site plans shall conform with the Kent County Drain Commission’s surface water drainage standards and to the Township Stormwater Ordinance (and other applicable Township ordinances) with special attention given to proper site drainage so that removal of storm water will not adversely affect neighboring property owners. Stormwater management system and facilities shall preserve the natural drainage characteristics and enhance the aesthetics of the site to the maximum extent possible.

- K. **Traffic Impact:** Measures must be taken to reduce any adverse effects on existing roads, circulation patterns on the roads, or access to the site from the expected volume of traffic to be generated by the proposed use.
- L. **Hazardous Materials:** Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals shall be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater or nearby surface water bodies. Each site shall be designed to meet all applicable state and federal regulations.
- M. **Public Health, Safety, or Welfare:** The site plan must be adequate to provide for the health, safety, and general welfare of the persons and property on this site and in the neighboring community. The site plan and proposed buildings and uses must be reasonable and promote the goals and intent of this Ordinance. All elements of the site plan shall be designed to take into account the site’s topography, the size and type of lot involved, the character of the adjoining properties, and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding properties for uses permitted in this Ordinance. The site plan must be harmonious with and not injurious to existing and projected uses in the immediate area.

Section 25.7 Conditions

Reasonable conditions may be attached by the Planning Commission or the Planning and Zoning Department to the approval of a site plan. The conditions may include, but are not limited to, conditions necessary to:

- A. Ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
- B. Protect the natural environment and conserve natural resources and energy.
- C. Ensure compatibility with adjacent uses of land.
- D. Ensure compatibility with this Ordinance and other applicable ordinances.
- E. Promote the use of land in a socially and economically desirable manner.

The conditions imposed with respect to the approval of a site plan shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual express and written consent of the Township body or committee which approved the original site plan and the landowner. The Township shall maintain a record of conditions which are changed.

Section 25.8 Changes in an Approved Site Plan

- A. All uses, buildings, structures, signs, items, and activities shall comply fully and completely with the approved site plan for the property involved. Any deviation from an approved site plan or violation of a site plan or its conditions shall constitute a violation

of this Ordinance. No use, structure, building, item, or activity which requires site plan approval shall commence, be constructed, or occur prior to formal final site plan approval by the Township.

- B. All requirements of this Ordinance, and any other applicable Township ordinance, standard, specification or regulation shall be complied with even if not specifically included or referenced in an approved site plan or this Chapter.
- C. An approved site plan (and any conditions attached thereto) shall remain unchanged and fully binding on the land involved (as well as all owners and the applicant if different than the landowner) except upon the mutual express and written consent of both the landowner and the Township body which approved the original site plan (except for those limited circumstances where the Planning and Zoning Department can consent to a site plan change under this Ordinance, and both the landowner and such Township official consent to the change in writing). Any purported change to an approved site plan (and/or any conditions attached thereto) which is not in a writing executed by the appropriate Township body, committee, or official, and the landowner is invalid.

Section 25.9 Site Plan Approval – Duration of Validity

- A. Site plan approval shall automatically expire one (1) year after the date of approval or from the date of issuance of the building permit if the building permit is issued within one year of the site plan approval.

Section 25.10 Limitations on Variances

Neither the denial of a site plan nor any aspect of an approved site plan (including conditions) is appealable to the Zoning Board of Appeals. However, the Planning Commission may, at its discretion, approve a site plan contingent upon a variance being obtained from the Zoning Board of Appeals for one or more area, size, or dimensional requirements of this Ordinance.

CHAPTER 26

Zoning Board of Appeals

Section 26.1 Authority

Pursuant to the authority granted to the Township in the Michigan Zoning Enabling Act, being Public Act 110 of 2006, as amended, the Township has established and through this Ordinance continues the authority of the Township Zoning Board of Appeals, sometimes referred to throughout this Ordinance as “the ZBA.”

Section 26.2 Membership and Appointment

- A. **Regular Members:** The ZBA shall have five (5) regular members who shall be selected and appointed by the Township Board from the electors of the Township residing within Gaines Charter Township. The membership shall be comprised of the following:
1. One (1) regular member shall be a current member of the Township Planning Commission.
 2. One (1) regular member may be a current member of the Township Board, but shall not serve as chairperson.
 3. The remaining three (3) regular members (or remaining four (4) regular members if a Township Board member is not appointed) shall be representative of the population distribution and of the various interests present in the Township.
 4. An employee or contractor of the Township shall not serve as a member of the ZBA.
- B. **Alternate Members:** The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the ZBA. An alternate member may be called as specified to serve as a member of the ZBA in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which a regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. When called to serve as a member of the ZBA, alternate members shall have the same voting rights as a regular member of the ZBA.
- C. **Terms of Office:** The term of each member of the ZBA shall be for three (3) years, except for members serving because of their membership on the Planning Commission or the Township Board, whose terms shall be limited to the time they are members of the Planning Commission or Township Board, respectively, or the time period stated in the resolution of the Township Board appointing them, whichever is shorter. When members are first appointed, the appointments may be for less than three (3) years to provide for staggered terms.

- D. **Compensation:** Each member of the ZBA, whether regular or alternate, may receive a reasonable sum as compensation for services rendered to the Township as a member of the ZBA. This amount shall be determined from time to time by the Township Board.

Section 26.3 Vacancies and Removal

- A. **Vacancies:** If a vacancy occurs in the membership of the ZBA, the Township Board shall appoint another person to the ZBA for the balance of the unexpired term. Upon expiration of the term of a member of the ZBA, a successor shall be appointed not more than one (1) month after the term of the preceding member has expired.
- B. **Removal:** A member of the ZBA may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a known conflict of interest constitutes malfeasance in office. Whenever a member of the ZBA has a conflict of interest with respect to a matter presented to the ZBA, the member shall state on the record the nature of the conflict of interest, and the member shall not participate in the ZBA's discussion, consideration, deliberation, or decision of the matter.

Section 26.4 Rules of Procedure

The ZBA may adopt rules and regulations for the conduct of its meetings. The ZBA shall elect from its membership a Chairperson, Vice-Chairperson, Secretary and other officers as deemed necessary. The ZBA shall not conduct business unless a majority of its members are present. The presence of three (3) members shall constitute a quorum.

The regular place and time of meeting of the ZBA may be established by the ZBA in its rules and regulations. Except as otherwise specified in the rules and regulations of the ZBA, procedure in meetings of the ZBA shall be governed by Robert's Rules of Order.

Minutes of proceedings shall be kept for the ZBA meetings. These minutes shall list the members absent and present and shall show the action taken by the ZBA, as well as the vote of each member upon each matter presented to the ZBA.

Section 26.5 Meetings and Attendance

Meetings of the ZBA shall be held at the call of the Chairperson and at such other times as the ZBA may specify. The Chairperson may administer oaths and compel the attendance of witnesses. All meetings of the ZBA shall be open to the public.

Section 26.6 Conflict of Interest

A member of the ZBA shall not participate or vote with respect to a matter in which the member has a conflict of interest. Failure of a member to refrain from participating or voting in a matter

in which the member has a known conflict of interest shall constitute misconduct in office. A conflict of interest exists whenever a member of the ZBA owns land within the Township which is significantly affected by a matter presented to the ZBA, or a member has a direct financial interest in the matter presented to the ZBA. A conflict of interest may exist in other circumstances as well.

The ZBA should strive to avoid even the appearance of impropriety. Whenever a member of the ZBA has a conflict of interest or appears to have a conflict of interest with respect to a matter presented to the ZBA, the member shall state on the record the nature of the conflict of interest, or the circumstances which exist which could be perceived to be a conflict of interest. If the member has a conflict of interest, the member shall not participate in the ZBA's consideration of the matter. If circumstances exist which could be perceived to be a conflict of interest, the member, after disclosure of these circumstances, may continue to participate in the ZBA's consideration of the matter if the member can be fair, objective and impartial, subject to the vote of the other members of the ZBA.

Nondisclosure of a known conflict of interest shall be misconduct in office, and nondisclosure of circumstances which exist which could be perceived to be a conflict of interest may also constitute misconduct in office.

If a member of the ZBA fails to disclose any circumstances which could be perceived to be a conflict of interest and the ZBA later becomes aware of such circumstances, or if a member of the ZBA participates in the consideration of a matter in which the member has a known conflict of interest, the ZBA may, upon the vote of a majority of the regular members of the ZBA (other than the member who has failed to make the disclosure or who participated in the consideration of a matter in which the member had a conflict of interest), the ZBA may make a recommendation to the Township Board that the member be removed from the ZBA for misconduct in office. If the ZBA makes such a recommendation to the Township Board, the Township Board shall hold a public hearing to consider the recommendation.

Section 26.7 Notice of Public Hearing

The ZBA shall give notice and conduct public hearings as required by Section 24.7 of this Ordinance. In the case of a scheduled public hearing, the ZBA shall not adjourn the public hearing at the time scheduled for the public hearing until it has afforded the public in attendance a reasonable opportunity to be heard. Notwithstanding the preceding sentence, the Chairperson of the ZBA may cancel or adjourn a public hearing or meeting based upon a weather emergency, general emergency, or other unforeseen problem or calamity.

