

NELSON TOWNSHIP

ZONING ORDINANCE

KENT COUNTY, MICHIGAN

(This Ordinance was adopted by the Nelson Township Board
on March 17, 1998, and became effective April 30, 1998.)

(This text includes all amendments adopted through January 12, 2021)

NELSON TOWNSHIP
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ZONING ORDINANCE

An Ordinance to Establish Zoning Regulations Which Shall Govern the Location, Construction, and use of Buildings, Structures, and the Use of Land in the Unincorporated Portions of Nelson Township; and for Such Purposes, Dividing the Township into Districts.

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**CHAPTER 1
PURPOSE AND EFFECT OF ZONING**

1.1 Enactment and Authority.

The Township Board of Nelson Township in the County of Kent, under the authority of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, hereby ordains, enacts and publishes this Ordinance.

1.2 Short Title.

This Ordinance shall be known as the “Nelson Township Zoning Ordinance.”

1.3 Purposes.

The Nelson Township Zoning Ordinance is hereby established in accordance with the needs of Nelson Township. The text, map, and schedules contained herein shall constitute this Ordinance. Said ordinance is adopted for the following purposes.

- A. To protect and promote the public health, safety and general welfare of the Township.
- B. To guide and protect the future of the Township in an orderly manner and in accordance with the growth and development goals of Nelson Township, some of which are summarized as follows:
 - (1) To maintain the rural residential character of the Township.
 - (2) To preserve prime agricultural lands.
 - (3) To ensure that development will not adversely affect the natural environment, recognizing the capabilities and constraints which exist therein.
 - (4) To provide for a wide range of housing opportunities in an orderly pattern and manner within the Township, and with residential densities of varying scales, dependent upon soil capabilities.
 - (5) To assure that the residential housing environment of the Township is safe, healthful and free of blighting appearances.
 - (6) To meet the needs of the Township’s citizens for food, fiber, energy and other natural resources.
 - (7) To limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities.

- (8) To facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements.

and further,

- C. To locally protect the country scenic qualities of the Rogue River tributaries: Duke and Cedar Creeks.
- D. To protect and preserve the value of land throughout the Township and the value of buildings appropriate to the various districts established by this Ordinance.
- E. To prevent against conflicts among the uses of land and buildings.

1.4 **Effect of Zoning.**

The regulations set by this Ordinance throughout the Township and within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land. All buildings, structures or land may hereafter be used, constructed, altered or occupied, only when in conformity with all of the regulations herein specified for the district in which it is located.

CHAPTER 2 DEFINITIONS

2.1 Usage.

- A. For the purposes of this Ordinance, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this section.
- B. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular number include the plural; and words used in the plural number include the singular; the word “herein” means in this Ordinance; the word “regulation” means the regulations of this Ordinance; and the words “this Ordinance” shall mean “the ordinance text, tables and maps included herein, as enacted or subsequently amended.”
- C. A “person” includes a corporation, a partnership, and an unincorporated association of persons such as a club; “shall” is always mandatory; a “lot” includes a plot or parcel, a “building” includes a structure; a “building” or “structure” includes any part thereof; “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged or designed to be used or occupied.”
- D. The “Township” is Nelson Township in the County of Kent, State of Michigan, the “Township Board,” “Board of Appeals,” and “Planning Commission” are respectively the Township Board, Board of Appeals, and Planning Commission of Nelson Township.

2.2 Words and Terms Defined.

A. Definitions A through C.

Accessory Building. A building or structure, including attached and unattached carports and lean-tos, on the same lot with, and of a nature which is customarily incidental and subordinate to the principal building, structure or use.

Accessory Use. A use naturally and normally incidental, ancillary, and subordinate to the principal use of the premises.

Agriculture. Raising and/or storage of crops, raising, maintaining or breeding of animals, and producing animal products, forestry and/or commonly accepted agricultural operations for commercial purposes, including the sale of products, as an accessory use, grown on the premises.

Agritourism Event Business. A farm that may also generate additional farm income by promoting the use of the farm for agricultural events and programs and whose proprietor resides on the site in a single-family dwelling unit; and which may include educational and/or outdoor recreational programs, such as hay rides, petting farms, non-motorized bicycle, horse, and foot trails, corn mazes, and haunted trails

and barns; a public accommodation use, such as weddings and banquets; farm tours; and substantially similar activities.

Alterations. Any change, addition, or modification in construction or type of occupancy or use; and any change in the roof or supporting members of the building or structure, such as bearing walls, partitions, columns, beams, girders, or any change which may be referred to herein as “altered” or “re-constructed.”

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. A basement shall not be counted a story.

Billboard. Any structure or portion thereof on which lettered, figured, or pictorial matter is displayed, not related to the premises or the nature of the business conducted thereon, or the products primarily sold or manufactured thereon. This definition shall not be held to include signs for official notices issued by the court or public office.

Bluff. The top of a steep bank rising sharply from the water’s edge.

BOCA. Abbreviation for Building Officials Code of America.

Bottom Land. The land area of an inland lake or stream which lies below the ordinary high water mark and which may or may not be covered by water at any given time, as defined in Act 346, Public Acts of 1972.

Buffer. Land area used to visibly separate one use from another or to shield or block noise, lights, or other nuisances. A buffer may include fences or berms, as well as shrubs and trees.

Building Height. The elevation measured from the average finished lot grade at the front of the building to the highest point of the roof.

Campground. A parcel or tract of land under the control of a person in which sites are offered for the use of the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for five or more recreational units.

Child Care Center. A facility, other than a private residence, in which one or more children are given care and supervision for periods of less than 24 hours per day on a regular basis, including day care centers, day nurseries, nursery schools, play groups and drop in centers. Child care centers do not include family day care homes or group day care homes or schools. Child care and supervision provided as an accessory use, while parents are involved or engaged in the principal use of the property, such as a nursery operated during church services or public meetings or by a fitness center or similar operation shall be considered accessory to such principal use and shall not be considered to be a child care center.

Condominium Act. Public Act 59 of 1978, as amended.

Condominium Project. A plan or project consisting of not less than two condominium units if established and approved in conformance with the Condominium Act.

Condominium Structure or Building Envelope. The principal building or structure intended for or constructed upon a lot or building site, together with any attached accessory structure; e.g. in a residential development the condominium structure or building envelope would refer to the house and any attached garage.

Condominium Unit. That portion of a condominium project 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 or recreational use as a time-share unit, or any other use.

Construction. The building, erection, alteration, repair, renovation (or demolition or removal) of any building, structure or structural foundation; or the physical excavation, filling and grading of any lot shall constitute construction, other than normal maintenance, not including agricultural uses other than the erection of a building.

B. Definitions D through G.

Driveway. An improved or unimproved path or road extending from a public or private road or other right-of-way and which is intended to provide access to not more than one parcel or primary building or primary dwelling.

Dwelling, Agricultural, (Farm). A dwelling used to house persons primarily engaged in agriculture on the parcel or adjacent parcels and which dwelling is incidental and subordinate to the principal agricultural use of the parcel or adjacent parcels.

Dwelling, Alternative Energy Saving. Any dwelling other than conventional dwelling which is built with particular concern to energy saving, of which the roof is not covered with earth, and having the primary entrance on the exposed side (e.g. earth-sheltered dwelling).

Dwelling, Conventional. Dwelling with the principal living space being above grade.

Dwelling, Multiple Family. Multiple family dwellings are buildings containing more than one residence, and which are used or designed for occupancy by two or more families living independent of each other.

Dwelling, Non-Agricultural. A dwelling used to house persons not primarily engaged in agriculture on the parcel or adjacent parcels, and which dwelling is not

incidental nor subordinate to a principal agricultural use on or nearby the dwelling unit.

Dwelling, Single Family (Detached). A unit exclusively for use by one family which is entirely surrounded by open space or yards on the same lot.

Dwelling, Two Family. A detached building used or designed for use exclusively by two families living independently of each other and each doing their own cooking in said building. It may also be termed a duplex.

Dwelling Unit or Residential Unit. A dwelling unit or residential unit is any building or portion thereof which is occupied in whole or in part as the home, residence or sleeping place of a person, persons and/or family, either permanently or temporarily, but in no case shall a motor home, trailer coach, automobile chassis, tent, accessory building or portable building be considered or be occupied as a dwelling. If a building is occupied in part as a dwelling unit or a residential unit, the part so occupied shall be deemed a dwelling unit or residential unit for all purposes of this Ordinance, including the provisions hereof relating to dwellings.

Essential Public Services. The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground or overhead gas, electrical, steam or water transmissions, or distribution systems, collections communication, supply, or disposal systems (including towers, structures, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, telephone exchange and/or repeater buildings, electric substations, gas regulator stations, and other similar equipment and accessories in connection therewith) reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions for the public health, safety or general welfare. This definition shall not include sanitary landfills, recycling centers, or non-public utility transfer stations.

Family.

- (1) One or more persons related by blood, marriage, or adoption occupying a single dwelling unit and living as a single, non-profit housekeeping unit, or
- (2) A collective number of individuals occupying a single dwelling unit under one head whose relationship is of a permanent non-transitory and distinct domestic character and cooking and living together as a single and separate housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, or organization which is not a recognized religious order, nor include a group of individuals whose association is temporary and/or resort seasonal in nature nor include state licensed residential facilities as defined by the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

Farm. A farm is a form of business enterprise in which the entrepreneurial decisions (what shall we produce, how shall we produce it, for whom and for how much) are made by a family or other persons or entity engaged in the production of farm products, as described herein, which provides a source of income and capital for reinvestment.

Farm Animals. Livestock, including beef and dairy cattle, goats, hogs, horses, poultry, sheep, and other fur-bearing animals.

Farm Building. Any building or accessory structure other than a farm or a nonfarm dwelling unit which is used for farm operations such as, but not limited to, a barn, grain bin, silo, farm implement storage building, and/or millhouse.

Farm Labor Housing. A tract of land, buildings, and other structures pertaining thereto which is established, occupied, or used as living quarters for migratory workers engaged in agricultural activities, including related food processing.

Farm Operation. A condition or activity which occurs on a farm in connection with the commercial production of farm products and includes, but is not limited to, marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation pumps; ground and aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.

Farm Products. Those plants and animals useful to man and includes, but is not limited to, forages and sod crops, grains, and feed crops, dairy and dairy products, poultry and poultry products; livestock, including breeding and grazing, fruits, vegetables, flowers, seeds, grasses, trees, fish, apiaries, equine and other similar product; or any other product which incorporates the use of food, feed, fiber, fur or flora.

Feed Lot. A yarding area with little or no natural grazing or feed and the major portion of feed purchased and trucked in and with a ratio exceeding one domestic grazing animal per acre.

Floor Area. The area of all floors computed by measuring the dimensions of the outside walls in a building excluding attic and basement floors, porches, terraces, breezeways, carports, verandas and garages. In the event there is more than one floor, not including the basement, the first floor which has all of its exterior walls above grade, with grade being where the top of the ground rest against the building when construction is completed.

Grade. The ground elevation established for the purpose of regulating the number of stories and the height of buildings.

Greenbelt. A planting or buffer strip at least 25 feet in width composed of deciduous or evergreen trees, landscaped strip or buffer area used to soften the impact.

Greenhouse. A temporary or permanent enclosed area, enclosed structure or enclosed building, used for the cultivation of plants.

C. **Definitions H through N.**

Home Occupation. A gainful occupation traditionally or customarily carried on in the home as a use incidental to the use of the home as a dwelling place and conducted entirely within a residential building being used as a dwelling or, where permitted as a special land use by this Ordinance, in a building that is accessory to a residential building being used as a dwelling.

Inoperable Vehicle. Any vehicle or motor vehicle which cannot be started or legally or physically operated on public streets or highways by virtue of lacking the equipment required by laws of the State of Michigan, or which does not bear valid and current license plates.

Institutional Uses. Churches, schools, hospitals and other similar public or semi-public uses (excluding nursing homes and adult foster care facilities).

Junk Yard. Any land including buildings thereon, used primarily for the collecting, storage and abandonment of waste paper, rags, scrap metal or discarded materials which are for sale; or which are used for the collecting, dismantling storage or salvaging of machinery or vehicles.

Kennel (Private). Any lot or premises on which more than three dogs or three cats, or three other of one kind of household pet are either permanently or temporarily kept without compensation.

Kennel (Commercial). Any lot or premises on which dogs, cats, or other household pets are temporarily kept or bred as a source of income, or sold.

Light Industry. An industrial or warehouse operation which meets the performance standards of this Ordinance; is totally contained inside an enclosure; and which does not create excessive off-site noise or pollution and does not make excessive demands on public roads, water and sewage facilities or other community facilities.

Lot. A portion of land separated from other parcels by a legal description as shown in a duly executed and recordable land contract or deed or by a subdivision of record or a recorded survey map, either of which is duly recorded with the Kent County Register of Deeds. In the case of a condominium project, lot is defined as follows:

- (1) A condominium unit consisting of the area under a building envelope and the contiguous area around the building envelope which, by itself, meets the minimum area and yard requirements for lots as set forth for the various districts in this Ordinance.
- (2) The contiguous limited common element under and surrounding a condominium unit that is or shall be assigned to the owner(s) exclusive use,

and which, together with the requirements for lots as set forth for the various districts in this Ordinance.