Section 26.8 Powers, Duties and Jurisdiction

The ZBA shall hear and decide questions that arise in the administration of this Ordinance, unless otherwise specified herein, including the interpretation of the zoning maps. It shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with the enforcement of this Ordinance for which the ZBA has jurisdiction under Michigan law. It shall also hear and decide

all matters referred to it or upon which it is required to pass under the terms of this Ordinance. In addition, a variance may be applied for and granted pursuant to Section 4 of the Uniform Condemnation Procedures Act, being Act No. 87, as amended, of the Public Acts of 1980. The grounds for every such determination of the ZBA shall be stated as a matter of public record.

A. **In general, the ZBA has jurisdiction over the following:**

1. Zoning map and text interpretations.
2. General appeals under law or this Ordinance.
3. Variances.
4. Determination of lots of record and nonconforming lots.
5. Determination of nonconforming use and nonconforming lot situations.

B. **Appeals:** Appeals to the ZBA may be taken by any party or person aggrieved by a decision or order of the Zoning Administrator where it is alleged that there is error or misinterpretation in any order, requirement, decision, grant, or refusal made by the Zoning Administrator or other administrative official or body charged with the enforcement of any ordinance adopted pursuant to the Michigan Zoning Enabling Act, as amended, or a variance or other relief is requested from the ZBA as authorized by Michigan law.

1. A written notice of appeal specifying the grounds thereof shall be filed by the applicant, landowner, or other aggrieved party involved with the Zoning Administrator within 30 days after the date of the action or decision appealed from. If such a written notice of appeal is not filed within that 30 day time period, the applicant, landowner, or other aggrieved party involved waives his/her/its right of appeal and the decision, determination, or action of the Zoning Administrator or other Township body involved will stand and shall be conclusive. The Zoning Administrator shall immediately transmit to the ZBA all the papers constituting the record upon which the action appealed from was taken.
2. An appeal stays all proceedings in furtherance of the action appealed from unless the body or officer from whom the appeal is taken certifies to the ZBA (after the notice of appeal shall have been filed with him/her) that by reason of facts stated in the certificate, a stay would in his/her opinion cause imminent peril to life or property, in which case proceeding shall not be stayed otherwise than by restraining order which may be granted by the ZBA or by the Circuit Court.
3. A person may appear and testify at a ZBA hearing, whether in person or by duly-authorized agent or attorney. The ZBA shall select a reasonable time and place for hearing an appeal, give due notice thereof to the parties, and render a decision of the appeal without unreasonable delay. Notice shall be given for public hearings as required by Section 22.9 of this Ordinance.

4. In deciding an appeal involving an interpretation or determination, the ZBA shall be limited to determining whether or not the decision that was made was correct using the standards and guidelines in this Ordinance.
 5. With regard to an interpretation or determination, if the ZBA finds that the administrative official or body making the decision did so improperly, the ZBA, with a concurring vote of the majority of its members, may reverse or affirm, wholly or partly, or may modify, the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the administrative official or body from whom the appeals was taken.
 6. The burden of proof rests with the applicant to prove that he/she should be granted the relief sought from the ZBA.
- C. Use Variances:** The Zoning Board of Appeals shall not grant a land use variance unless it finds that an unnecessary hardship results from compliance with the land use requirements for the Zoning District applicable to the property. An unnecessary hardship is determined to exist if the Zoning Board of Appeals finds that all of the following conditions are met:
1. The land use variance is necessary due to the unique condition, location, or situation of the property in relation to the permitted and special land uses categorized within the applicable Zoning District.
 2. The unique nature of the property prevents the establishment of all other reasonable and appropriate permitted and special land uses categorized within the applicable Zoning District.
 3. The hardship for which the land use variance is requested does not result from a self-created problem by the applicant, current landowner, or any previous landowner of the property involved (see definition of “self-created problem”).
 4. The land use variance will not be detrimental to the public welfare, injurious to neighboring properties, or change the essential character of the neighborhood.
 5. The land use variance is consistent with the purpose and intent of the Master Plan and the intent and provisions of the Zoning Ordinance and Zoning District designation of the subject property.

No use variance shall be granted unless at least four (4) members of the ZBA vote in favor of such use variance. Furthermore, before the members of the ZBA may vote on a given use variance request, the matter shall be referred to the Planning Commission. The Planning Commission shall be asked for its recommendation regarding the proposed use variance request. The ZBA may take final action regarding such a use variance request once the Planning Commission has forwarded its recommendation on the particular use

variance request to the ZBA or 45 days has elapsed since the referral to the Planning Commission, whichever occurs first.

D. **Non-Use (Dimensional) Variances:** The Zoning Board of Appeals shall not grant a variance from a dimensional requirement or standard of the Zoning Ordinance unless it finds that a practical difficulty results from strict compliance with the Zoning Ordinance. A practical difficulty is determined to exist if the Zoning Board of Appeals finds that all of the following conditions are met:

1. The predicament is caused by exceptional, unique, or extraordinary physical conditions, dimensions, or circumstances that directly relate to the subject lot or parcel rather than the individual situation or desire of the applicant or property owner (see definition of “unique circumstance”).
2. The variance is necessary for the preservation and enjoyment of a substantial property right which is similar to that possessed by other landowners in the same Zoning District and vicinity and does not grant special privileges to the applicant that are not available to the owners of these properties
3. The practical difficulty for which the variance is requested does not result from a self-created problem by the applicant, current landowner, or any previous landowner of the property involved (see definition of “self-created problem”).
4. The variance will not be detrimental to the public welfare, injurious to neighboring properties, or change the essential character of the neighborhood.
5. The variance is consistent with the purpose and intent of the Master Plan and the intent and provisions of the Zoning Ordinance and Zoning District designation of the subject property.

If all conditions are met, the Zoning Board of Appeals will grant the least possible variance of the zoning requirement or standard that would allow for a reasonable improvement to the lot or parcel.

E. **No ZBA Jurisdiction:** The ZBA is without jurisdiction to hear any appeals or matters involving any of the following:

1. A planned unit development (PUD).
2. A special land use.
3. Site plan decisions.

Notwithstanding the fact that the ZBA generally has no jurisdiction with regard to the above-mentioned matters, the ZBA shall have jurisdiction to entertain variance requests related to subsections (1), (2), and/or (3) above, if the Township body which makes the final decision regarding the matter (for example, the Township Board with regard to a

PUD or the Planning Commission with regard to a special land use) expressly grants written permission to the landowner or applicant involved to apply to the ZBA for a variance of one or more of the underlying requirements of the Zoning Ordinance. For example, but not by way of limitation, the Planning Commission could approve a particular special use request contingent upon the ZBA granting a variance for an otherwise applicable requirement within the Ordinance which would normally prohibit the applicant or landowner from taking advantage of a special use approval absent a variance.

- F. **No Advisory Opinions:** The ZBA shall not give advisory, informal, or hypothetical opinions or decisions.

Section 26.9 Decisions of the ZBA

- A. **Procedure:** After hearing and consideration of the variance request with respect to the review standards specified in this Chapter, the ZBA shall deny, approve or approve with conditions the variance request. In the absence of a quorum of the membership, no action may be taken by the ZBA, except that any member may adjourn the meeting to a new date, time, and place.
- B. **Conditions:** The ZBA may impose conditions on the granting of a variance. Conditions may include those necessary to ensure the public services and facilities will be capable of accommodating increased service and facility loads caused by the proposed land use or activity; to protect the natural environment and conserve natural resources and energy; to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.
- C. **Finality:** The decision of the ZBA with regard to any matter presented to it according to the provisions of this Ordinance shall be final; however, any aggrieved party shall have the right to appeal to the circuit court according to law.
- D. **Expiration:** A variance granted under the provisions of this Ordinance shall become null and void unless the construction, occupancy, use, or other action authorized by the variance has been substantially begun within one (1) year of the granting of the variance and has been diligently pursued to completion. For the purpose of this subsection, construction of a building shall be deemed to have begun at the time a structural foundation is installed.
- E. **Reapplication:** No application for a variance which has been denied wholly or in part by the ZBA shall be resubmitted to the ZBA, except on grounds of new evidence which could not have been reasonably presented at the original public hearing, or upon proof of substantially changed conditions which are relevant to the variance request.
- F. **Other Decisions:** The above subparagraphs A through E, inclusive, shall also apply to other decisions (other than variances) involving matters within the authority of the ZBA (including determination of lots of record and nonconforming lots, determination of nonconforming use and nonconforming lot situations, and other matters for which the ZBA has jurisdiction under this Ordinance and at law) where applicable.

Section 26.10 Fees

The required fee or fees for a ZBA application hearing or proceeding shall be paid to the Township before the ZBA considers or takes any action regarding an application. All fees shall be retained by the Township regardless of the ultimate decision or decisions of the ZBA.

Section 26.11 Termination of a Variance

In the event that the ZBA grants a variance, the individual or successor in interest as to the property involved shall not use the property in question such that it would exceed the rights given by the Zoning Ordinance or the variance or fail to follow any conditions placed thereon by the ZBA. In the event that the use of the property exceeds those rights given by the Zoning Ordinance or the variance, or the property owner fails to follow the conditions placed upon the variance, the variance shall immediately terminate. Alternately, in such case, the ZBA shall also have the authority to terminate a variance after reasonable notice and hearing.

CHAPTER 27 Amendments

Section 27.1 Intent and Purpose

Amendments or supplements shall be made hereto in the same manner as provided in the Zoning Act for the enactment of this Ordinance.

Section 27.2 Initiation of Amendments

Either the Township Board by a request to the Planning Commission, or the Planning Commission itself, may, at any time, initiate an amendment to the map or text of this Ordinance.

Any property owner or holder of valid option to purchase (with written permission from the property owner) may request an amendment to this Ordinance. An application for an amendment to the map or text of this Ordinance shall be submitted through the Zoning Administrator. The application shall contain the following:

- A. the petitioner’s name, address and interest in the petition as well as the name, address and interest of every person having a legal or equitable interest in any land which is to be rezoned;
- B. the nature and effect of the proposed amendment;
- C. if the proposed amendment would require a change in the Zoning Map, a fully dimensioned map showing the land which would be affected by the proposed amendment, a legal description of such land, the present Zoning District of the land, the Zoning District of all abutting lands, and all public and private rights-of-way and easements bounding and intersecting the land to be rezoned;
- D. the alleged error in the Ordinance which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reasons why the proposed amendment will correct the same;
- E. the changed or changing conditions in the area or in the Township that make the proposed amendment reasonably necessary to the promotion of the public health, safety and general welfare; and
- F. all other circumstances, factors and reasons which the petitioner offers in support of the proposed amendment.

Section 27.3 Amendment Procedure

After initiation, amendments to this Ordinance may be considered as provided in the Zoning Act.

Section 27.4 Review Standards for Amendments

In reviewing an application for the rezoning of land, whether the application is made without or with an offer of conditions (as in a conditional rezoning request), factors that should be considered by the Planning Commission and the Township Board include, but are not limited to, the following:

- A. Whether the proposed rezoning is consistent with the policies and uses proposed for that area in the Township’s Master Land Use Plan;
- B. Whether all of the uses and structures allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area;
- C. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning;
- D. Whether the proposed zoning would be reasonable;
- E. Whether circumstances in the area have changed; and
- F. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.

Section 27.5 Resubmittal

No petition for rezoning which has been denied by the Township Board shall be resubmitted for a period of one (1) year from the date of denial, unless the Zoning Administrator finds the existence of new and significant facts or conditions which might result in favorable action upon resubmittal.

Section 27.6 Conditional Rezoning

- A. **Intent.** It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by a property owner as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of the Zoning Act by which a landowner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.
- B. **Application and Offer of Conditions.**
 - 1. An owner of land may voluntarily offer in writing one or more conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
 - 2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.

3. The landowner’s offer of conditions may not purport to authorize uses, activities, structures, items, or developments not allowed in the requested new zoning district or otherwise by this Ordinance.
 4. Any use or development proposed as part of an offer of conditions for a rezoning that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately also approved by the Township in accordance with the provisions of this Ordinance.
 5. Any use or development proposed as part of an offer of conditions for a rezoning that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately also approved by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
 6. Any use or development proposed as part of an offer of conditions for a rezoning that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately also approved in accordance with the provisions of this Ordinance.
 7. The offer of conditions may be changed during the process of rezoning consideration provided that any changed or additional conditions are entered or agreed to voluntarily by the landowner. A landowner may withdraw all or part of its offer of conditions at any time prior to final rezoning action by the Township Board, provided that if such withdrawal or change occurs after the Planning Commission’s public hearing on the original rezoning request, then the rezoning application shall be referred back to the Planning Commission for a new public hearing with appropriate notice and a new recommendation by the Planning Commission.
- C. **Planning Commission Review.** The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in this Chapter, may recommend to the Township Board approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the landowner.
- D. **Township Board Review.** After receipt of the Planning Commission’s recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board’s deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in this Chapter. Should the Township Board consider changes to the proposed conditional rezoning advisable and if such contemplated changes to the offer of conditions are acceptable to and thereafter offered by the landowner, then the Township Board may refer such changes back to the Planning Commission for a report thereon by the Planning Commission within a time specified by the Township Board and the Township Board may proceed thereafter in accordance with the Zoning Act to deny or approve the conditional rezoning with or without changes.

E. Approval.

1. If the Township Board approves the rezoning request with conditions from the offer of conditions, the offered conditions shall be incorporated into a formal written Statement of Conditions (or equivalent document) acceptable to the landowner and the Township and which document also conforms in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance/ordinance amendment adopted by the Township Board to accomplish the requested rezoning.
2. The Statement of Conditions shall:
 - a. Be in a form recordable with the Kent County Register of Deeds or, in the alternative (and if acceptable to the Township), be accompanied by a recordable Affidavit or Memorandum prepared and signed by the landowner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
 - b. Contain a legal description of the land to which it pertains.
 - c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon both the current landowner and all successor owners, creditors, etc., of the land.
 - d. Incorporate by attachment or reference any diagram, plans or other documents that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
 - e. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the Township with the Kent County Register of Deeds.
 - f. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions and have full authority to so bind the land.
3. Upon the rezoning taking effect, the Township's Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
4. The approved Statement of Conditions (or an Affidavit or Memorandum giving notice thereof if such alternative is approved by the Township) shall be filed by the Township with the Kent County Register of Deeds. The Township Board shall have the authority to waive this requirement at its discretion if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no

material benefit to the Township or to any subsequent purchaser or owner of the land.

5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use, structures, and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

F. Compliance with Conditions.

1. Any person who establishes a development or commences or continues a use upon land that has been rezoned with conditions shall continuously operate and maintain the development, land, structures, and use in full compliance with all of the conditions set forth in the Statement of Conditions as well as this Ordinance. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and shall be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
2. No permit or approval shall be granted under this Ordinance (or any other ordinance of the Township) for any use, structure, or development that is contrary to an applicable Statement of Conditions.

G. Time Period for Establishing Development or Use. Unless another time period is specified in the ordinance/ordinance amendment rezoning the subject land, the approved development and/or use of the land must be substantially commenced upon the land within one year after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and, (2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with its Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise be inconsistent with sound zoning policy.

H. Reversion of Zoning. If the approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection G above, then the land shall revert to its former zoning classification as set forth in MCL 125.3405, as amended. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land back to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests. Such reversion shall also occur if any condition or requirement in the Statement of Conditions is violated.

I. Subsequent Rezoning of Land. When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Subsection H above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect,

unless the Township Board deems certain conditions still relevant and binding, in which case any such conditions shall remain effective. Upon the landowner's written request, the Township Clerk shall record with the Kent County Register of Deeds a notice that the prior Statement of Conditions (or portions thereof) is no longer in effect if, in fact, that is the case.

J. Amendment of Conditions.

1. During the time period for commencement of an approved development or use specified pursuant to Subsection G above or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.
2. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

K. Township Right to Rezone. Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed or construed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification at any time. Any rezoning shall be conducted in compliance with this Ordinance and the Zoning Act.

L. Failure to Offer Conditions. The Township shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect a landowner's rights under this Ordinance.

CHAPTER 28 Definitions

Section 28.1 Words Not Defined

For the purpose of their use in this Ordinance, the following phrases, terms and words are hereinafter defined. Any word or term not defined herein shall be considered to be defined in accordance with its common meaning or standard definition.

Section 28.2 Definitions

A. Definitions “A”

Abutting or Adjacent Property: Any lot or parcel of land adjoining or having a common border with a second lot or parcel of land.

Accessory Building or Structure: A subordinate structure detached but located on the same lot as the principal structure, the use of which is clearly incidental and accessory to that of the principal structure. A lean-to which shares a roof or common wall with an accessory building is considered part of that accessory building for the purposes of calculating accessory building floor area and applicable setback requirements.

Accessory Use: A use of a nature customarily and clearly incidental and subordinate to the main use of the land, Lot, Building or Structure.

Accessory Wind Turbine: A turbine placed on an existing structure, of which the turbine would be a secondary use of that structure.

Adult Care Facilities: A facility for the care of adults, over 18 years of age, as licensed and regulated by the State under Michigan Public Act 218 of 1979, as amended, and rules promulgated by the State Department of Consumer and Industry Services. The organizations shall be defined as follows:

1. Adult foster care facility: A governmental or non-governmental establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility, or any other facilities excluded from the definition of “adult foster care facility” by Michigan Public Act 218 of 1979, as amended.
2. Adult foster care small group home: A private residence with the approved capacity to receive 12 or fewer adults who are provided foster care as defined herein.

3. Adult foster care family home: A private residence with the approved capacity to receive 6 or fewer adults to be provided with foster care as defined herein. The adult foster care family home licensee must be a member of the household and an occupant of the residence.
4. Foster Care: The provision of supervision, personal care, and protection in addition to room and board for 24 hours a day, 5 or more days a week, and for 2 or more consecutive weeks for compensation.