Lot Area. The total horizontal area included within the lot lines. Except as otherwise specified in this Ordinance with respect to particular land uses, where the legally described boundary line of a parcel is the centerline of a street, or where a portion of a parcel lies within a street right-of-way, the lot area-calculated to meet the minimum requirements of this Ordinance includes that area inside of the street right-of-way.

Lot, Corner. A lot whose lot lines form an interior angle of less than 135 degrees at the intersection of two street lines. A lot abutting on a curved street or streets shall be deemed a corner lot if the tangents to the curve (measured at the points of intersection of the side lot lines with the street lines) intersect at an interior angle of less than 135 degrees.

Lot Coverage. The amount of a lot, stated in terms of percentage, that is covered by all roofed buildings and/or structures located thereon. This shall be deemed to include all buildings, porches, arbors, breezeways, patio roofs, and the like, whether open box-type and/or lath roofs, or fully roofed, but shall not be deemed to include fences, walls, or hedges used as fences or swimming pools.

Lot Depth. The horizontal distance between the front and rear lot lines of interior and corner lots, or the two front lines of a through lot, measured along the median line between the side lot lines. Provided, however, in the case of a lot whose boundary line extends beyond the front lot line into a street right-of-way, the lot depth shall be the horizontal distance between the legally described front boundary line and the rear lot line of interior and corner lots, and the legally described front boundary lines of a through lot, measured along the median line between the side lot lines.

Lot Line, Front. In the case of an interior lot, a line separating the lot from the street. In the case of a through lot, it is the line separating the lot from either street. In the case of a corner lot, the front line shall be determined in Section 3.14.C.

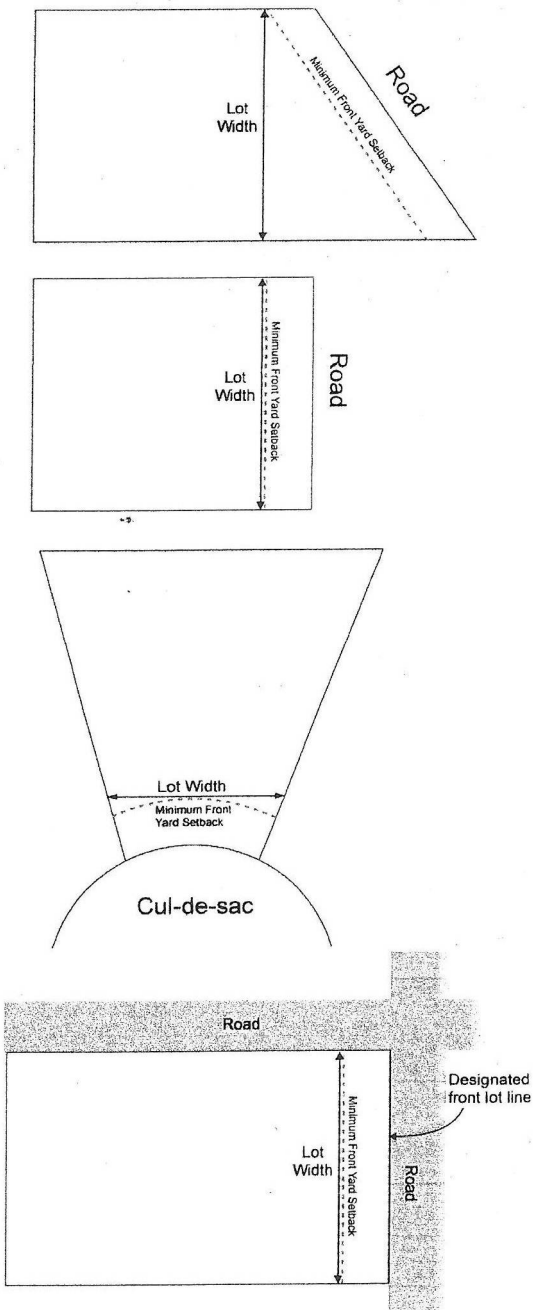
Lot Line, Rear. Any lot line, other than a front lot line which is parallel or nearly parallel to the front lot line.

Lot Line, Side. Any lot line not a front or rear lot line.

Lot of Record. A lawfully created lot which is part of a subdivision and is shown on a plat or map thereof which has been recorded in the office of the Register of Deeds for Kent County prior to the effective date of this Ordinance; or a parcel of land described by metes and bounds which is the subject of a deed or land contract recorded in said office prior to said date.

Lot Width. The shortest straight line distance across the entire lot between the side lot lines of a lot as measured at the front yard setback. In the case of a corner lot, lot

width is the shortest straight line distance between the side lot lines that extends back from the designated front lot line, measured at the designated minimum front yard setback (see Figure 2-1).



MMMA. The Michigan Medical Marihuana Act; Public Act 2008, Initiated Law 1, as amended from time to time.

MMMA General Rules. The General Rules of the Michigan Department of Community Health, issued in connection with the MMMA, as amended from time to time.

Marihuana. Also known as Marijuana, also known as Cannabis; shall have the meaning given to it in section 7601 of the Michigan Public Health Code, Public Act 368 of 1978, MCL 333.7105, as referred to in section 3(d) of the MMMA, MCL 333.26423(d). Any other term pertaining to marihuana used in this Ordinance and not otherwise defined shall have the meaning given to it in the MMMA or in the MMMA General Rules.

Master Deed. The legal document prepared and recorded pursuant to Public Act 59 of 1978, as amended, to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.

Medical Use of Marihuana. The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the MMMA. The medical use of marihuana shall not be considered a commercial, personal service or retail use, farm or farm operation, agricultural use, processing or industrial use, temporary use, or use similar to these uses or as any use except a home occupation conducted in accordance with the provisions of this ordinance.

Mobile Home. A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure, excluding, however, a vehicle designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle moved on or drawn by another vehicle. Also referred to as a "manufactured home" in this Ordinance.

Mobile Home Park. A parcel or tract of land under the control of a person upon which three or more manufactured homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home. Also referred to as a "manufactured housing community" in this Ordinance.

Modular Home. A prefabricated structure exceeding 22 feet in width, which meets all the requirements of the BOCA Code and the Building Code adopted by Nelson Township, and placed on a concrete perimeter wall or basement. A building or occupancy permit may be issued by the Zoning Administrator for such unit as a single family residence when the following conditions are met in addition to the Nelson Township Building Code.

- (1) A pitched roof of heavy truss construction able to support a “dead weight” of at least 40 pounds/square foot.
- (2) A heavy flooring of wood on at least two by eight floor joists.
- (3) A drain ventilation size of three inches in diameter extending 12 inches above the roof.
- (4) Establishment of a poured wall or concrete block and mortar foundation.

Motel. A building or group of buildings which has living or sleeping accommodations used primarily for transient occupancy and individual entrances from outside the building to serve each unit.

Net Buildable Area. Contiguous land excluding land subject to flooding six months of the year, poor drainage, steep slopes, rock outcrops and land encumbered by easements.

Nonconforming Lot of Record. A lot lawfully existing at the effective date of this Ordinance, or affecting amendment, which fails to meet any of the requirements of the zoning district in which it is located.

Nonconforming Structure. A structure, or portion thereof, lawfully existing at the effective date of this Ordinance, or affecting amendment, and which fails to meet any of the requirements of the zoning district in which it is located.

Nonconforming Use. A use lawfully existing in a building or on land at the effective date of this Ordinance, or affecting amendment, and which fails to conform to the use regulations of the zoning district in which it is located.

Nursery. An unenclosed area used for the cultivation and/or storage of flowers, trees, shrubs, bushes or other plants, which are sold or intended to be sold on the lands where such cultivation takes place but not including Christmas tree farms whose principal use is the cultivation and seasonal sale of Christmas trees.

Nursing Home. A structure constructed for residential purposes that is licensed by the state pursuant to Act 287 of the Public Acts of 1972, as amended, which provides resident services for seven or more persons under 24 hours supervision or care of persons in need of that supervision and/or care.

D. **Definitions O through S.**

Parking Area. A space used for parking motor vehicles, including parking lots, garages, and private driveways, but excluding public right-of-way areas.

Parking Area, Private. A parking area for the private use of the owners or occupants of the lot on which the parking area is located.

Parking Area, Public. A parking area available to the public, with or without compensation, or used to accommodate clients, customers, or employees.

Parking Bay. The parking module consisting of one or two rows of parking spaces and the aisle from which motor vehicles enter and leave the spaces.

Parking Lot. An off-street, ground level area, usually surfaced and improved, for the temporary storage of motor vehicles.

Parking Space. A space for the parking of a motor vehicle within a public or private parking area.

Principle Building. The primary or predominant building on a lot or parcel

Principal Use. The primary or predominant use of a lot or parcel.

Private Road. A private road is any undedicated path, trail or road which provides or is intended to provide the primary means of access to two or more parcels or two or more principal buildings, dwellings units or structures, or a combination thereof, whether created by private right-of-way agreement, easement or prescription.

Public Street. An easement, right-of-way or other interest in land which has been conveyed or dedicated to, or accepted by, the county or other governmental body for the purpose of providing access to abutting land.

Quarry, Quarrying Operation. Any place where stone, sand, gravel, minerals, or other natural materials, including topsoil, is removed for the purpose of sale or any other commercial purposes, other than such as may be incidental to excavating or regarding in connection with or in anticipation of building, development or landscaping on the site.

Recreation Vehicle or Unit.

- (1) A vehicular type structure designed primarily as temporary living quarters for recreational, camping or travel use, which either has its own motor power or is mounted on or drawn by another vehicle which is self-powered. Recreational units of this type shall include, but shall not be limited to the following: travel trailers, camping trailers, tent trailers, motor homes and truck campers.

- (2) Recreational units shall include, but shall not be limited to, the following: boats, jet skis, boat trailers, snowmobiles, snowmobile trailers, all-terrain vehicles, dune buggies, and similar equipment. If a boat, snowmobile(s), jet ski(s), or dune buggy(s) is on a trailer for transport purposes, this shall be considered as a single recreational unit.

Road Frontage. The length of the lot line which borders a public or approved private road.

Setback. The horizontal distance from a lot line inward toward the part of the building nearest to that lot line.

Sign. See Chapter 15.

Site Plan Review. The submission of plans for review, as part of the process of securing zoning approval.

Site Plan and Site Development Plan. A print from an ink or pencil drawing, drawn to scale, which shows all the intended and/or existing location and all dimensions of improvements or structures upon a parcel of property including buildings, driveways, parking areas, parking spaces, landscaping, landscaped areas, sidewalks, signs, drainage facilities or similar physical improvements.

Storage Building for Personal Use. A fully enclosed structure used for storage of the property owner's (or lessee's) personal property, which is located on a parcel which does not contain a principal building, and which does not meet the definition of an accessory building.

Story. The portion of a building included between the surface of any floor and the surface of the surface of the floor or roof next above it.

Structural Changes or Alterations. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial change in the roof.

Structure. Anything constructed, erected, or to be moved to or from any premises which is permanently located above, on, or below the ground, including signs and billboards.

Swimming Pool. A constructed basin or structure for the holding of water for swimming and aquatic recreation. Swimming pool does not include plastic, canvas or rubber portable pools temporarily erected upon the ground holding less than 400 gallons of water nor decorative pools with less than two feet of water depth.

E. **Definitions T through Z.**

Underground Dwelling. A residence, the roof of which is covered with earth and which on at least three sides does not extend upward more than the surrounding grade levels within 50 feet, with the primary entrance on the exposed side.

Use. Any purpose for which a structure or a parcel may be designed, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on, or intended to be carried on, in a structure or on land.

- (1) **Accessory Use.** A use of a structure or premises which is customarily incidental and subordinate to the principal use of the structure or premises.
- (2) **Principal Use.** The primary purpose for which land or a structure or building is used.
- (3) **Temporary Use.** A use or activity which is permitted only for a limited time and subject to specific regulations.

Variance. A varying or relaxation of the use or dimensional standards of the Zoning Ordinance by the Zoning Board of Appeals.

Yard. An open space on a lot, unoccupied and unobstructed from the ground upward; except as otherwise permitted in this Ordinance. (See Appendix A for illustration of typical yards.)

Yard, Required Front. The minimum required yard measured from the front lot line to the closest point of the structure.

Yard, Required Rear. The minimum required yard measured from the rear lot line to the closest point of the structure.

Yard, Required Side. The minimum required yard measured from the side lot line to the closest point of the structure.

Zoning Permit. A permit signifying compliance with the provisions of this Ordinance as to use, activity, and density.

CHAPTER 3 GENERAL PROVISIONS

3.1 Application of General Provisions.

The general provisions of this chapter shall apply in all districts unless specifically stated otherwise.

3.2 Accessory Buildings and Uses.

- A. In any district, except as noted elsewhere, an accessory building may be erected detached from the principal building, or it may be erected as an integral part of the principal building. Accessory buildings or garages shall be considered as an integral part of the principal building when the distance between structures is solidly covered by a breezeway, portico, covered colonnade, or similar architectural device.
- B. When erected as an integral part of the principal building, an accessory building shall comply in all respects with the requirements of this Ordinance applicable to the principal building.
- C. No accessory building shall be used for residential purposes or living quarters.
- D. Accessory buildings in all districts, except the PLR Pine Lake Residential District, shall comply with the following building setback requirements:
 - (1) No accessory building shall be located in front of the principal building, unless the accessory building is located at least 100 feet back from the front lot line as measured at the street right-of-way line, not at the center of the street.
 - (2) Accessory buildings may be located in the side yard, but they shall not be located closer to the front lot line or the front street right-of-way line than the front wall of the principal building.
 - (3) Accessory buildings shall not be located closer than ten feet from any side lot line nor closer than ten feet from the rear lot line.
- E. Multiple Accessory Buildings are allowed; however, the total area of all detached accessory buildings shall not occupy more than 3 percent of the total area of any parcel of land 10 acres or less [(_____ acres) x 43,560 sf/ac x .03]. For parcels of land greater than 10 acres the total area of all detached accessory buildings shall not occupy more than 15,000 square feet. Accessory buildings less than 200 square feet must comply with zoning setbacks, but accessory buildings of less than 200 square feet are not to be included in calculating total accessory building area for purposes of this subsection.
- F. A deck shall be located not closer than 50 feet from the front lot line as measured at the street right-of-way line, not the center of the street, and not closer than ten feet

from any side lot line and not closer than ten feet from the rear lot line. For purposes of this section, a deck shall be defined as a structure made of wood or other durable material located on the ground or other foundation and used for the purposes of a patio or other space, which persons may occupy for leisure or other residentially-related purposes. A deck shall not include a building, either in whole or in part, irrespective of whether the building is attached to the deck.

- G. The maximum building height of an accessory building shall be 35 feet.
- H. The floor area limitations contained in this section may be exceeded if approved by the Planning Commission as a special land use under Chapter 19 and subsection L of this section.
- I. No mobile home, recreational vehicle, bus, trailer, vehicle, storage tank, military tank, junk or salvage material or similar item shall be utilized as an accessory building. This requirement shall not apply to agricultural storage or other agricultural activities on bona fide farms, nor shall it apply to temporary tool sheds or similar temporary storage structures used during the construction of buildings or other structures on the land where such temporary tool sheds or other temporary storage structures are located, and so long as the period of construction does not exceed one year.
- J. No accessory building shall be constructed or occupied on a lot in the R-M District before the principal building or use on the lot is constructed or occupied, unless a permit for the principal building is applied for and received, and unless construction diligently commences on the principal building and progresses to completion, all within one year after a permit for the accessory building is issued. If, however, construction of the principal building is not complete within one year, the accessory building shall be deemed in violation of this provision.
- K. In considering an application for special land use for an accessory building as to which such approval is provided for under the terms of this section, the Planning Commission shall consider the following matters, in addition to the general standards of Section 19.4:
 - (1) The intended use of the accessory building.
 - (2) The proposed location of the accessory building, its type of construction and its general architectural character.
 - (3) The size of the accessory building in relation to the principal building and the area of the lot or parcel of land on which the buildings are or will be located.
 - (4) The type and kind of principal and accessory buildings and structures located on adjoining lands and in the immediate vicinity and the compatibility of the proposed accessory building with those structures and uses.

- (5) The topography and vegetation on the lot or parcel where the accessory building is proposed to be located, and also on adjoining and nearby lands, and the extent to which these features will naturally screen the accessory building from view from adjacent and nearby lands.
 - (6) Whether the proposed accessory building would adversely affect the light, air circulation and view of adjacent or nearby buildings or lands.
 - (7) The reasons and grounds for the special land use application.
 - (8) The point of access to and from the proposed accessory building and the relationship of such points of access to adjacent or nearby lands and the view from adjacent streets.
 - (9) Public comments concerning the requested special land use.
- L. Accessory uses are permitted in any zoning district as regulated in this Ordinance, when located on the same lot or parcel of land.
- M. A track, area, or artificial or natural earth features, used for racing, practicing, exhibition, competition, eventing, or testing of motorcycles, off-road vehicles or other motorized vehicles, such as a motocross track, mud bog, or similar use by other than the property owner and/or immediate family, does not constitute an accessory structure or an accessory use of property.

3.3 **Animals.**

Any other provision of this Ordinance notwithstanding, the keeping, housing, raising, use or medical care of fowl or animals, other than house pets of an occupant of the premises, is prohibited in any R-M, C, or I District. Where such activities are pursued in any other district as it may be allowed, a lot area of two acres for one farm animal and one acre for each additional farm animal shall be required, except in the case of poultry and small fur-bearing animals where the ratio will be one additional acre for each 25. A riding stable shall provide over four acres for such use.

Where animals other than house pets of the owner or occupant of the premises are kept, a fence of such construction as to keep said animals from leaving the premises at will shall be provided and regularly maintained.

3.4 **Building Permit Required - Conformance To.**

In accordance with other Township codes, ordinances and regulations duly adopted by the Township Board, and in accordance with this Ordinance, no building or dwelling shall hereafter be erected, relocated or altered in its exterior dimension or use and no excavation for any building or dwelling shall begin until a building permit has been issued. With respect to this Zoning Ordinance, eligibility for a building permit shall be established upon conformance with the provisions contained herein, unless provided for in Section 16.4. This shall apply to all new construction and/or changes in use that require a building permit.

- A. In the case of detached accessory buildings and structures, a building permit is required for such buildings and structures only where the total gross floor area to be constructed is greater than 200 square feet.
- B. Building permits will not be necessary for normal repairs to existing structures nor for minor improvements, such as unenclosed patios, painting, plumbing, water wells, re-roofing, re-siding, and window replacement, etc.

3.5 **Storage Buildings for Personal Use.**

A single storage building for personal use may be constructed, maintained and/or used on any parcel or lot of record in the AG and SFR-L Districts, for the storage of personal items only, subject to the following requirements:

- A. The building shall be used only for the storage of personal property that is owned by the owner or lessee of the underlying property on which the building is located, or by family members who are residing in the same household as the owner or lessee.
- B. The building shall not be used for the conducting of a home occupation or for any other commercial purpose.
- C. The building shall not be used for the storage of equipment or supplies that are used in the conduct of a business, home occupation, or any type of commercial enterprise.
- D. The building shall not be used as a dwelling unit or for sleeping quarters. The Township Building Official or Zoning Administrator shall have the right to inspect both the interior and exterior of the building, upon reasonable prior notice, to confirm that the building is not being used as a dwelling unit or for sleeping quarters.
- E. The maximum total floor area of the building shall be as follows:
 - (1) For parcels having an area of ten acres or less, the maximum floor area of the building shall be 3 percent of the parcel area.
 - (2) For parcels having an area of more than ten acres, the maximum floor area of the building shall be 15,000 square feet.
 - (3) The floor area limitations contained in this subsection may be exceeded if approved by the Planning Commission as a special land use under Chapter 19. In considering whether to grant a special land use permit, the Planning Commission shall also consider the standards stated at Section 3.2.J.
- F. The building shall be subject to all setback requirements of the zoning district in which it is located, for principal buildings.
- G. The maximum height of the building shall be 35 feet.

- H. On all parcels, the building shall be positioned so as to allow the future construction of a principal residence that would comply with all applicable requirements of this Ordinance, while also leaving adequate area for a well and septic system that would meet the requirements for health department approval. A site plan complying with the requirements of this section shall be submitted to the Zoning Administration prior to the issuance of a zoning permit and building permit.
- I. A principal residence may subsequently be constructed on a lot or parcel that is already occupied by a storage building for personal use, but in that instance, the storage building for personal use shall then be considered an “accessory building,” and shall be permitted to remain on the lot or parcel only if it fully complies with the applicable requirements of Section 3.2 of this Ordinance.

3.6 **Certificate of Occupancy Required.**

No building or dwelling subject to the provisions of this Ordinance shall be occupied, inhabited or used until a certificate of occupancy is issued.

3.7 **Dwellings, Except in a Mobile Home Park - Minimum Requirements.**

All dwelling units located outside of mobile home parks shall comply with the following requirements:

- A. All dwelling units must conform to the minimum floor area requirements for the districts in which they are located.
- B. All dwelling units shall provide a minimum height between the floor and ceiling of seven feet, six inches; or if a mobile home, it shall meet the requirements of the United States Department of Housing and Urban Development Regulations, entitled Mobile Home Construction and Safety Standards, effective June 15, 1976, as amended.
- C. The minimum width of any single family dwelling unit shall be 22 feet for at least 67 percent of its length, measured between the exterior part of the walls having the greatest length.
- D. All dwelling units shall comply in all respects with the Building Officials Code of America (BOCA) as promulgated by the Michigan State Construction Code Commission under provisions of Public Act 30 of 1972, as amended, being MCL 125.1501 *et. seq.* or the “Mobile Home Construction and Safety Standards,” as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended.
 - (1) **Foundations.** A permanent foundation constructed on-site in accordance with said BOCA shall have the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the said State Construction Code (BOCA) for dwellings or, in the case of mobile homes, that dwelling shall be installed pursuant to the manufacturer’s set-up

instructions and shall be secured to the foundation by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission or said State Construction Code (BOCA), whichever is stricter, and with the wheels removed shall not have any exposed towing mechanism, undercarriage, or chassis.

- (2) The dwelling shall meet or exceed all applicable roof snow load and strength requirements.
- E. All dwellings without basements, except slab on grade construction, shall provide a crawl space below the entire floor of the dwelling four feet in depth, with a vapor barrier consisting of two inches of concrete on the floor of the crawl space. The crawl space shall also be provided with adequate drains to drain any accumulation of water in the crawl space. The building inspector may allow an alternative building plan to be utilized if consistent with the approved construction code of the Township.
 - F. All dwellings shall be connected to a sewer or septic system and water supply system approved by the Township or the Kent County Health Department.
 - G. Additions of rooms or other areas shall be constructed with similar quality workmanship as the original structure. Permanent attachment to the principal structure shall include construction of a foundation, and no addition shall involve placing a bearing load on a mobile home.
 - H. All dwellings shall provide steps or porch areas where there exists an elevation differential of more than eight inches between any door and the surrounding grade.
 - I. All dwellings shall have a pitched roof of not less than two and one-half feet of rise for each 12 feet of run.
 - J. Prior to issuance of a building permit for any dwelling unit; a driveway permit, well and sewer permit, proof of property ownership, zoning permit, construction plans, including a plot plan adequate to illustrate compliance with the requirements of this Ordinance, shall be submitted to the Building Inspector. If the dwelling unit is a mobile home, there shall also be submitted adequate evidence to assure that the dwelling complies with the standards applicable to mobile homes set forth in this section.
- (1) **Minimum Floor Area.** Each single family dwelling shall have a minimum finished living area of 900 square feet, with a minimum of 768 square feet on the ground floor for units of more than one story.

Multiple Family Residential Units Shall Contain:

- (a) One bedroom 780 square feet
- (b) Two bedroom 850 square feet
- (c) Three bedroom 900 square feet plus 100 square feet
each additional for bedroom in excess of three.

- (2) Each dwelling shall be equipped with adequate sewage disposal facilities to comply with the Kent County Sanitary Code in effect at the time of the erection of said dwelling.
- (3) Each dwelling shall contain at least three rooms, in addition to the bathroom or toilet room.

3.8 Essential Services.

Essential services which are located underground or involve the customary placing of utility poles in public rights-of-way or public easements may be placed in any zone. Essential services which require the erection or construction of other above ground appurtenances or structures may be permitted as a special use, as per Chapter 19, by the Planning Commission provided it finds that there will be no adverse effect upon surrounding adjacent property.

3.9 Exceptions to Height Regulations.

The height limitations contained in the district regulations do not apply to the following:

- A. Ground mounted private antennas and private internet towers less than seventy (70) feet in height (as measured from the ground at the base of the antenna or tower) used by the owner or occupant of the parcel for individual use in compliance with Section 3.27, but only in the AG or SFR-L District.
- B. Roof-mounted private antennas less than five feet in height (as measured from the roof at the base of the antenna) used for radio, television or amateur radio communication purposes.
- C. Agriculturally-related accessory buildings or structures, including barns, silos, water tanks and windmills, less than 100 feet in height, but only if located in the AG District.
- D. Cupolas, chimneys, flag poles or other similar appurtenances less than five feet in height (as measured from the roof at the base of the structure), which are required to be placed above the roof level and which are not intended for human occupancy.

3.10 **General Lighting Requirements.**

All lighting upon any premises, regardless of zone shall be so arranged that such lighting does not produce any glare which is a nuisance or annoyance to residents or occupants of adjoining premises or to the traveling public or public highways.

3.11 **Home Occupations.**

A home occupation may be permitted in the AG, SFR-L and R-M Districts in accordance with this section.