Adult Day Care Home: A private home (which is the bona fide permanent residence of the operator of the family day-care home) in which from 1 to 6 adults who are aged, mentally ill, developmentally disabled, or physically handicapped are received for care and supervision for periods of less than 24 hours a day. The physical facility and operation of the home shall comply with all applicable federal, state and local laws or regulations. An adult day-care home does not include a probation, parole, or sex offender home or a substance abuse rehabilitation home.

Agriculture, Agricultural: Uses and activities applied in the production of plants and animals useful to humans, including forages and sod crops; grains and feed crops; dairy and dairy products; livestock, including breeding and grazing; fruits; vegetables; Christmas trees; ornamental horticulture and other similar uses and activities.

Agricultural Building: Any Building or Structure other than a Dwelling, which is customarily used in connection with the Agricultural activities conducted on a Farm. Farm Buildings shall be considered and regulated as Accessory Buildings unless such a Building is: (1) located in the "AB" Agricultural/Agri-Business Zone or on a Lot or parcel of land of five (5) acres or more in the "AR" Agricultural/rural Residential Zone; (2) owned, operated and maintained by the owner of the Farm upon which it is located; and (3) used for purposes essential to the operation of the Farm upon which it is located.

Agricultural Marketing Business: A Consumer based retail or service business associated with any aspect of the sales, distribution, service or maintenance of Agricultural Products, conducted upon the same premises and in conjunction with a Farm and displaying a "rural" or "country" architectural style or theme. For example, Farms involved in dairying may sell dairy Agricultural Products directly to consumers; Farms growing sod may install and maintain transplanted grasses; or Farms raising horses may board and offer horseback rides to the public.

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

Agricultural/Rural Enterprise: A small commercial business which is conducted upon the same premises and in conjunction with a Farm and displays a “rural” or “country” architectural style or theme. The commercial use types may be Institutional, entertainment, or other rural area service business, but may be conducted only as a supplement to an immediately adjacent Farm business. The making or selling of Agricultural or Rural-Area Products may occur on-site. Incidental sales of products other than Agricultural or Rural-Area Products may be stocked and sold, but shall not exceed twenty-five percent (25%) of total product inventory.

Agricultural Service Business: A business engaged in providing services for Agricultural operations, including sales and service of Farm implements, veterinarian services, Agricultural Product storage and distribution facilities, testing services, and seed and feed operations.

Alley: A public right-of-way not more than thirty (30) feet wide affording only secondary means of vehicular access to abutting Lots and land and which is not intended for general traffic circulation.

Altered Or Alteration: Any change, addition or modification in the construction or state of any Building or Structure including, without limitation, any change in the supporting members, bearing walls, columns, posts, girders or roof structure, any architectural change of the interior or exterior of a Building or Structure which may affect its structural integrity, or any addition to or diminution of a Structure or Building.

Area, Gross Floor: The sum of the horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls. The Gross Floor Area measurement is exclusive of the following areas:

1. Basements
2. Unfinished attics
3. Private attached garages
4. Breezeways and porches, both enclosed and unenclosed.

For the purposes of calculating parking requirements, the Gross Floor Area measurement shall also exclude vehicular parking and loading areas within the structure, and floor area occupied by HVAC (heating, venting, and air conditioning), mechanical, electrical, communications and security equipment or apparatus.

Area, Gross Leasable: The term Gross Leasable Area (GLA) as used in this document shall mean the gross floor area minus the following floor area deductions:

1. Elevator shafts and stairways
2. Public restrooms
3. Public lobbies, common mall, atriums and courtyards provided solely for pedestrian access to the building exterior, and/or for aesthetic enhancement or natural lighting purposes.
4. Permanently designated corridors (i.e., not subject to relocation by the requirements of a specified lease).

Attached Accessory Dwelling: A separate and complete dwelling unit that is contained within the structure of the principal dwelling.

Attached Wireless Communications Facilities: Wireless Communication Facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established shall not be included within this definition.

B. Definitions “B”

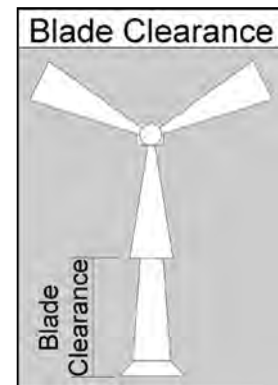
Basement: That portion of a Building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling.

Basement, Full: That portion of a Building which is wholly below grade.

Bedroom: A room originally designed and primarily intended for sleeping. It also includes closets or similar provisions for the storage of personal items.

Bed and Breakfast Establishment: A private residence that offers overnight accommodations to guests in the operator’s principal residence and serves breakfast at no extra cost to its lodgers.

Blade Clearance: The least distance possible between the ground and bottom edge of a turbine blade or rotator plane.



Buffer Berm: A linear mound or hill made only of earthen materials including soil, rock or concrete pieces, which qualifies for use within buffering requirements of this zoning ordinance. To qualify as a Buffer Berm, the following characteristics must either exist, or be created, within that portion of a Yard which requires a Type II or III Buffer:

1. Structural improvements may be constructed as part of a Buffer Berm with materials other than earthen if designed and constructed in an attractive, effective manner; and,
2. Slopes shall not exceed one (1) foot vertically for each three (3) feet horizontally unless structurally stabilized as provided above; and,
3. Surface soil on the bermed area shall be organic top soil to a depth of at least three (3) inches and internal or subsurface soil shall be of sufficient quality to supporting chosen vegetation for the required buffer; and,
4. Berm surfaces shall be stabilized and maintained with natural ground covers including grasses or herbaceous vegetation and/or decorative shredded or chipped vegetative materials such as bark or wood; and,
5. The measurement of berm height shall be taken from average surrounding grade to the crest of the berm; except, however, that undulating berms or other similar irregular topographic contours will be allowed provided that the same degree of complete visual screening is accomplished by additional vegetative plantings or permitted Buffer Screen device.

Buffer Screen: A screening device such as a fence, wall, or similar physical barrier, within that portion of a Yard which requires a Type II or III Buffer, which has the following characteristics:

1. Constructed of durable materials such as:
 - a. Treated lumber with no dimensions less than three-quarters (3/4) inch, and
 - b. Brick, decorative block, stone or other attractive masonry.
2. Has a degree of opaque visual closure of at least ninety percent (90%) of the vertical screening surface.
3. Does not exceed the height required for fencing in the zone in which the Buffer Screen is located.

Buffer, Type I: A linear strip of land within any Yard as required by various sections throughout this Ordinance, at least ten (10) feet in width measured horizontally, providing a slight vegetative buffer, or natural equivalent, consisting of at least three (3) plantings for each thirty (30) linear feet, or fraction thereof, one (1) of which shall be evergreen and at least four (4) feet in height, and the other two (2) of which shall be not less than six (6) feet in height and capable of growing to a height at maturity at least twenty (20) feet.

Buffer, Type II: A linear strip of land within any Yard as required by various sections throughout this Ordinance, at least ten (10) feet in width measured horizontally, providing a vegetative buffer, or natural equivalent, consisting of at least the following:

1. One (1) tree for each twenty (20) linear feet, or fraction thereof, not less than twelve (12) in height and capable of growing to a height at maturity at least twenty (20) feet; and,
2. One (1) row of evergreen shrubs not less than five (5) feet in height and spaced not more than five (5) feet apart.

Buffer, Type III: A linear strip of land within any Yard as required by various sections throughout this Ordinance, at least twenty-four (24) feet in width measured horizontally, providing a vegetative barrier and Buffer Berm, or natural equivalent, consisting of at least the following:

1. One (1) tree for each thirty (30) linear feet, or fraction thereof, not less than twelve (12) in height and capable of growing to a height at maturity at least twenty (20) feet; and,
2. One (1) evergreen tree for each thirty (30) linear feet, or fraction thereof, not less than twelve (12) feet in height where the buffer is immediately adjacent to an occupied site and is otherwise a height of not less than five (5) feet; and,
3. One (1) row of evergreen shrubs at least three (3) feet in height and spaced not more than five (5) feet apart; and,
4. A Buffer Berm at least five (5) feet above average surrounding grade, but not more than six (6) feet above average surrounding grade. (Amended by Ord. No. 93-DC-01-TX)

Building: Anything which is erected, including a Mobile Home, having a roof, which is used or erected for the shelter or enclosure of persons, animals or personal property or for carrying on business activities or other similar uses.

C. Definitions “C”

Carport: A roofed structure, shelter, or portion of a building with one (1) or more posts, poles, or columns supporting the roof or top or with one (1) or more enclosed sides, of which the primary purpose is for the permanent or temporary storage of vehicles. Attached carports shall comply with the development standards of the building to which the carport is attached. Freestanding carports shall comply with the Accessory Building development standards of Section 20.2.