A. **Permitted Home Occupations.** The following home occupations shall be permitted:

- (1) Architecture and interior design work.
- (2) Baby sitting and child day care involving not more than six children.
- (3) Beauty salons and barber shops.
- (4) Bookkeeping, accounting and financial planning.
- (5) Building contractor office and building trades office.
- (6) Computer programming and other computer related work.
- (7) Consulting services.
- (8) Drafting and illustration services.
- (9) Dressmaking, sewing and tailoring.
- (10) Home arts and crafts, including but not limited to rug weaving, quilting, pottery and ceramics, model making, woodworking, lapidary work and jewelry making, but any sales on the premises shall be of only arts and crafts made on the premises and shall occur only occasionally.
- (11) Home cooking and preserving.
- (12) Musical instrument instruction, except that no instrument may be amplified so as to be audible beyond the parcel of land where the use occurs.
- (13) Office of minister, priest or other member of the clergy.
- (14) Office of a sales person, sales representative or manufacturer's representative.
- (15) Organized classes with not more than six students at one time.

- (16) Painting, sculpturing and writing.
- (17) Photograph developing.
- (18) Private tutoring.
- (19) Secretarial services.
- (20) Telephone answering service.
- (21) Telephone solicitation work.
- (22) Watch repair.
- (23) The medical use of marihuana is subject to the regulations of Section 3.11.1 of this Ordinance.

B. Minimum Conditions for Permitted Home Occupations. The following minimum conditions shall apply to all permitted home occupations:

- (1) The use shall be conducted entirely within a dwelling. It shall be carried on only by the residents of the dwelling, and not more than two other persons.
- (2) The use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes, and the appearance of the structure shall not be altered, nor shall the occupation within the dwelling be conducted in any manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting or by the emission of sounds, vibrations or light that carry beyond the premises, except that a sign or signs complying with the sign requirements of the applicable zoning district may be used.
- (3) The use shall comprise an area not greater than 25 percent of the floor area of the dwelling and any attached garage (including, but not limited to, an attached garage that is attached to the dwelling by means of an enclosed breezeway).
- (4) There shall be no selling of goods, merchandise, supplies or products, except on an occasional basis, provided that orders previously made by telephone or at a sales event off the premises may be filled on the premises.
- (5) No storage or display shall be visible from outside the dwelling.
- (6) No combustible, toxic or hazardous materials may be used or stored on the premises, except in a safe manner and in full compliance with all federal, state and other governmental requirements concerning the use, handling, transport, storage and disposal of any such materials; provided, however, that

the safe storage of pesticides and herbicides by landscaping enterprises shall be permitted if otherwise lawful.

- (7) There shall be no activity that would interfere with radio or television transmission in the area, nor shall there be any significant offensive noise, vibrations, smoke, dust, odors, heat or glare noticeable at or beyond the property line.
- (8) As a result of home occupation, there shall not be any greater motor vehicle or pedestrian traffic than would be normal for the zoning district in which the use is located. Not more than six motor vehicles of customers, clients or other patrons of the home occupation shall be parked on the premises at any one time.
- (9) There shall be adequate off-street parking spaces and off-street loading area. The off-street parking and loading area shall not be located within any required front, side or rear yard.
- (10) There shall be no deliveries from commercial suppliers, other than on an occasional or incidental basis.
- (11) There shall be no use of material or equipment not generally associated with the normal practices of owning, using and maintaining a dwelling.
- (12) Any sign or signs shall comply with the sign requirements for the zoning district in which the use is located.

- C. **Non-listed, but Similar, Home Occupations.** In addition to the above permitted home occupations, there shall also be permitted home occupations which are similar in nature and effect to those specifically listed in this section.

The determination whether a proposed home occupation is sufficiently similar in nature and effect to a home occupation specifically listed in this section may be made by the Township Zoning Administrator, but at the discretion of the Zoning Administrator, such determination may be made by the Planning Commission at a public meeting.

In determining whether a proposed home occupation is sufficiently similar to one listed in this section, the Zoning Administrator or the Planning Commission, shall consider and make findings upon the following standards:

- (1) Whether the home occupation is incidental and secondary to the use of the premises as a dwelling.
- (2) Whether the nature of the home occupation is in keeping with the residential use of the property.

- (3) Whether the likely effects of the home occupation upon adjacent and nearby lands would be within the scope of the effects likely to result from other, similar home occupations that are specifically permitted in this section.
- (4) Whether the home occupation will have appreciable adverse effects upon adjacent and nearby lands and the uses thereof.

D. **Home Occupations Approved as Special Land Uses.** The following home occupations may be permitted in the AG, SFR-L, or R-M Districts if approved by the Planning Commission as a special land use (also refer to Chapter 19) under this Ordinance.

- (1) A home occupation otherwise permitted under the terms of subsection A or subsection C of this section, where the home occupation will be conducted in whole or in part in an accessory building, subject to the following minimum conditions:
 - (a) The minimum conditions of subsection B shall apply.
 - (b) The area, height and bulk of the accessory building shall not be incompatible with the residential nature and character of the premises and shall, in addition, comply with any specific limitations thereon as determined by the Planning Commission.
- (2) Gift shops where only arts and crafts made on the premises, or other gift items made on the premises, are sold.
- (3) Physician's office or clinic; dentist's office or clinic.
- (4) Welding or machine shop.
- (5) Photography studio.
- (6) Gymnastics and dance instruction.
- (7) Painting of motor vehicles, trailers or boats.
- (8) Licensed firearms sales.
- (9) Cabinet making and carpentry work.
- (10) Catering business.
- (11) Furniture upholstery.
- (12) Storage and distribution of direct sales products, such as home catering products, cosmetics, food containers and the like (but excluding sales on the premises).
- (13) Television and other small household appliance repair.

- (14) Turf services and landscaping enterprises, except in the R-M District and SFR-L District.
 - (15) Bed and breakfast establishments.
- E. In considering any home occupation for approval as a special land use, the Planning Commission shall consider and make findings upon the following standards:
- (1) Whether the home occupation is incidental and secondary to the use of the premises as a dwelling.
 - (2) Whether the nature of the home occupation is in keeping with the residential use of the property.
 - (3) Whether the likely effects of the home occupation upon adjacent and nearby lands would be within the scope of the effects likely to result from other, similar home occupations that are specifically permitted in this section.
 - (4) Whether the home occupation will have appreciable adverse effects upon adjacent and nearby lands and the uses thereof.
- F. In approving any special land use, the Planning Commission may impose restrictions and limitations upon the use, including, but not limited to, restrictions and limitations concerning the following:
- (1) Whether the use is located in a dwelling and/ or an accessory building.
 - (2) The floor area of the use.
 - (3) The area, height, bulk, and location of any accessory building.
 - (4) Whether the storage or display of goods, inventory or equipment would be visible from outside the dwelling or an accessory building.
 - (5) Whether combustible toxic or hazardous materials will be used or stored on the premises.
 - (6) Whether there would be any offensive noise, vibrations, smoke, dust, odors, heat or glare noticeable at or beyond the property line, or whether there would be machinery or electrical activity that would interfere with nearby radio or television reception.
 - (7) Effects on motor vehicle and/or pedestrian traffic.
 - (8) The amount of off-street parking provided, and the location thereof.
 - (9) Whether there would be the use of materials or equipment not generally associated with the normal practices of owning, using and maintaining a dwelling.

3.11.1. Medical Use of Marihuana

- A. A registered primary caregiver, operating in compliance with the MMMA General Rules, the MMMA and the requirements of this section, shall be allowed as a permitted home occupation, as regulated in this Section 3.111. Nothing in this section or in this Ordinance is intended to grant, nor shall this section or this Ordinance be construed as granting, immunity from criminal prosecution for growing, selling, consuming, using, distributing, or possessing marihuana not in strict compliance with the MMMA and the MMMA General Rules. Also, since federal law is not affected by the MMMA or the MMMA General Rules, nothing in this section or in this Ordinance is intended to grant, nor shall this section or this Ordinance be construed as granting, immunity from criminal prosecution under federal law. The MMMA does not protect users, caregivers or the owners of properties on which the medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act or any other applicable federal legislation.
- B. The following standards and requirements shall apply to the location at which the medical use of marihuana is conducted by a primary caregiver. These requirements shall supersede and replace the general standards in Section 3.11.B of the ordinance, except where such provisions are expressly incorporated by reference herein.
- (1) The medical use of marihuana shall comply at all times and in all circumstances with the MMMA and the MMMA General Rules, as they may be amended from time to time.
 - (2) A registered primary caregiver must be located outside of a one-thousand (1,000) foot radius from any school, including any family day care home, to insure community compliance with federal “Drug-Free School Zone” requirements. In addition, a registered primary caregiver must be located outside of a 1,000-foot radius from any youth camp or licensed daycare facility.
 - (3) Not more than one registered primary caregiver shall be permitted to service qualifying patients from a home. The primary caregiver shall be a full-time resident of the home.
 - (4) The medical use of marihuana shall be conducted entirely within the dwelling and any attached garage; this use shall not be eligible for special land use approval to be conducted in whole or in part in an accessory building.
 - (5) No sign shall be permitted which in any way identifies this home occupation, or that the medical use of marihuana is taking place on the premises, whether by word, image or otherwise.
 - (6) Except for lighting, heating, watering, drying or other equipment, or fertilizers, herbicides or other chemicals directly related to the medical use of marihuana, there shall be no use of material or equipment not generally

associated with the normal practices of owning, using and maintaining a dwelling.

- (7) Except for lawful distribution of marihuana and items used in the administration of marihuana only to qualifying patients associated with the primary caregiver, there shall be no selling of goods, merchandise, supplies or products at the premises.
 - (8) All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the home in which electrical wiring, lighting or watering devices that support the cultivation, growing, or harvesting of marihuana are located.
 - (9) If a room with windows is utilized as a growing location for marihuana, any lighting shall employ shielding methods, without alteration to the exterior of the home, to prevent ambient light spillage that may create a distraction for adjacent properties.
 - (10) That portion of a home where energy usage and heat exceeds typical residential use, such as a grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Building Official and Fire Department to insure compliance with applicable standards.
 - (11) The property and home shall be open for inspection upon request by the Zoning Administrator, Building Official, the Fire Department and law enforcement officials for compliance with all applicable laws and rules during the stated hours of operation/use and at such other times as anyone is present on the home-occupied premises.
 - (12) The home in which the medical use of marihuana is being conducted shall comply with subsections 3.11.B.(3), (5), and (7) through (10).
 - (13) A registered primary caregiver shall not dispense, sell, deliver or transfer marijuana to a qualifying patient on the same premises as a home occupation that is engaged in the cultivation and/or manufacture of marijuana.
- C. The medical use of marihuana as a home occupation shall be permitted only with the prior issuance of a permit.
- (1) A permit shall be issued by the Zoning Administrator upon submission of an accurate and complete application for such permit, upon a form provided by the Township, and following review by the Zoning Administrator to determine compliance with this Ordinance. The application fee or other charge, if any, shall be determined by resolution of the Township Board, and in the absence of such resolution, shall be the same as the fee charged for approval of a zoning permit for a single family dwelling.

- (2) The application for permit shall include the name and address of the applicant; the address of the property; proof that the applicant makes the dwelling their full-time residence, such as driver's license, voter's registration records, or similar records; a current registration card issued to the primary caregiver; a full description of the nature and types of equipment which will be used in any cultivation and processing operation, and a description of the location at which this operation will take place within the dwelling or attached garage; and such other information as the Zoning Administrator determines to be necessary to demonstrate compliance with the requirements of this Section 3.11.1.
 - (3) The use shall be maintained in compliance with the requirements of this Section 3.11.1, and all other applicable conditions and limitations. Departure from such conditions and limitations shall be grounds for revocation of the permit. Upon revocation of the permit, the applicant shall not engage in the activity unless and until a new permit is granted.
 - (4) Information treated as confidential under the MMMA, including the primary caregiver registry identification card, and any information about qualifying patients associated with that primary caregiver which is received by the Township, shall be maintained separate from the public information submitted in support of the application, shall be kept confidential, and shall not be subject to disclosure under the Freedom of Information Act.
- D. Medical use of marihuana was not permitted prior to adoption of this section, and accordingly such use shall not be treated as having the status of a non-conforming use.
 - E. A qualifying patient's use of his or her home for the cultivation of medical marihuana for solely personal use shall not require a permit, but such use shall otherwise comply with all requirements of the MMMA and the MMMA General Rules, and also with Subsections 3.11.1(b)(5), (6), and (8) through (11).
 - F. The medical use of marijuana shall not be permitted in the Township, except as specifically allowed in this Section 3.11.1.