Child Care Organization: An organization having as its principal function the receiving of minor children for care, maintenance, training, and supervision notwithstanding that educational instruction may be given. Child care organizations are licensed and regulated under the State of Michigan Act 116 of 1973, as amended, and include the following:

1. **Child Care Center (Or Day Care Center):** A facility, other than a private residence, receiving one or more preschool or school age children for care for periods of less than 24 hours a day and where the parents or guardians are not immediately available to the child. It includes a facility that provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day; provided, however, that a child care center or day care center does not include any of the following:
 - a. A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not more than three hours per day for an indefinite period, or not more than eight hours per day for a period not to exceed four weeks during a 12- month period.
 - b. A facility operated by a religious organization where children are cared for not more than three hours while persons responsible for the children are attending religious services.
2. **Foster Family Home:** A private home in which one but not more than 4 minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household pursuant to the adoption code, are given care and supervision for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent or legal guardian.
3. **Foster Family Group Home:** A private home in which more than 4 but fewer than 7 minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household pursuant to the adoption code, are provided care for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent or legal guardian.
4. **Family Child Day Care Home:** A private home in which one but fewer than 7 minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year.

5. **Group Child Day Care Home:** A private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to the adult member of the family by blood, marriage, or adoption. Group day care home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year.

Colocation: The location by two or more wireless communication providers of Wireless Communication Facilities on a common structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the community.

Collector Street: A public street which collects traffic from local streets and connects with arterial streets.

Community Wind Turbine: A freestanding turbine used to generate energy for the use of two or more neighboring properties under different ownership.

Condominium Unit: That portion of a condominium project approved pursuant to the Condominium Act (State of Michigan Public Act 59 of 1978) 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.

Condominium Land Unit: A Condominium Unit where the unit of ownership is a described area of land.

D. Definitions “D”

Development Plan: The drawings and specifications of a proposed development showing its topography, the location of Buildings and Structures, all non-enclosed uses, parking loading and traffic handling facilities, storm drainage, typical floor plans, elevation drawings, a detailed statement of the proposed use or uses, and other relevant information, data and documentation concerning the proposed development, all in sufficient detail to enable the Township to study and evaluate the proposed development.

Density, Gross Residential: The number of dwelling units per acre of land.

Density, Net Residential: The number of dwelling units per acre of land, excluding public and private streets, parks and other recreational areas, common open space, public and private facilities, and natural resource areas, such as ponds, streams, wetlands, and wildlife habitat areas.

Driveway; Surface, Private Street or Shared. The portion of a roadway designed, installed, and intended to sustain free-flowing vehicular traffic and excluding shoulders. For the purpose of determining roadway placement within a roadway easement (internal setback), the roadway surface includes shoulders and turn-outs.

Driveway Width; Private Street or Shared. The maintained width of the constructed surface (excluding shoulders).

Dwelling: Any Building or part thereof, occupied in whole or in part as a home, residence or sleeping place by one (1) or more persons, either permanently or transiently, but not including Motels, Tourist Homes, or Cabins.

Dwelling - One Family: A Dwelling designed for use and occupancy by one (1) Family only.

Dwelling - Two Family: A Dwelling designed for use and occupancy by two (2) Families only and having separate living, cooking, eating facilities and entrance for each Family.

Dwelling Unit: A room or a suite of rooms designed for use and occupancy by one (1) Family only.

Dwelling - Multiple Family: A Dwelling designed for use and occupancy by three (3) or more Families and having separate living, cooking, eating facilities and entrance for each Family.

E. Reserved

F. Definitions “F”

Family: Means either of the following:

1. A domestic family, which is one or more persons living together and related by the bonds of blood, marriage or adoption, together with domestic help of the principal occupants and not more than one additional unrelated person, with all of the individuals being domiciled together as a single, nontransient, domestic, housekeeping unit in a dwelling.
2. The functional equivalent of the domestic family which includes no more than four (4) unrelated persons 18 years of age and older living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family with a demonstrable and recognizable bond which constitutes the functional equivalent of the bonds which render the domestic family a cohesive unit. All persons of the functional equivalent of the domestic family must operate as a single housekeeping unit. This definition shall not include any society, club, fraternity, sorority, students living together, association, lodge, boarding house, coterie, organization or group where the common living arrangement and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration.

Farm, Farmland: A Contiguous parcel of land owned by one (1) person, which is either: (1) forty (40) acres in size and used primarily for the commercial, soil-dependent cultivation of agricultural crops and/or for the raising of livestock or (2) a “specialty farm: as defined by the Department of Agriculture of the State of Michigan.

Farm Market: An Agricultural Building used solely by the owner or tenant of the Farm upon which it is located for the sale of only those Agricultural Products produced on the Farm upon which it is located, or for the storage of Farm equipment or personal belongings when not used for the sale of produce.

G. Definitions “G”

Garage, Private: An attached Accessory Building which meets all of the following: (a) is designed as an architecturally compatible part of the principal building, (b) is constructed as a substantial component of the principal Building by use of a common wall or other similar structural device, (c) is used primarily for the parking or storage of Vehicles necessary in connection with the permitted use of the principal Building, and (d) does not have a floor area at ground level which exceeds the floor area at ground level of the principal Building. In determining architectural compatibility, the Zoning Administrator shall consider the proportions of exterior dimensions; the color, texture and alignment of finish materials; ingress and egress both internally and externally, and the relation of the building to the driveway and surrounding lot.

Garage, Commercial: A Building used for parking, storing, caring for, renting, servicing, repairing, refinishing, equipping, adjusting, and otherwise working on Vehicles for compensation.

Gasoline Service Station: A Building, Structures and/or land used in combination for either/or both the sale and installation in or upon Vehicles of the usual operating commodities such as gasoline, fuel oil, grease, alcohol, water, batteries, tires, light bulbs, windshield wipers and other minor accessories, or services such as hand washing, wiping, cleaning and waxing without automatic equipment or repair of tires, lights, charging of batteries and tune-ups. General repairs, rebuilding, or reconditioning of engines or Vehicles, collision service (including body repair and frame straightening), painting, upholstering or Vehicle steam cleaning or undercoating shall be considered outside this definition of a Gasoline Service Station.

H. Definitions “H”

Heavy Industrial Uses: Heavy industrial uses shall mean uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involved hazardous conditions. Heavy industry shall also mean those uses engaged in the cleaning of equipment or work processes involving solvents, and solid waste or sanitary waste transfer stations.

Height, Building: The vertical distance from the established grade at the center of the front of the building to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the mean height level between eaves and ridge of a gable, hip or gambrel roof.

Home Occupation: A gainful occupation traditionally carried on in the home as a use incidental and secondary to the use of the home as a Dwelling, where no article is sold or personal services are rendered except such as are directly produced or performed by the Home Occupation itself. Home Occupation may include any profession, vocation, or trade, but shall not include restaurants or the repair or reconditioning of Vehicles or Mobile Homes and similar Structures.

Household Animal: This includes cats, dogs, fish, household birds, hamsters, rabbits, and other animals generally regarded as household pet.

I. Definitions “I”

Industrial Districts: Industrial districts shall mean the “I-1” and “I-2” zoning districts.

Inoperable Vehicle: Any vehicle or motor vehicle which cannot be started or legally or physically operated on public streets or public highways by virtue of lacking the equipment required by the laws of the state of Michigan, or which does not bear valid and current license plates.

Institutional Use: Public or quasi-public uses, Buildings and Structures supporting, providing or displaying services or materials valued by the society at large such as education, religion, group housing for the disadvantaged, hospitals, libraries, museums, nature centers, governmental offices, and so on.

J. Definitions “J”

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

K. Definitions “K”

Kennel: Any land, Building, or Structure where 4 or more dogs or 5 or more cats over 3 months of age are either permanently or temporarily kept, boarded, housed, bred, or sold. This definition shall apply regardless of whether such animals are kept, boarded, housed, or bred for business or commercial purposes or uses or as personal pets.

L. Definitions “L”

Land Area, Net: The horizontal land area of a proposed development derived by subtracting from all Useable Land Area that horizontal land area devoted to Streets, utilities and other ancillary spaces or ways providing utilities and/or services to or through the development.

Land Area, Useable: All horizontal land area within a residential or multi-use development which is capable of providing easy access, use and enjoyment by any future owners, inhabitants or users of the development.

Land Use Plan: Part of the Township Master Plan and an official document of the Gaines Charter Township Planning Commission.

Landscaping: Any combination of living plants (such as grass, ground cover, shrubs, vines, hedges, or trees) and non-living landscape material (such as rocks, pebbles, mulch, walls, fences or decorative paving materials).

Light Industrial Uses: Light industrial uses shall mean uses engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales or distribution of such products. Further, light industrial shall mean uses such as the manufacture of electronic instruments, preparation of food products, pharmaceutical manufacturing, research and scientific laboratories or the like. Light industrial shall not include uses such as mining and extracting industries, petrochemical industries, rubber refining, and primary metal or related industries.

Local Street: A public street designed to improve access by limiting speed and maximizing the number of access points.