3.11.2. Prohibition of Marihuana Facilities and Establishments

- A. The following uses are completely prohibited in the Township, and may not be established or operated in any zoning district, by any means, including by way of a variance:
 - (1) Any and all types of a "marihuana facility," as that term is defined and used in the Medical Marihuana Facilities Licensing Act, MCL 333.27101, et seq.
 - (2) Any and all types of a "marihuana establishment," as that term is defined and used in Michigan Initiated Law 1 of 2018, known as the Michigan Regulation and Taxation of Marihuana Act ("MRTMA"), including the following:

- (a) Marihuana grower.
 - (b) Marihuana safety compliance facility.
 - (c) Marihuana processor.
 - (d) Marihuana microbusiness.
 - (e) Marihuana retailer.
 - (f) Marihuana secure transporter.
- (3) Any other type of marihuana-related business that is subject to licensing by the state department of licensing and regulatory affairs (“LARA”) under the MRTMA or the rules promulgated thereunder.
- B. This Section 3.11.2 does not limit any privileges, rights, immunities or defenses of a person as provided in the Michigan Medical Marihuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq., or as stated in Section 3.11.1 of this Ordinance.
- C. This Section 3.11.2 does not restrict or prohibit the transportation of marihuana through the Township (1) by a marihuana secure transporter who is licensed to operate in another municipality, or (2) by means otherwise authorized by state law.

3.12 **Keeping of Pets.**

No more than three adult dogs and/or cats in combination shall be kept or housed in one dwelling unit in any residential zone. The keeping of more than three adult dogs and/or cats in combination shall be subject to the provisions for kennels.

3.13 **Access to Lakes and Streams.**

- A. The following restrictions are intended to limit the number of users of lake and stream frontage on order to preserve the quality of the waters, to promote safety, and to preserve the quality of recreational use of all waters within the Township.
- B. In all zoning districts there shall be at least 100 feet of lake or stream frontage, as measured along the normal high water mark of the lake or stream, and a minimum lot area of 9,500 square feet for each single family home, dwelling unit, cottage, condominium unit, site condominium unit or apartment unit utilizing or accessing the lake or stream frontage. Areas considered wetlands shall not be counted toward the minimum lake frontage requirement.
- C. Any multiple-unit residential development in any zoning district that shares a common lake or stream front area or frontage may not permit lake or stream use to more than one single family home, dwelling unit, cottage, condominium unit, site condominium unit, or apartment unit for each 100 feet of lake or stream frontage in

such common lake or stream front area, as measured along the normal high water mark line of the lake or stream.

- D. Any multiple-unit residential development shall have not more than one dock for each 100 feet of lake or stream frontage as measured along the normal high water mark of the lake or stream, in any zoning district in the Township.
- E. The above restrictions shall apply to all lots and parcels on or abutting the lake or stream in all zoning districts, regardless of whether access to the lake or stream waters shall be by easement, park, common-fee ownership, single-fee ownership, condominium arrangement, license, or lease.
- F. In all zoning districts, no lake access, boat ramp, shore station, dock, boat launch, or shoreline abutting a lake shall be utilized for commercial, business, outdoor recreational (or entertainment) facilities, institutional or nonresidential or nonagricultural uses or purpose unless such use is authorized pursuant to a special use approval or a planned unit development (PUD) approval.
- G. The lake access and use regulations contained in this section shall be fully applicable to all planned unit development (PUD) and special use projects or developments.
- H. Refer to other applicable Township ordinances for other keyhole development regulations.
- I. In addition to the above limitations, no easement, private park, common area, lot or access property abutting or adjoining a lake or stream shall be used to permit access to the lake or stream for more than one single family home, dwelling unit, condominium unit, site condominium unit, apartment unit or any other use unless such additional access use is approved as a special use or as a planned unit development (PUD).
- J. The minimum water frontage requirements of this section shall be doubled if the property involved is not served with public sewer or if more than 50 percent of the water frontage of the property involved is comprised of or adjoins a wetland as defined by Michigan law.
- K. No canal or channel shall be constructed, dredged or excavated, nor shall any lake or stream frontage be otherwise altered, for the purpose of increasing the length of water frontage required by this section, or for the purpose of otherwise attempting compliance with this section.

3.14 Lots.

- A. **New Lots to be Buildable.** All newly created lots shall have buildable area. The non-buildable area of a lot shall be a contiguous piece of land, excluding land subject to flooding six months of the year, poor drainage, steep slopes, rock outcrops and land encumbered by easements preventing the use of the land. In no case shall the net buildable area be less than 15,000 square feet, unless otherwise specified herein.

- B. **New Lots to Meet Minimum Lot Regulations.** No new lot shall be created which does not meet the minimum lot size regulations of this Ordinance.
- C. **Corner Lots.** On a corner lot, each lot line which abuts a street shall be deemed to be a front lot line, and the required yard allowing both lot frontages shall be a required front yard. The owner shall elect, and so designate in his application for permit, which of the remaining two required yards shall be the required side yard and which the required rear yard.
- D. On lots created after December 31, 2012 the distance between the side lot lines shall not be less than the minimum lot width required for the zoning district in which it is located throughout the depth of the lot as indicated in Figure 2-1.
- E. Lots legally in existence prior to December 31, 2012 are not subject to Section 3.14(D) of this Ordinance.

3.15 **One Dwelling Per Lot.**

Erection of more than one principal building on a lot or parcel is prohibited.

3.16 **Performance Guarantees for Compliance.**

The Planning Commission may require a performance bond, irrevocable letter of credit or certified check in an amount equal to the estimated cost of road, lighting, utility, sidewalk, landscaping, and drainage improvements associated with the project. Such performance guarantee shall be deposited with the Clerk of the Township at the time of the issuance of the permit authorizing the activity or project to ensure faithful completion of the improvements indicated on the approved site plan. If conditions set forth in the approved site plan are not faithfully completed, the performance guarantee shall be forfeited. The Township shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Zoning Administrator. In cases where the provisions of this section have not been met, the amount of the aforementioned performance guarantee shall be used by the Township to complete the required improvements and to enforce the Zoning Ordinance; and the balance, if any, shall be returned to the applicant. Further, the applicant shall be responsible for all of the costs and expenses of the Township to complete the required improvements, including, design, construction, administrative expenses and professional and attorney services.

3.16A **Escrow Deposits.**

In addition to any required application fee, the Planning Commission or Township Board may require that a zoning applicant deposit sufficient funds in an escrow account with the Township, so as to cover reimbursement to the Township of its costs and expenses for the review and consideration of a zoning application, and for conducting inspections during and after construction to verify compliance with approved plans and specifications, including costs for services rendered by the Township Engineer, Township Attorney and other Township consultants, together with reimbursement for other Township expenses incurred in the matter. Any amounts paid into the escrow account that are in excess of Township

expenses shall be refunded to the applicant upon project completion in accordance with the approved plans and specifications. Other aspects of payment of funds into an escrow account, for such purposes, shall be subject to the applicable Township Board resolution pertaining to escrow funds.

3.17 Private Roads.

A. **Purpose.** The Township determines that it is in the best interest of the public health, safety and welfare to regulate the construction, improvement, maintenance, extension, relocation and use of private roads and driveways, so as to assure the following:

- (1) **Safe Design.** That private roads and driveways are designed with sufficient width, surface and grade to assure safe passage and maneuverability of private vehicles and of commercial, fire, police, ambulance and other safety vehicles.
- (2) **Durability.** That private roads and driveways are constructed of suitable materials so as to insure minimal maintenance and safe passage.
- (3) **Protection of Environment.** That private roads and driveways will be constructed so as to protect against or to minimize soil erosion and to prevent damage to the lakes streams, wetlands and the natural environment of the Township.
- (4) **Adequate Maintenance.** That private roads and driveways shall be properly maintained in a safe and usable condition.
- (5) **Intent.** It is the intent of the Township that roads providing access to more than four (4) lots, parcels, dwellings, units, buildings, or any combination thereof within the Township be public roads, dedicated to the County and built to the standards of the County Road Commission. The design must be inspected and approved by the Kent County Road Commission (KCRC), and all costs paid by the owner or developer.

B. **Design, Construction and Maintenance Requirements.** All private roads shall be designed, constructed, and maintained in accordance with the following minimum design, construction, inspection, approval and maintenance requirements:

- (1) The private road right-of-way shall be at least 66 feet in width.
- (2) The area in which the private road is located shall have a minimum cleared width of 28 feet.
- (3) Private roads providing access to four or fewer parcels shall have a minimum roadbed width of 20 feet.

- (4) Private roads providing access to four or fewer parcels of land shall have a minimum subbase of 12 inches of sand and six inches of finished, compacted gravel (No. 22A).
- C. All parcels utilizing a private road shall have frontage on the private road for a distance equal to or greater than the minimum lot width required for the district in which the parcel is located.
- D. A private road shall not provide access to more than four (4) lots, parcels, principal buildings, dwelling units, structures or combination thereof. All private roads shall have direct access to a public road.
- E. All private roads shall have a recorded permanent right-of-way or easement. The right-of-way or easement shall expressly permit public or private utilities to be installed within the right-of-way.
- F. The layout of the private road and the intersections of the private road with either a public or private road shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is reasonably assured. The minimum distance between intersections of public and/or private road and street rights-of-way shall not be less than 150 feet, as measured along the right-of-way lines thereof.
- G. All private roads shall be named and identified by use of appropriately located road name signs. Road names shall not duplicate any existing road name in the county, except in the case of the continuation of an existing road. All lots fronting on a private road shall have an address on the private road. A stop sign conforming to the requirements of the County Road Commission shall be provided at the exit point from the private road to the public road.
- H. All owners or parties in interest in a proposed private road shall submit to the Township a recordable private road maintenance agreement, signed by all owners of the easement or right-of-way for the private road and by all other parties having any interest therein. Such agreement shall provide that the private road shall be regularly maintained, repaired and snowplowed so as to assure that the road shall be safe and convenient for travel at all times. The agreement shall also provide for the payment of all costs and expenses of such maintenance, repair and snowplowing by all or any of the parties in interest, and how the agreement shall be enforced.
- (1) All buildings constructed or parcels of land established along or at the end of the private road shall be subject to the private road maintenance agreement.
- (2) The agreement shall run with the land and shall be recorded with the county register of deeds. A copy of the agreement as recorded shall be promptly furnished to the Township office after recording.
- (3) The agreement shall be in a form and shall have such content as is satisfactory to the Township. A copy of the agreement shall be submitted to the Township for review prior to recording.

- (4) The private road maintenance agreement shall be so prepared as to legally constitute a restrictive covenant, binding upon all current and future owners and other parties in interest as to the lands occupied by the private road and any right-of-way or easement therefor, and also as to all lots and other parcels of land served or to be served by the private road.

I. **Private Roads for Commercial or Industrial Uses.** Private roads serving commercial or industrial uses shall be designed and constructed in accordance with Kent County Road Commission requirements for public commercial or industrial roads, but in its discretion the Planning Commission may permit modification of such public road requirements if deemed justified in the circumstances and if safe and adequate access would nevertheless be provided.

J. **Procedures for Approval of a Private Road.**

- (1) An application for a private road shall be subject to the approval of the Planning Commission according to the procedures and standards of this section and of Chapter 19 regarding special land uses. The application shall include a site plan which complies with the requirements for site plan approval under Chapter 17. The Planning Commission shall consider such application at a public meeting. If the private road is included in a proposed planned unit development, special land use, site condominium or other land development requiring Planning Commission consideration, then the Commission may consider approval of the private road as a part of the proceedings for the development.
- (2) The Planning Commission shall review the application for the private road, and shall make the following findings, in its discretion:
 - (a) That the private road complies with all requirements of this section and other applicable provisions of this Ordinance.
 - (b) That the private road would not create conditions which may be detrimental to the health, safety or welfare of persons or property, through their creation of hazardous or potentially hazardous situations.
- (3) In approving an application for private road, the Planning Commission may require that the applicant comply with reasonable terms and conditions relating to the placement, design, construction and use of the private road, consistent with the terms of this section and other applicable provisions of this Ordinance.
- (4) If the Planning Commission determines that the application meets the requirements of this section and Chapter 19, it shall direct the Zoning Administrator to issue a permit for construction of the private road. The construction permit shall be signed by the Zoning Administrator and include

the date of the Planning Commission's approval. The Zoning Administrator shall stamp two copies of the private road plans as approved, retain one copy and return the other copy to the applicant. The construction permit is not a private road permit and does not authorize the construction of any dwellings on the private road. The road construction permit is valid for one year from the date of the Planning Commission's approval. If construction of the private road had not commenced before this date, the permit shall expire. If a road construction permit expires, the applicant shall apply for a new construction permit in accordance with this section.

K. Application Fee; Escrow Account.

- (1) The application fee established by resolution of the Township Board shall be paid at the time of application for private road approval.
- (2) In addition to the payment of the application fee, the applicant shall deposit sufficient funds in an escrow account with the Township, so as to cover reimbursement to the Township of its costs and expenses for the review and consideration of the private road application, including costs for services rendered by the Township Engineer and other Township consultants, together with reimbursement for other Township expenses in the matter. Any amounts paid into the escrow account that are in excess of Township expenses shall be refunded to the applicant. Other aspects of the payment of funds into an escrow account, for such purposes, shall be subject to the applicable Township Board resolution pertaining to escrow funds generally.

L. Private Road Permit.

- (1) Upon completion of construction of a private road, the Zoning Administrator or his or her designee shall inspect the completed construction to determine whether it complies with the approved plans and specifications for the road, the approval given therefor by the Planning Commission, and the terms of this section and other applicable provisions of this Ordinance.
- (2) The applicant shall provide the Township with a set of "as built" drawings, bearing a certificate and statement from a registered engineer certifying that the private road has been completed in accordance with the requirements of this section and other provisions of this Ordinance and with the terms of approvals given by the Planning Commission.
- (3) After receiving the certified as built drawings and written approval of the private road by the Zoning Administrator, following the inspector's review of the completed construction, the Zoning Administrator shall issue and submit to the applicant a private road permit, stating that based upon the inspection of the construction, the private road complies with this section, other applicable provisions of this Ordinance and the Planning Commission approval.

- (4) If the completed private road does not satisfy the requirements of this section, other applicable provisions of this Ordinance or approvals given by the Planning Commission and Zoning Administrator, the applicant shall be notified in writing of such noncompliance and shall be given a reasonable period of time in which to correct the stated deficiencies.

M. Building Permits.

- (1) No building permits or other permits shall be issued for any dwelling, or other building, structure or use, the access to which is to be provided by a private road, until the private road has been approved in accordance with this section and other applicable provisions of this Ordinance, and until a private road construction permit and a private road permit have been issued, except as stated in subparagraph (2) of this paragraph (M).
- (2) If a private road has not yet been completed and approved in accordance with this section and other applicable provisions of this Ordinance, but the applicant has submitted to the Township a performance bond, with acceptable surety, or a letter of credit, conditioned upon the timely and full completion of the private road in accordance with this section, then a building permit may nevertheless be issued for a dwelling or for other building, structure or use, the primary access to which is to be provided by the private road; provided, however, that no such permit shall be issued unless the Zoning Administrator also determines that persons and vehicles may traverse the incomplete private road in sufficient safety. In such a case, the further construction of the private road shall be pursued diligently to completion.

N. An occupancy permit for a dwelling or other building, the primary access to which is to be provided by a private road, shall not be issued until the private road has been laid out and constructed with sufficient width, surface and grade so as to assure the safe passage and maneuverability of fire, police, ambulance and other emergency service vehicles.

O. Except as to the maximum number of lots, parcels, dwellings, units or buildings to which access is provided by a private road, if the private road is proposed as part of a planned unit development or a special land use, the provisions of this section may be modified by the Planning Commission and Township Board (where Township Board approval is otherwise required), in the approval of the planned unit development or special land use, upon a determination that the requirements of the planned unit development or special land use and the requirements of this section would nevertheless be sufficiently accommodated. An increase in the number of lots, parcels, dwellings, units or buildings served by a private road may only be granted by the Zoning Board of Appeals upon a finding that a variance to increase the maximum number served meets the requirements of Chapter 20.

- P. As a condition of approval of a private road and the issuance of a construction permit therefor, the Township may require that the applicant provide a performance bond, with an acceptable surety, or a letter of credit, conditioned upon the timely and faithful performance by the applicant under the terms of this section and under the terms of any approvals given for the private road by the Planning Commission.

- Q. **Existing Private Roads.** The provisions of this section shall not apply to private roads existing on the effective date of this section. Such provisions shall, however, apply to any existing private road that is extended by an increase in its length for the purpose of providing access to one or more additional lots or parcels of land. In that case, the provisions of this section shall thereupon apply to the entire private road, including both the existing portion of the private road and the extended portion thereof, unless waived by the Planning Commission. In addition, the provisions of this subsection shall apply to an existing private road which is not extended by an increase in its length, but to which additional lots or parcels of land are added, unless waived by the Planning Commission. In addition, all existing private roads must always be constructed and maintained so as to provide safe and convenient access for emergency vehicles and other purposes.

3.18 **Private Swimming Pools.**

- A. No portion of the swimming pool or associated structures shall be permitted to encroach upon any easement or right-of-way which has been granted for public utility use.

- B. The swimming pool shall not be closer than ten feet to any side or rear lot line.

- C. For the protection of the general public, all in-ground swimming pools shall be completely enclosed by a chain link fence or a fence of comparable safety, not less than four feet nor more than seven feet in height, and set at a distance of not less than four feet from the outside perimeter of the pool wall. Except, that if a building is located on a lot not having any means of public access, a fence shall not be required on any such side. All openings in any such fence or building shall be equipped with a self-closing, self-latching gate or door which shall be securely locked with a child-proof lock when the pool is not in use. Provided, however, that if the entire premises is enclosed by fence or wall, then said fence requirement may be waived by the Building Inspector, after due inspection and approval.

3.19 **Restoring Unsafe Buildings.**

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the Building Inspector or the County Health Inspector.

3.20 Structures to Have Access.

Every principal structure hereafter erected or moved shall be on lot adjacent to a public or private street. A public street is a street built (meeting county specifications), maintained, and improved by the Kent County Road Commission and open to the public. All structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

3.21 Temporary Special Use Permits.

The Zoning Administrator may issue temporary special use permits for the following uses after determining that such uses will not be detrimental to adjacent conforming uses during the permitted period of use. A second temporary special use permit may be issued by the Zoning Administrator at the end of such time limit for good cause shown. A third temporary special use permit may only be authorized by the Planning Commission as a special use.

- A. **Mobile Homes.** An individual mobile home or other temporary structure may be used as temporary living quarters for up to 90 days while a dwelling or structure is being constructed on the same premises. A temporary special permit must be issued prior to any such use.
- B. **Signs and Supplies.** The storage of building supplies and machinery, temporary storage buildings, the assembly of materials and customary trade, contractor, architect and identification signs in connection with a construction project may be authorized by the Zoning Administrator for a period of up to 12 months.
- C. **Seasonal Uses.** The Zoning Administrator may authorize a temporary special permit for up to 30 days for seasonal or unusual non-recurrent temporary uses and signs.
- D. **Parking Areas.** Temporary special permits may be issued by the Zoning Administrator for the use of unimproved parking areas in accordance with Chapter 14.
- E. Reasonable conditions may be required with the approval of a temporary special permit by the Zoning Administrator. The conditions may include, but are not limited to, conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
 - (1) Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and land owners immediately adjacent to the proposed land use or activity, and the community as a whole.

- (2) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 - (3) Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- F. The conditions imposed with respect to the approval of a temporary special permit shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the Zoning Administrator and the landowners, in writing. The Zoning Administrator shall maintain a record of conditions which are changed.
- G. A fee shall be paid as determined by the Township Board.

3.22 **Traffic Visibility.**

On any corner lot, no fence, structure, wall, berm, or planting over 24 inches in height above the road grade, except deciduous trees, shall be erected or maintained within 20 feet of the intersection of right-of-way lines so as to interfere with traffic visibility across the corner of said lot. No structure or planting which is deemed a traffic hazard shall be permitted in any zone. No unshielded light of more than 75 watts may be located nearer than 30 feet to a public street unless said light source is not visible from the public street. All light sources of more than 75 watts used to illuminate signs, parking areas, or premises shall be diffused or shielded so that the direct source is not visible from any public street.

3.23 **Travel Trailers, Motor Homes, Campers and Tents.**

Travel trailers, motor homes, campers, tents or other similar type of facilities to be used for dwelling purposes or any other use are prohibited except as a temporary use as may be permitted in Section 3.21.

3.24 **Underground Homes.**

An underground home, as defined in Chapter 2 may be permitted as a special use in any residential or agricultural district, if the Planning Commission finds that the following conditions are met:

- A. The structure is in complete compliance with the Building Code and all local ordinances.
- B. The structure meets all the requirements for a dwelling within the particular district (yard, setback, etc.).
- C. There is no evidence of detrimental effect to adjoining property owners.

- D. The structure is certified by a licensed engineer or architect to be in compliance with all building codes, ordinances, zoning requirements and accepted engineering principles.

3.25 Utilities.

- A. The installation of all electrical work, including equipment, shall in every case be done in a safe and workmanlike manner. The regulations of the current National Electric Code which is in effect at the time of the beginning of construction of any building shall be considered as good standard practice by the Building Inspector. Installation shall comply with the requirements of the electrical utility company servicing the area.
- B. The installation of all interior plumbing work shall comply with the current plumbing code.
- C. The installation HVAC shall comply with current mechanical code.

3.26 Disposal Sites for Hazardous and Liquid Materials.

No noxious, hazardous, polluting or contaminating materials, whether liquid or otherwise, shall be placed or allowed to be placed on any lands in the Township, except in accordance with special land use approval duly granted for a sanitary landfill under the terms of Chapter 19.

3.27 Wireless Communications Facilities.

- A. **Purpose.** The purpose and goals of this section are to:
 - (1) Protect residential areas and land uses from potential adverse impacts of towers and antennas.
 - (2) Limit the location of towers and antennas to non-residential areas unless there is no feasible alternative location.
 - (3) Minimize the total number of towers and antennas throughout the community.
 - (4) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.
 - (5) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
 - (6) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening and innovative camouflaging techniques.

- (7) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently.
- (8) Ensure the public safety of communication towers and antennas.
- (9) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
- (10) To further these goals, the Township shall give due consideration to the Township's Master Plan, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas. The Township shall not regulate towers on the basis of environmental effects of radio frequency admissions governed by federal law.

B. **Definitions.** As used in this section, the below terms shall be defined as follows:

- (1) **“Antenna.”** Any exterior transmitting or receiving device (including satellite dish antennas) mounted on the ground, a tower, building or structure, used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
- (2) **“FAA.”** The Federal Aviation Administration.
- (3) **“FCC.”** The Federal Communications Commission.
- (4) **“Height.”** The distance measured from the finished grade of the site adjacent to the tower or other structure, to the highest point of the antenna, tower or other structure, including the base pad.
- (5) **“Tower.”** Any structure that is designed and constructed primarily to support one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes the structure and any support system of radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers and alternative tower structures.
- (6) **“Wireless Communication Facility.”** An antenna, tower, equipment, network components, electrical power and any structure used in the provision of wireless communication services.

C. **Applicability.**

- (1) **Amateur Radio Station Operators.** This section shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator.

- (2) **Private Internet Towers and Private Antennas.** This section shall not govern private internet towers or private antenna used exclusively by the owner or occupant of the parcel upon which it is located. No parcel shall have more than one private internet tower or private antenna, and all private internet towers and private antennas shall comply with all setbacks for accessory buildings in the district in which it is located. Private internet towers and private antenna which are exempted from this section shall be less than 70 feet in height as measured from the ground base of the private internet tower or private antenna and shall be freestanding with no guy-wires.
- (3) **Receive-Only Antennas.** This section shall not govern any tower or the installation of any antenna that is under 70 feet in height and is used exclusively for receive-only antennas, however this section shall govern the installation of any commercial satellite dish antennas.
- (4) **AM Array.** For purposes of implementing this section, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.
- (5) **Public Rights-of-Way.** This section shall not govern access to or use of public rights-of-way by telecommunications provisions.

D. **General Requirements.**

- (1) **Principal or Accessory Use.** Antennas and towers may be considered either a principal or an accessory use. A different use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on a lot.
- (2) **Lot Size.** To determine whether the installation of a tower or antenna complies with zoning district regulations, including but not limited to setbacks, lot-coverage and other such requirements, the dimensions of the entire lot shall control, even though an antenna or tower may be located on a leased parcel or an easement.
- (3) **Inventory of Existing Sites.** An applicant shall provide the Zoning Administrator with an inventory of existing or approved towers, antennas or sites, located either in Nelson Township, or within two miles of its borders. The information shall include the location, coverage area and height and design of each tower or antenna.
- (4) **Height.** The maximum height of all new or modified towers and antennas shall be 190 feet, unless a height variance is granted by the Zoning Board of Appeals.

- (5) **Accessory Building.** The accessory building contemplated to enclose such things as the switching equipment shall be limited to the lesser of the maximum height for accessory structures within the respective district or 12 feet. The floor area of any accessory building shall be limited to no more than 300 square feet. The Planning Commission may impose requirements relating to the color and nature of the exterior surface of the accessory building and the roof thereon, so as to cause the building to be reasonably compatible with other buildings in the vicinity.
- (6) **Landscaping and Fencing.** Landscape and fencing shall be included with property maintenance plan.
- (7) **Lighting.** Towers and antennas shall not be illuminated, unless required by the FAA or other applicable authority. If lights are required, then light levels, strobes, design, color, oscillation, etc. shall minimize disturbance to surrounding areas.
- (8) **State or Federal Requirements.** All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other state or federal agency regulating towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six months of their effective date, unless a different compliance schedule is mandated by the controlling agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense. All expenses incurred by the Township shall be reimbursed by the owner and operator of the wireless communication facility.
- (9) **Building Code; Safety Standards.** To ensure the structural integrity of a tower or antenna, the tower or antenna owner shall ensure it is maintained in compliance with standards contained in applicable state or local building codes and applicable standards for towers or antennas. If, upon inspection, Nelson Township concludes that a tower or antenna fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided, the owner shall have 30 days to bring the tower into compliance with any such standards. Failure to bring a tower or antenna into compliance within the 30 days shall constitute grounds to remove the tower or antenna, at the owner's expense. All expenses incurred by the Township shall be reimbursed by the owner and operator of the wireless communication facility.
- (10) **Measurement.** For purposes of measurement, tower and antenna setbacks and separation distances shall be calculated and applied to facilities located in Nelson Township irrespective of municipal and county jurisdictional boundaries.