Lot: A parcel of land, exclusive of any road or street right-of-way, separated from other parcels by legal description. Also, a lawful parcel of land adjoining a dedicated public street or lawful public or private road, and separated by other parcels by legal description, deed, site condominium boundary, or subdivision plat. The word "lot" shall also include "plot," "platted lot," "parcel," or "site condominium unit." In the case of development or use of land on the basis of condominium ownership (*i.e.*, site condominium), "lot" shall also include the portion of the condominium project designed and intended for separate ownership and use and land described in the master deed.

Lot Width: The width of a Lot as measured at the front foundation of a Building or Setback line, excluding public and private easements for ingress/egress or rights-of-way. Easements for utilities and site drainage may be included in such measurements.

Lot Area: Total area of a Lot including private and public easements.

Lot, Corner: A Lot located at the intersection of two (2) or more Streets where the corner interior angle formed by the intersection of the Streets is one hundred thirty-five degrees (135) or less or a Lot abutting upon a curved Street or Streets if tangents to the curve, at the two (2) points where the Lot lines meet the curve, form an interior angle of one hundred thirty-five (135) degrees or less.

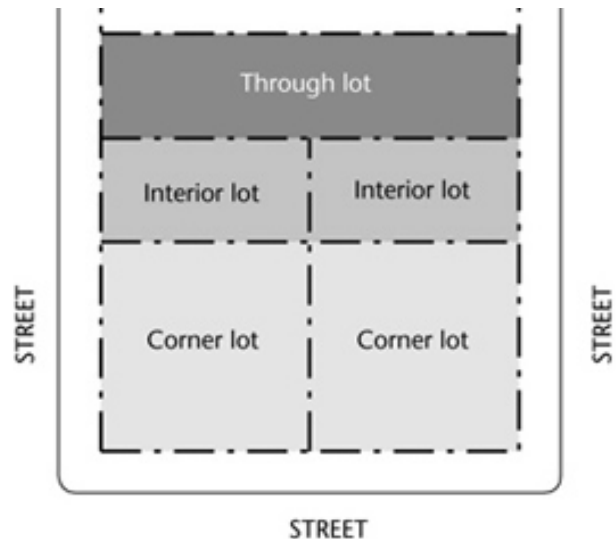
Lot, Interior: A Lot other than a Corner Lot or Through Lot.

Lot, Through: An Interior Lot having frontage on two (2) or more Streets.

Lot Line, Front: The boundary line of the lot immediately adjacent to the street right-of-way upon which the lot fronts.

Lot Line, Rear: The boundary line which is opposite and most distant from the front lot line.

Lot Line, Side: Any lot boundary which is neither a front lot line nor a rear lot line.



M. Definitions “M”

Medical Marihuana Dispensary: Any business, facility, association, cooperative, location, or operation, whether fixed or mobile, where medical marihuana is made available to, sold, grown, processed, delivered, or distributed by or to one or more of the following:

1. A primary caregiver (as defined by Michigan Initiated Law 1 of 2008, as amended, being MCL 333.26421 *et seq.*, as amended).
2. A qualifying patient (as defined by Initiated Law 1 of 2008, as amended, being MCL 333.26421 *et seq.*, as amended).
3. Members of the public.

A medical marihuana dispensary shall also include any place, location, facility, or operation, whether fixed or mobile, where medical marihuana is smoked or consumed where either three or more persons are present and smoking or consuming medical marihuana or such medical marihuana smoking or consumption is occurring on the property of a business, association, cooperative, or commercial operation or facility.

A medical marihuana dispensary shall not include the lawful dispensation of medical marihuana by a primary caregiver personally dispensing to not more than five (5) qualified patients (as defined by Michigan Initiated Law 1 of 2008, as amended, being MCL 333.26421 *et seq.*, as amended) so long as the primary caregiver personally delivers the lawful amount of medical marihuana to the qualifying patient where the qualifying patient resides and it is done in full compliance with not only this Ordinance and any other applicable Gaines Charter Township ordinances, but also all applicable Michigan and federal laws and regulations.

Mobile Home: A manufactured Dwelling normally built on a chassis, constructed to the specifications of state or federal safety and construction standards for manufactured housing and not meeting all minimum standards of construction of the adopted Township Building Code for at-site constructed housing. A Mobile Home shall not be construed to be a Recreational Vehicle.

Mobile Home Development: A tract of land licensed as a mobile home park by the State of Michigan on 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 therefore, together with any Building, Structure, enclosure, Street, equipment, or facility used or intended for use incident to the occupancy of a Dwelling within the mobile home park and which is not intended for use as a Recreational Vehicle Park.

Motel: A Building or series of Buildings, attached or detached, designed, used or offered for residential occupancy on a temporary basis and designed primarily to accommodate the traveling public.

N. Definitions “N”

Nonconforming Lot: A Lot of Legal Record, lawfully existing at the time of adoption of this Ordinance, or any amendment thereto, which does not conform to the Lot dimension requirements of the District in which it is located. Also called a lawful nonconforming lot.

Nonconforming Structure: A Structure lawfully existing at the time of adoption of this Ordinance, or any amendment thereto, which does not conform to the yard, height, area or bulk requirements of the District in which it is located. Also called a lawful nonconforming structure.

Nonconforming Use: A use which lawfully occupied a Lot, Building or Structure at the time of adoption of this Ordinance, or any amendment thereto, and which does not conform with the use regulations of the District in which it is located. Also called a lawful nonconforming use.

Non-Household Animals: This includes any animal that is not a Household Animal as defined in this Ordinance.

Nonprofit Organization: A corporation, ecclesiastical corporation, fraternal association or other entity which is recognized by the United States Internal Revenue Service and the state as a nonprofit entity and whose earnings are exempt from federal and state income taxes. Nonprofits vary in use based on the services, activities, and goods provided.

O. Definitions “O”

Ornamental Grasses: A grass, other than turf grass, planted primarily for its ornamental value or for screening purposes.

P. Definitions “P”

Parking Area: An open area, other than a street or other public way, used for the parking of vehicles and available for use for clients, customers, residents or occupants.

Parks: Any non-commercial recreational area.

Personal Service: Personal services shall mean shops primarily engaged in providing services generally involving the care of the person or such person's apparel or rendering services to people, such as laundry or dry-cleaning retail outlets, portrait/photographic studios, beauty or barber shops, employment service, or mailing or copy shops.

Pond: An outdoor body of standing water, accumulated in a natural or artificially constructed basin or depression in the earth, either above or below or partly above or partly below grade, capable of holding water to a depth of greater than two (2) feet when filled to capacity and whose primary purpose is for swimming, boating, fishing, or similar related activities.

Primary Arterial Street: A public street with important traffic carrying functions in the Township, designed to increase mobility by limiting access and increasing speed. For the purposes of this Ordinance, the following public streets are considered primary arterial streets:

- 60th Street
- 68th Street
- 76th Street
- 84th Street
- 92nd Street
- 100th Street
- 108th Street
- Division Avenue
- Eastern Avenue
- Kalamazoo Avenue
- Hanna Lake Avenue
- East Paris Avenue
- Patterson Avenue

Principal Building: A building which is the primary building on a lot, parcel, or condominium unit, or the building that constitutes, by reason of its use, the primary purpose for which the lot is used.

Private Driveway: An improved travel surface extending from a public road, private street, or shared driveway which provides vehicular ingress and egress to only one (1) improved parcel, lot, condominium unit, or principal building and which lies entirely (without restriction or other interest) within the property which is accessed. A private driveway does not involve an easement.

Private Street: A privately-owned and maintained street having more than one ownership or interest which provides the primary means of vehicular ingress and egress from a public road to five (5) or more parcels, lots, condominium units, or principal buildings. A private street utilizes a private access easement.

Probation, Parole, or Sex Offender Home: A facility or dwelling intended for the housing and treatment of persons released from adult correctional institutions (including formerly imprisoned or incarcerated persons) for the purpose of adjustment from prison/jail to self-sufficiency or similar purpose, for offenders on probation, or for registered sex offenders.

Public Utility: Any person, firm, corporation, or governmental department, board or commission duly authorized under Township, State or Federal regulations, to furnish electricity, gas, steam, communications, transportation, water, wastewater removal or similar essential services to the public; provided, however, that those persons involved in the reception or transmission of radio or television signals shall not be considered a Public Utility unless said signals are distributed directly to subscribers or customers through a closed circuit system of coaxial cables or similar network of signal conductors.

Q. Reserved

R. Definitions “R”

Recreational Facility: Any public or private facility used, or intended to be used for recreational activities, including indoor and outdoor facilities. Such facilities may include, but are not limited to recreational fields, courts, and other similar facilities.

Recreational Vehicle: Any house car, motor home, travel trailer, house trailer, bus, trailer home, camper, trailer coach or similar transportable unit used or designed as to permit its being used as a conveyance on Streets and intended for occasional or short-term occupancy during travel, recreational or vacation use.

Retail, Convenience: Convenience stores, bakeries, video rental stores, drug stores and other similar uses characterized by a high turnover of customers. If there is a question concerning whether a retail use can be classified as convenience retail, the Planning Commission or subcommittee thereof shall make the final decision on the classification.

Retail, Low Intensity: Furniture stores, appliance stores, carpet stores, jewelry shops, florists, and other similar uses characterized by a low number of customers relative to the building area

occupied by the use. If there is a question concerning whether a retail use can be classified as low intensity retail, the Planning Commission or subcommittee thereof shall make the final decision on the classification.

Roadside Stand: A direct marketing operation without a permanent structure and only offering outdoor shopping. Such an operation is seasonal in nature and features on-farm produce as well as locally produced agricultural products, enhanced agricultural products and handmade crafts.

Rural-Area Product: Hand-made items such as blankets, rugs, wall hangings, gifts, or small wood products. Machinery used on the premises to create such products cannot be of other than that typically found on a Farm or rural residential setting.

S. Definitions “S”

Setback: The required minimum horizontal distance between a Lot line and the nearest front, side or rear foundation line of a Building, including porches, lean-tos, carports and breezeways if completely or nearly completely enclosed but excluding steps and cantilevered projections of not more than twenty-four (24) inches measured perpendicularly to the foundation. No building or structure shall be located within a required setback area.

Self-Created Problem: A problem that occurs, results, or exists from one or more of the following conditions:

1. A problem that occurs when one can reasonably develop a property in a compliant manner, but the landowner or applicant’s personal desires and preferences for property development do not align with zoning requirements.
2. A problem that occurs when a property is currently built-out under current zoning constraints, but the landowner or applicant’s personal desires and preferences for expansion do not align with zoning requirements.
3. A problem that results from the action, preference, or desire of the landowner or applicant that is not a result of a unique characteristic of the property.
4. A problem that exists because the landowner, previous landowner, or applicant took a specific action that created the need for the variance, such as adjusting a lot line, constructing a building, or developing a site in a manner that does not allow future compliant construction, building expansion, or site development.

Shared Driveway: An improved travel surface extending from a public road or private street, which provides vehicular ingress and egress to no more than four (4) parcels, lots, condominium units, or principal buildings. A shared driveway utilizes a private access easement.

Sidewalk: That portion of the street right-of-way (or abutting easement) improved with concrete and designed for pedestrian travel.

Sign: A device, structure, painting, fixture, or placard using color, graphics, symbols and /or written copy designed and/or utilized for the purpose of advertising or identifying any event, establishment, product, good, service or displaying or depicting other information.

Site Plan: Sketches and drawings of a proposed use of development showing the location and dimensions of all Buildings and Structures, parking and loading facilities. Each Site Plan must clearly indicate the location of the site involved and include a written statement of the proposed use or uses.

Solar Energy Collector. A panel or panels and/or other devices or equipment, or any combination thereof, that collect, store, distribute and/or transform solar, radiant energy into electrical, thermal or chemical energy for the purpose of generating electric power or other form of generated energy for use in or associated with a principal land use on the lot of record on which the solar energy collector is located and, if permitted, for the sale and distribution of excess available electricity to an authorized public utility for distribution to other lands.

- 1. Building-Mounted Solar Energy Collector.** A solar energy collector attached to the roof or wall of a building, or which serves as the roof, wall or window or other element, in whole or in part, of a building.
- 2. Ground-Mounted Solar Energy Collector.** A solar energy collector that is not attached to and is separate from any building on the lot of record on which the solar energy collector is located.
- 3. Commercial Solar Energy System.** A utility-scale facility of solar energy collectors with the primary purpose of wholesale or retail sales of generated electricity. Also known as a solar farm.

Street: An easement, right-of-way, or other interest in land established or used for the purpose of providing access to abutting land. A Street may be a public street or a private street. A public street is an easement, right-of-way or other interest in land which has been conveyed or dedicated to, or accepted by, the township, county, or other governmental body for the purpose of providing access to abutting land.

Structure: Any construction, erected or placed material or item or combination of materials or items in or upon the ground, including, but not by way of limitation, Buildings, radio towers, sheds, Signs and storage bins, but excluding sidewalks and paving on Streets, driveways, parking areas, and patios.

Substance Abuse Rehabilitation Home: A facility or dwelling with administrative supervision over adult residents with problems related to substance abuse that provides structured or supervised peer group living and limited health-related services, with an emphasis on social rehabilitation with support and guidance toward the goal of independent living or similar goals or purposes.

Swimming Pool: A Structure either above or below or partly above and partly below grade, whether located inside, outside or partly in each, designed to hold water to a depth of greater than two (2) feet when filled, and intended to be used for swimming purposes.

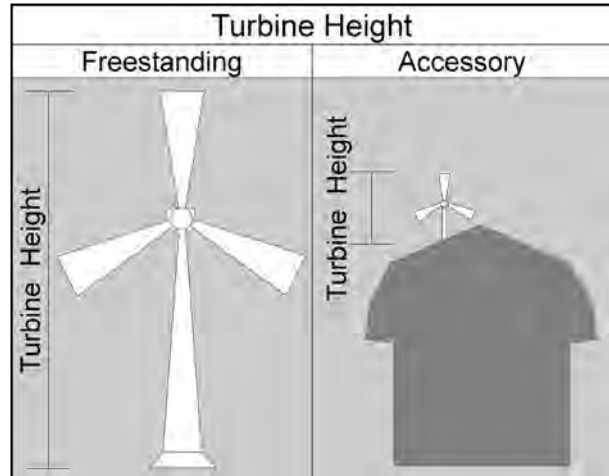
T. Definitions “T”

Temporary Storage Unit (TSU): A moveable container used or designed for the temporary storage and/or transportation of personal property, household goods, or other materials or items.

Turbine: A turbine shall mean any combination of the following:

1. A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft.
2. A surface area such as a blade, rotor, or similar device, either variable or fixed, for utilizing the wind for electrical or mechanical power.
3. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device.
4. The generator, alternator, or other device used to convert the mechanical energy of the surface area into electrical energy.
5. The tower, pylon, pole, or other structure upon which any, all, or some combination of the above are mounted.

Turbine Height: The largest distance possible between the ground for a freestanding turbine, or the principal structure surface for a mounted turbine, and the top edge of a wind turbine blade or rotator plane.



U. Definitions “U”

Unique Circumstance: An exceptional, unique, or extraordinary physical condition that is one of the following:

1. Exceptional narrowness of the width or depth of a lot or parcel, or an irregular shape, as compared to a conforming lot or parcel.
2. Exceptional natural or topographic features located on the lot or parcel, such as steep slopes, surface water features, existing significant trees, or other unique or extreme physical conditions of the land.
3. Extraordinary location of an existing building or structure that allows no other practical or feasible location for expansion because of exceptional features of the land.
4. Other natural, topographic, built, or dimensional conditions or characteristics of land, lot, or parcel, which are determined by the Zoning Board of Appeals as exceptional or extraordinary.

V. Definitions “V”

Vehicle: Every device, in, upon or by which any person or property is or may be transported or drawn upon a Street, excepting devices propelled by human power or used exclusively upon stationary rails or tracks.

Vehicle Repair, Major: Any activity involving the general repair, rebuilding, or reconditioning of motor vehicles, engines or trailers, collision service, such as body, frame, or fender straightening and repair; overall painting and vehicle rust-proofing; or steam cleaning.

Vehicle Repair, Minor: Any activity involving minor repair and maintenance of passenger vehicles and light trucks and vans, including, but not limited to vehicle detailing, oil change establishments, audio or cellular installation, and auto glass installation and repair.

W. Definitions “W”

Water Garden: Also known as aquatic gardens, backyard ponds and garden ponds. A man-made feature, these gardens typically combine a pool with aquatic plants and often ornamental fish. Fixed items such as rocks, fountains, statuary, waterfalls and watercourses can be combined with the pool to add visual interest and integration with the local landscape and environment.

Wind Energy Conversion Systems (WECS): A wind turbine or group of wind turbines on a single, adjacent, or nearby parcel used for the production of energy as a product for sale, trade, and/or public dispersion purposes. All or almost all of the energy produced will be used or consumed off-site at a place or places other than the parcel or parcels where the wind turbine or turbines area located.

Wind Energy Turbine: A freestanding turbine used to generate energy for use primarily on the property where the turbine is located

Wireless Communication Facilities: All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings and private and commercial mobile radio service facilities. Not included within this definition are: short wave receiving facilities; radio and television broadcast reception facilities; federally licensed amateur (ham) radio facilities; satellite dishes; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

Wholesale Establishment: Establishments selling commodities in large quantities to retailers,

Wireless Communication Support Structure: Structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

X. Reserved “X”

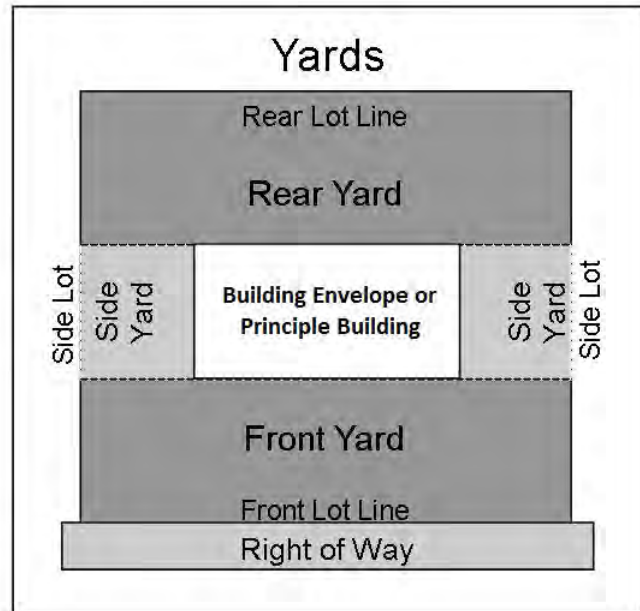
Y. Definitions “Y”

Yard: A yard is an open space of prescribed width or depth on the same land with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein. A required setback area (within which no structure or building can be located) is also considered a “yard”.