- (11) **Non-Essential Services.** Towers and antennas shall be regulated and permitted pursuant to this section and shall not be regulated or permitted as an essential service, or a public or private utility.
- (12) **Franchises.** Owners and/or operators of towers or antennas shall certify that all franchises required by law to construct and/or operate a wireless communication system have been obtained. All required franchises shall be filed with the Zoning Administrator.
- (13) **Signs.** Signs, symbols, messages, symbols and other graphic representations other than the manufacturer's name are not allowed on an antenna or tower.

E. Permitted Uses.

(1) Administrative Review of Antennas.

- (a) Antennas may be approved by the Zoning Administrator as follows:
 - (i) Locating antennas on existing approved foundations or structures as an accessory use to any commercial, industrial, professional or institutional structures in any zoning district; provided, the antenna does not extend more than 30 feet above the highest point of the structure; the antenna complies with all applicable FCC and FAA regulations and building codes. Approval of a structure to be used as a mounting for an antenna in the first instance must comply with the procedures for approval of a tower.
 - (ii) Locating antennas on existing approved towers. Co-location of antennas by more than one carrier on existing towers is encouraged and therefore will take precedence over the construction of new towers.
- (b) Approval of a proposed co-location of antennae on an existing approved tower that meets the criteria below is preempted under Section 3514(1) of the Michigan Zoning Enabling Act (PA 110 of 2006) (the "Zoning Enabling Act"), however, the Zoning Administrator may require submission of the information necessary to determine a request meets that criteria from someone proposing a co-location:
 - (i) The tower or other structure complies with the current zoning ordinance or previously received zoning approval.
 - (ii) The antennae will not increase the height of the structure by 20 feet or 10 percent of the original structure, whichever is greater, or increase the width of the structure to an extent greater than necessary to support the antennae.

- (iii) The area of the existing equipment compound will not increase to greater than 2,500 square feet.
 - (iv) The proposed co-location complies with the terms and conditions of any previous final approval of the tower, antenna, wireless communication facility, or equipment compound by the Township.
- (2) **Information Required.** An application and site plan complying with the requirements of the site plan review chapter of the Zoning Ordinance. In addition, the applicant shall provide any additional information required by the Zoning Administrator to support administrative review of the request.

F. Special Land Use Approval.

- (1) If a tower or antenna is not a permitted use under Section E above, then a special land use approval shall be required. New towers and antennas that require a special land use shall be permitted only in the C Commercial, I Industrial, Interchange/Freeway Mixed Use District or a Commercial or Industrial PUD Planned Unit Development District. New towers and antennas may be permitted by a special land use in the AG District only upon a finding that there is no feasible alternative location outside of the AG District and that the denial of a special land use in the AG District would have the effect of prohibiting the provision of personal wireless service. In the event a new tower or antenna is located in the AG District, it shall be located as far as possible from residential uses. New towers and antennas requiring a special land use are not permitted in the SFRL Single Family Residential, RM Residential or PLR Pine Lake Residential District.
- (2) In granting special land use approval, the Planning Commission may impose conditions, which are necessary to minimize any potential adverse effects of the proposed tower or antenna on adjoining properties.
- (3) All engineering data submitted by the applicant shall be certified by a licensed State of Michigan professional engineer.
- (4) An applicant for a special land use approval shall submit the information described in this section and Chapter 19, plus a fee and escrow to reimburse the Township for the costs of reviewing the application in an amount set by the Township Board.
- (5) In order to comply with Section 3514(1) of the Zoning Enabling Act, an application for special land use approval for a cell tower must be reviewed to determine if it is complete within 14 days of submission and a decision on the request must be made within 90 days of the date of the submission of the complete request or the request is assumed approved. If at any time the

statutory time limits in the Zoning Enabling Act are no longer in effect, the normal time limits for special land use approval, if any, will apply.

G. Towers.

- (1) **Information Required.** In addition to that required for a special use application pursuant to Chapter 19, the following additional information shall be provided for any tower reviewed as a special land use:
 - (a) A scaled site plan indicating the location, type and height of the proposed tower, maintenance buildings, on-site and adjacent land uses and zoning (including for any adjacent municipalities), master plan designation, and all properties within the applicable separation distances, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking and other information deemed necessary by the Zoning Administrator to assess compliance with this section.
 - (b) A legal description of the parent tract and leased parcel (if applicable).
 - (c) The setback distances between the proposed tower and the nearest residence, residential development and residentially zoned property.
 - (d) The separation distances from other towers described in the inventory of existing sites shall be shown on a site plan or map.
 - (e) The type(s) of existing tower(s) (mono-pole, lattice, etc.), as well as the owner/operator.
 - (f) A landscaping plan.
 - (g) Type and location of all fencing, lighting, other illumination, tower color, and, if applicable, the method of camouflage. All lighting of the tower, antenna, maintenance buildings, and equipment compound area shall comply with the general lighting requirements of the Zoning Ordinance so as to not produce any glare which is a nuisance or annoyance to residents or occupants of adjoining properties, shall be fully shielded, and shall otherwise comply with the dark sky friendly lighting published by the International Dark Sky Association.
 - (h) A statement indicating that the tower complies with all applicable federal, state or local laws.
 - (i) A notarized statement by the applicant indicating whether the tower, as designed, can accommodate future co-located antennas.

- (j) A written description of alternative locations, other than using existing or proposed towers, to provide enhanced wireless services in Nelson Township. The description shall include a specific statement and evidence of why existing towers cannot provide sufficient service to the Township.
- (k) Feasible location(s) for future towers or antennas in Nelson Township, based on existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

H. **Factors Considered in Granting Special Land Use Approval for Towers.** In addition to the standards for considering a special land use, pursuant to Chapter 19, the Planning Commission shall consider the following in determining whether to grant special land use approval. The Planning Commission may waive or reduce one or more of the requirements if it concludes that the goals of this section would be better served by such an action:

- (1) Height of the proposed tower;
- (2) Proximity of the tower to residential structures and residential district boundaries;
- (3) Nature of uses on adjacent and nearby properties;
- (4) Surrounding topography;
- (5) Tree cover;
- (6) Design of the tower, with a particular emphasis on design characteristics that can reduce or eliminate visual impacts, including but not limited to the use of materials, colors, textures, screening and landscaping to blend with either a natural setting or the character of surrounding development.
- (7) Site access; and
- (8) Availability of suitable existing towers, other structures or alternative technology. A new tower shall not be permitted unless the applicant can reasonably demonstrate to the Planning Commission that there are no existing towers, structures or alternative technologies available to provide the level of service anticipated by the proposed antenna. An applicant shall submit information requested by the Planning Commission indicating why suitable towers, structures or alternative technologies are not available to address potential short-comings, such as:
 - (a) An existing tower or structure that meets the applicant's engineering requirements is not located within the geographic area.

- (b) Existing towers or structures are not tall enough to meet applicant’s engineering requirements.
- (c) Existing towers or structures do not meet the structural requirements necessary to support the applicant’s proposed antenna and related equipment.
- (d) The proposed antenna, if mounted on an existing tower or structure would cause electromagnetic interference to other antennas.
- (e) The fees, costs or contractual provisions to share an existing facility, or to adapt an existing tower or structure are unreasonable. Lease or tower modification costs that exceed the cost of a new tower are defined as being unreasonable.
- (f) An applicant can demonstrate that there are other limiting factors rendering existing towers and structures unsuitable.
- (g) An applicant can demonstrate that an alternative technology, not requiring a tower or structure, is infeasible. Costs of alternative technologies that exceed new tower or antenna development costs are not presumed to render the technology infeasible, but may be considered.

I. **Tower Setbacks.** Towers shall conform with each of the following minimum setback requirements; provided, however, that for good cause the Planning Commission may reduce or increase the standard setback requirements:

- (1) Tower must be set back a distance equal to the height of the tower from any adjoining lot line or structures on adjacent lots.
- (2) Guys and accessory buildings must satisfy the minimum zoning district setback requirements for principal structures.

J. **Separation Distances.** Separation distance between towers shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base. The separation distances (listed in linear feet) shall be as follows:

Existing Towers – Types			
	Lattice (feet)	Guyed (feet)	Monopole (feet)
Lattice	5,000	5,000	1,500
Guyed	5,000	5,000	1,500
Monopole	1,500	5,000	1,500

K. **Buffer Requirements.**

- (1) Towers and antennas shall be designed to blend into the surrounding environment through the use of reasonable color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the FAA.
- (2) The base of the tower or antenna and any wire/cable supports shall be enclosed by security fencing not less than six feet in height; however, the Planning Commission may waive such requirements, as it deems appropriate.

L. **Landscaping.** The following requirements shall govern landscaping for a tower or antenna requiring special land use approval. The Planning Commission may waive these requirements if the goals of this section would be better served otherwise.

- (1) Tower and antenna base facilities shall be landscaped with a buffer that effectively screens views from any nearby residential uses. A landscaped buffer shall be at least 10 feet wide and be located at the outside the perimeter of the base compound.
- (2) Where the visual impact of a tower or antenna would be minimal, the landscaping requirements may be reduced or waived.
- (3) Existing trees and natural landforms shall be preserved to the maximum extent possible. In certain cases existing trees that surround a tower or antenna base may provide a sufficient buffer.

M. **Buildings or Other Equipment Storage.** Equipment cabinets or structures used in association with an antenna shall comply with the minimum setback and height requirements of the zoning district and all applicable building codes. Views of structures or cabinets shall be screened from all residential properties. The screen shall consist either of a solid fence or masonry wall, six feet tall; or an evergreen screen, planted at a height of at least five feet and achieving an ultimate height of at least eight feet, and spaced to provide a solid, continuous, screen, and shall maintain any natural buffers, trees, or plants, in such a condition to continually provide an effective screen.

N. **Removal of Abandoned Antennas and Towers.** An antenna or tower that is not operated for 12 continuous months shall be considered abandoned and the owner shall remove them within 90 days after receiving a notice of abandonment from Nelson Township. Failure to remove an abandoned antenna or tower within 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are multiple users on a single tower, then this provision shall not become effective until all use of the tower ceases.

O. **Existing Towers and Non-conforming Uses.**

- (1) Existing towers. An existing tower may continue as it currently exists and routine maintenance shall be permitted. New construction other than routine maintenance on an existing tower shall comply with all the requirements of this section.
- (2) Rebuilding damaged or destroyed non-conforming towers or antennas. A non-conforming tower or antenna that is damaged or destroyed may be rebuilt without first obtaining special land use approval. The type, height and location of the replacement tower shall be consistent with all original approvals. All building permits to rebuild the facility shall be obtained within 180 days of the date the facility was damaged or destroyed. If a permit is not obtained or if the permit is allowed to expire, the tower or antenna shall be deemed abandoned.

P. **Additional Conditions.** In its discretion the Planning Commission may impose additional conditions regulating the construction, installation, use, repair, maintenance or removal of antenna or tower or any related equipment or structures, including the posting of an appropriate bond.

3.28 **Small Wind Energy Conversion Systems.**

A Small Wind Energy Conversion System (“S-WECS”), including all necessary substations, accessory buildings and operation and maintenance offices, shall comply with all of the terms and conditions of this section.

A. **Definitions.** For the purposes of this section, the following terms and phrases shall be defined as provided below:

- (1) **Wind Energy Conversion System (“WECS”).** A wind turbine generator or other device or devices designed to extract energy from the wind and supply it in the form of electrical energy that is suitable for use by the local electrical transmission utility, or that is used to provide electricity on the site or property on which the WECS is located. A WECS may also include a meteorological tower (MET), which is a tower containing instrumentation such as anemometers, that is used to assess wind resources.
- (2) **Small Wind Energy Conversion System (“S-WECS”).** Installed for onsite power production and consumption with excess power sold through net metering to local electrical utility.

Free Standing. A S-WECS which does not exceed 110 feet in height.

Small Structure-Mounted. A self-contained S-WECS is attached to a structure’s roof, walls, or other elevated surface. The total height does not exceed 15 feet as measured from the highest point of the roof excluding chimneys, antennae, and other similar protuberances.

- (3) **Horizontal Axis Wind Turbine (HAWT).** A WECS designed with a rotor mounted on a horizontal axis of rotation. The rotor thus sweeps through a vertical plane perpendicular to the motion of the wind.
- (4) **Vertical Axis Wind Turbine (VAWT).** A WECS designed with a rotor mounted on a vertical axis of rotation. The rotor sweeps in a horizontal plane.
- (5) **Rotor.** An element of a wind turbine which acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.
- (6) **Nacelle.** The structure designed to “yaw” (turn) into the wind that is mounted on top of the tower and houses the rotor support shaft, mechanical and electrical components, and generator.
- (7) **Tower.** A free standing monopole that supports the nacelle, rotor assembly, and other components.
- (8) **WECS Height.** The height from grade to the highest vertical point of the swept rotor arc. In the case of a WECS with a horizontal axis rotor, the total height includes the distance from grade to the rotor axis of rotation within the nacelle plus one-half the swept rotor diameter.
- (9) **Substation.** An electrical construction designed to collect and modify electrical energy produced by the WECS for the purpose of supplying it to the local electrical utility.