Yard, Front: A Yard extending across the full width of the Lot or parcel of land, the depth of which is the distance between the Front Lot Line and the foundation line of the Building or Structure. In the case of waterfront Lots, the Yard on the Street side shall be the Front Yard.

Yard, Rear: A Yard, unoccupied except for Accessory Buildings, extending across the full width of the Lot or parcel of land, the depth of which is the distance between the Rear Lot Line and the rear foundation line of the main Building.

Yard, Side: A Yard between a main Building and the side Lot Line extending from the Front Yard to the Rear Yard. The width of the required Side Yard shall be measured from the nearest point of side Lot Line to the nearest part of the main Building.



Z. Definitions “Z”

ZBA: The Zoning Board of Appeals for Gaines Charter Township.

Zoning Act: The Michigan Zoning Enabling Act, being MCL 125.3101 *et seq.*, as amended.

APPENDIX I

List of Amendments

Ordinance No.	Effective Date	Sections Affecting	File Number
08-05	5/27/2008	Section 17.9 – Portable Freestanding Signs	080305TS
08-09	12/23/2008	Section 4.14 – Wind Energy + related definitions	080925WE
08-08	2/24/2009	Revised Chapter 17 – Signage Regulations	080401SC
09-01	8/8/2009	Keeping of Animals, Nonprofit Organizations, Bed and Breakfasts	090808KA
10-01	3/23/10	Site Plan Review Chapter, misc.	090925SP
10-08	11/2/10	Adult-Oriented Businesses	101011AB
10-10	1/25/11	Section 4.17 – Medical Marihuana	101010MM
10-12	1/25/11	Rezoning – 4500 & 4520 60 th Street SE	101012DT
10-13	3/1/11	10.4, 17.9, 27.2, 15.10	101020PD
10-15	3/1/11	Rezoning – 4400 & 447 60 th Street SE	101118GT
11-02	4/22/11	Section 17.12 – Billboards	110411GT
13-05	09/01/13	Revised Chapter 17 – Signage Regulations	130725GT
15-02	06/29/15	Chapter 2 - Typographical & Formatting; Section 2.3 (Multiple Front Yards),	
15-03	06/29/15	Chapter 4 - Typographical & Formatting	
15-04	06/29/15	Chapter 5 - Typographical & Formatting; Section 5.4 - Insertion of Accessory Building Standards	
15-05	06/29/15	Chapter 6 - Typographical & Formatting; Section 6.3 - Insertion of Accessory Building Standards	
15-06	06/29/15	Section 19.9: A, B, C, E, J, K, & M	
15-07	06/29/15	Sec 28.2 - Definitions	
15-09	08/10/15	17.3-Defintions related to Electronic Message Signs;17.4 (J)-Size of Political Signs; 17.4(H)-Typographical correction; 17.7 (D)-Electronic Changeable Messaging Sign Regulations;17.8-Typographical Correction; 17.10-Pylon Sign regulations; 17.11(A)-Typographical Correction; 17.12-Billboard Regulations	
18-04	06/11/18	17.7 (D), 17.7 (E), 17.9- Revised signage regulations to allow monument signs and electronic messaging centers by special use permit for non-institutional uses in residential zoning districts.	
18-06	11/11/18	28. 2 (S) & 4.18-Solar Energy Regulations	
19-01	02/03/19	4.19 Marihuana Establishment & Facilities	

Ordinance No.	Effective Date	Sections Affecting	File Number
Various	1/22/20	9.2. Permitted Uses in Industrial Districts, 10.3 PUD Eligibility Criteria, 19.9 List of Uses with Additional Specific Standards, 17.2 Billboards, 28.2 Definitions, Remove Chapter 22	Various
2020-08	12/19/2020	4.2 Setback Averaging, 6.3 Development Standards, 7.3 Development Standards	
2022-02	4/23/2022	26.8 Variance Standards, 28.2 Definitions	

APPENDIX III

Index

Accessory Buildings	Section 20.2
Accessory Uses, Residential	Chapter 20
Administration and Enforcement	Chapter 24
Adult Day Care Facilities	Section 20.11
Amateur Radio Regulations	Section 20.12
Animals, Keeping of	Section 4.15
Application Procedures - Special Land Uses	Section 19.2
Application Procedures - Site Plan Review	Section 25.3
Application Procedures - Rezoning	Section 27.2
Billboards	Section 17.12
C-1 Neighborhood Commercial District	Chapter 8
C-2 General Commercial District	Chapter 8
Carports	See Chapter 28
Cellular Towers	Chapter 23
Child Care Facilities	Section 20.11
Clear Vision Areas (Intersection Visibility)	Section 4.4
Colocation	Chapter 23
Corner Lots - Regulations	See Individual Zoning District Chapter
Day Care	Section 20.11
Decks	Section 2.3.C.c
Driveways (Access Management)	Section 4.5
Dumpsters - Landscaping and Screening	Section 16.11.D
Electronic Messaging Centers	Section 17.7 .F
Essential Public Services	Section 4.3
Fees	Section 24.5
Fences and Walls	Section 20.5
Garages	See Accessory Buildings
Height, Buildings	Section 2.3.D
Home Occupations	Section 20.8
Horses in Residential Districts	See Animals, Keeping of
I-1 Light Industrial District	Chapter 9
I-2 Heavy Industrial District	Chapter 9
Intersection Visibility	See Clear Vision Areas
List of Zoning Ordinance Amendments	A-1
List of Zoning Ordinance Interpretations	A-2
Landscaping Requirements	Chapter 16
Loading and Unloading Spaces	Section 15.9
Lots - Required Access and Lot Width	See Individual Zoning District Chapter
Lots - Required Area or Space	See Individual Zoning District Chapter
Lot Width to Depth Ratio	See Land Division Ordinance
Mobile Homes	Chapter 8
Nonconforming Lots	Section 21.2
Nonconforming Buildings and Structures	Section 21.3
Nonconforming Uses	Section 21.3

Parking Lot Landscaping	Section 16.10
Parking – Deferred	Section 15.4
Parking - Shared	Section 15.5
Parking Space Size	Section 15.7
Porches	Section 2.3.C.c
Private Street – Regulations	Section 4.5
Projections Into Yards	Section 2.3.C
PUD Amendments (General)	Section 10.11
PUD Review Process (General)	Section 10.4
PUD Review Standards (General)	Section 11.1
PUD Submittal Requirements (General)	Section 10.5, Section 10.6
PUD – OSP	Chapter 14
PUD – LSP	Chapter 13
PUD – MR	Chapter 12
RL-14 District	Chapter 6
RL-10 District	Chapter 6
R-3 District	Chapter 7
R-4 District	Chapter 7
Recreational Vehicles - Parking and Storage	Section 20.4
Residential Child and Adult Care Facilities	Section 20.11
Setbacks, (Yards) Required	See Individual Zoning Districts
Sidewalk Requirements	See Sidewalk Ordinance
Signs	Chapter 17
Signs - Definitions	Section 17.3
Signs Permitted in Any Zoning District	Chapter 17
Signs Permitted by Individual Zone Districts	Chapter 17
Signs, Prohibited	Section 17.5
Site Condominium Development	Section 4.12
Site Plan Review	Chapter 25
Site Plans - Uses Subject to Review	Section 25.2
Site Plans - Application	Section 25.3
Site Plans - Amendments	Section 25.9
Site Plan Requirements	Section 25.3
Special Land Uses	Chapter 19
Special Land Uses - Applications	Section 19.2
Special Land Uses - General Approval Standards	Section 19.8
Special Land Uses - Specific Approval Standards	Section 19.10
Staff Review Team	Section 25.4.A.1
Street Access	Section 4.2.C, Section 4.5,
Swimming Pools	Section 20.6
Temporary Storage Units	Section 20.14
Wind Energy	Section 4.14
Variances - Review Standards – Non-use (Dimensional) Variances	Section 26.8.D
Variances - Review Standards - Use Variances	Section 26.8.C
Violations - Ordinance	Section 24.9
Zoning Board of Appeals	Chapter 26
Zoning Map	Obtain Zoning Map from Township staff
Zoning Districts	Section 1.5