B. **Principal or Accessory Use.** A S-WECS may be considered either a principal or an accessory use.

- (1) **Accessory Use.** A S-WECS is an accessory use if it is to provide energy primarily to the property where the tower is located, and may provide excess power to the grid.
- (2) **Principal Use.** A S-WECS is a principal use if the energy will be shared by multiple owners, or it is to provide energy primarily to the grid.
 - (a) A principal use S-WECS must be located on its own lot in compliance with the applicable zoning regulations of the district in which it is located.
 - (b) A principal use S-WECS that is unable to be located on its own lot in compliance with the applicable zoning regulations of the district in which it is located shall require special land use approval in accordance with the provisions governing Large Wind Energy Conversion Systems in Section 19.5X.
 - (c) A preexisting principal use or structure on the same parcel does not preclude the installation of a S-WECS that meets the requirements of

this section, nor shall the existence of an approved S-WECS prevent a second principal use.

C. **Application.** Applications for a S-WECS shall include the following:

- (1) A site drawing, which, in addition to the site plan requirements of Chapter 17, shall include the following:
 - (a) The proposed location, size, height and type of all WECS, including MET towers, and the setback distance between the proposed towers and the nearest residential units and residentially-zoned properties.
 - (b) The location of all existing structures and buildings within 300 feet of the proposed tower.
 - (c) The proposed location of all access roads, underground and overhead cabling and utilities.
 - (d) A visual representation of the S-WECS including scale elevations or photographs.
- (2) A copy of the applicant's proof of ownership or control of the land, including any lease with the landowner(s) for the S-WECS.
- (3) In the case of condominium developments and developments having a housing association, a copy of the condominium master deed and bylaws or housing association bylaws addressing the legal arrangement for the S-WECS.
- (4) Specifications indicating:
 - (a) The rated nameplate output, in kilowatts or megawatts, of the wind turbines included in the S-WECS, including the total height and the swept rotor diameter.
 - (b) Safety features.
 - (c) Type of material used in foundation, tower, blade, and rotor construction.
 - (d) Underwriters Laboratory listing number for the integrated S-WECS systems.
 - (e) Sound levels.
- (5) Structural drawings of tower and foundation in accordance with manufacturer's recommendations or a seal from a licensed Michigan structural engineer.
- (6) Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such

connection has been approved. Off grid systems shall be exempt from this requirement.

(7) Decommissioning.

- (a) The S-WECS owner/applicant shall complete decommissioning within three months after the end of the S-WECS useful life. The term “end of useful life” is defined as zero electricity generation for a period of six consecutive months from a particular S-WECS.
- (b) All decommissioning expenses are the responsibility of the owner/applicant.
- (c) The Planning Commission may grant an extension of the decommissioning period based upon request of the owner/applicant. Such extension period shall not exceed one calendar year.
- (d) If the S-WECS owner/applicant fails to complete the act of decommissioning within the period described in the section, has described the S-WECS shall thereafter be deemed a public nuisance and subject to abatement as provided by law.

D. **Requirements.** A S-WECS, including MET towers, shall comply with the following requirements:

- (1) **Review and Approval Procedures.** Approval of a S-WECS requires site plan review pursuant to Chapter 17 and this section.
- (2) **Setbacks.** S-WECS towers shall comply with the minimum required building setbacks for the district in which the S-WECS tower is located or a setback equal to one and one half (1.5) times the height of the highest WECS, whichever is greater. Notwithstanding the foregoing, a MET tower shall be set back no closer than a distance equal to the height of the MET tower.
- (3) **Setback Modifications.** Setbacks may be reduced or increased from the minimum setback requirements of this section, in the discretion of the Planning Commission through a special use permit. Pursuant to this provision, the Planning Commission shall consider the technical needs of the applicant for a modification of setbacks, the feasibility of alternate locations, the proximity of existing dwellings, and the potential for adverse impacts that noise, shadows and other features may have on adjacent uses.
- (4) **Noise.** A S-WECS regulated under the terms of this section shall be designed, located and operated so as to cause no serious adverse effect on other lands or other land uses by reason of noise. A S-WECS shall not exceed 55 db(A) at the property line closest to the S-WECS. The sound pressure level may be exceeded during short-term events such as utility outages or severe wind storms.

- (5) **Lighting.** S-WECS towers shall not be illuminated by artificial means and shall not display strobe lights unless required by the Federal Aviation Administration or other state or federal authority having jurisdiction. The minimum FAA lighting standards shall not be exceeded and all lighting shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA. Towers that are lighted shall be avoided unless no feasible alternative is available.
- (6) **Shadow Flicker.** Any S-WECS shall be designed, located and installed so that shadow flicker does not have a significant adverse effect upon adjacent property, upon any occupied building or residence and shall be designed, located and operated so as to cause no serious effect on other lands or land uses by reason of the impact of its shadow.
- (7) **Rural View, Towers in Front Yard.** Towers shall only be placed, to the extent possible, at locations that do not dominate the view from existing streets or detract from the rural view. Locations in front yards are to be avoided. A tower shall not be located in any front yard unless it is set back at least 200 feet from the front lot line.
- (8) **Compliance with Law.** All S-WECS and the construction, installation, operation, maintenance and repair thereof shall comply with all federal, state and local laws, ordinances and regulations, including the Michigan Tall Structures Act and all airport zoning requirements.
- (9) **FAA Standards.** All structures shall comply with applicable standards and regulations of the Federal Aviation Administration and any other state or federal agency having jurisdiction.
- (10) **Building Codes and Maintenance.** All structures constructed shall comply with the standards contained in applicable state and local building codes and shall be regularly maintained in good, safe working order.
- (11) **Tower Foundation.** All towers shall be permanently secured to a stable foundation, below grade, that supports the weight of the S-WECS tower.
- (12) **Tower Grounding.** All towers shall be grounded to protect against damage from lightning in accordance with the manufacturer's recommendation.
- (13) **Tower Appearance.** All wind turbines and towers shall be finished in a single, non-reflective matte finished color (white, gray or black), which minimizes the visual impact of the S-WECS.
- (14) **Ground to Blade Clearance.** The minimum vertical blade tip clearance from grade shall be 20 feet for a wind turbine employing a horizontal axis rotor (HAWT). Blade tip clearance is the distance from grade to the lowest point of the rotor's swept arc.

- (15) **Tower Construction.** A freestanding tubular monopole tower shall be required for any tower that is more than 50 feet in height. An anti-climbing device or design shall be used on all towers, regardless of their height.
 - (16) **Tower Graphics.** No portion of any tower or blades shall display any name, symbol, words, letters, advertising message, graphic representation or other written or pictorial matter. Nacelles may have lettering that exhibits the manufacturer's and/or owner's identification.
 - (17) **Power Lines.** All power lines from a S-WECS and connecting to a substation or grid, shall be underground, unless otherwise permitted by the Planning Commission through a special use permit.
 - (18) **Electromagnetic Interference.** No S-WECS shall be installed in any location where its proximity with existing fixed broadcast, re-transmission or reception antenna for radio, television or wireless phone or personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected parties that will restore reception to the level present before operation of the S-WECS. No S-WECS shall be installed in any location within the line of site of an existing microwave communication link where its operation is likely to produce electromagnetic interference in the link operation unless the interference is insignificant.
- E. **Inspections.** Upon the provision of reasonable prior notice to the site operator, the Township Zoning Administrator and/or his or her designated representative may inspect any property for which special land use or site plan approval has been granted pursuant to this section to determine whether the site complies with the applicable requirements of law and the terms of the special land use approval.
- F. **Prohibited Structures.** The following structures are prohibited as a part of any S-WECS regulated under the terms of this section:
- (1) S-WECS that are not designed or manufactured to professional codes such as the International Electrical Commission, specifically IEC 61400-1, "Wind Turbine Safety and Design" or IEC 61400-2, "Small Wind Turbine Safety," IEC 61400-22, "Wind Turbine Certification," and IEC 61400-23, "Blade Structural Testing," or any similar successor standards.
 - (2) S-WECS that do not comply with the standards of this section, the Township Zoning Ordinance or Building Code.

3.29 Large-Scale Residential Developments.

Certain large scale developments defined as "subdivisions" in Section 12.15.B of this Ordinance in the AG, SFR-L or R-M District shall be developed only as Open Space Planned Unit Developments in accordance with Chapter 12 of this Ordinance. The regulating of such development on an OS-PUD basis will enable the Township to control and moderate the size, scope and impact of such development.

CHAPTER 4 ZONING DISTRICTS

4.1 Establishment of Districts.

Nelson Township is hereby divided into the following districts:

AG	Agriculture
SFR-L	Single Family Residential - Low Density
R-M	Residential - Medium Density
PLR	Pine Lake Residential
C	Commercial
I	Industrial
NR	Natural River (overlay)
OS-PUD	Open Space Planned Unit Development
PUD	Planned Unit Development

4.2 Zoning Map.

The areas and boundaries of such districts noted in Section 4.1 are hereby established to scale as shown on a map entitled, Zoning Map of Nelson Township, and referred to herein as the “Zoning Map.” Said zoning map, together with everything shown thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

Regardless of the existence of copies of the zoning map which may be made or published, the official zoning map shall be located at the Nelson Township administration building and shall be the final authority as to the current zoning status in the Township. No amendment of this Ordinance which involves a change of a mapped zoning district, shall become effective until such change and entry has been made on the official zoning map. The official zoning map shall be identified by the signature of the Township Supervisor, and attested to by the Township Clerk.

4.3 Interpretation of District.

When uncertainty exists as to the boundaries of districts as shown on the zoning map, the following rules shall apply:

- A. Boundaries indicated as approximately following the centerline of roads, streets, highways, or alleys shall be construed to follow such centerline.

- B. Boundaries indicated as approximately following platted lot lines shall be construed to follow such lot lines.
- C. Boundaries indicated as approximately following Township boundaries shall be construed to follow Township boundaries.
- D. Boundaries indicated as following the shoreline or stream beds shall be construed to follow the generally established seasonal high water limit of such shoreline or stream bed, and in the event of a more than temporary or seasonal change in the shoreline or stream bed it shall be construed as moving with the newly formed/or established seasonal high water limit.
- E. Boundaries indicated as parallel to or extensions of features indicated in subsections A through D above shall be so construed. Distances not specifically indicated on the zoning map shall be determined by the scale of the official zoning map.
- F. Where physical or cultural features existing on the ground are at variance with those shown on the zoning map, or in other circumstances not covered by subsections A through E above, the Zoning Administrator shall interpret the district boundaries. Upon appeal, the Zoning Board of Appeals reserves the right to override the interpretation of the Zoning Administrator.

CHAPTER 5 AG AGRICULTURAL DISTRICT

5.1 **Intent.**

The AG Agricultural District is intended primarily for farms and single family dwellings and for the preservation of woodlands, wetlands and large and contiguous tracts of productive land. The district accommodates rural estate forms of residential development that will not interfere with or detrimentally affect agricultural operations and will preserve the overall rural character of the Township. To promote a very low density development pattern, cluster development forms shall be discouraged within the district.

5.2 **Uses Permitted by Right.**

Only the following uses are permitted by right:

- A. Farms for both generalized and specialized agricultural activities, and the sale, storage and processing of products produced by the owner of the premises.
- B. Animal husbandry, hatcheries, poultry farms, bee keeping, dairying and similar agricultural activities, in accordance with Section 3.3.
- C. Single family dwellings, including underground homes (refer to Sections 3.7 and 3.24) or other alternative energy-saving dwellings.
- D. State-licensed residential facilities and family day care homes licensed under Act 116 of the Public Acts of 1973 or Act 218 of the Public Acts of 1979, as amended, providing care or supervision to six or less persons; but not including facilities for the care and treatment of persons released from or assigned to an adult correctional institution.
- E. Neighborhood parks and playgrounds.
- F. Home occupations as permitted and regulated by Sections 3.11.A through 3.11.C.
- G. Small wind energy conversion systems which do not exceed 110 feet in height and which comply with the requirements of Section 3.28.
- H. Storage buildings for personal use, as permitted and regulated by Section 3.5.

5.3 **Special Uses.**

The following uses may be approved by the Planning Commission and are subject to the provision contained in Chapter 19, Special Uses.

- A. Migrant housing.
- B. Airfields, landing strips, and hangars.

- C. Golf courses.
- D. Removal of natural resources.
- E. Animal hospitals and veterinary clinics.
- F. Grain elevators.
- G. Private recreation areas.
- H. Farm implement sales, service, and rentals.
- I. Group day care homes licensed under Act 116 of the Public Acts of 1973 which are authorized to serve more than six persons but not more than 12 persons; provided that no such facility shall be closer than 1,500 feet to the property line of another group day care home or foster care facility.
- J. Churches.
- K. Kennels, private and commercial.
- L. Correctional institutions.
- M. Campgrounds.
- N. Home occupations as permitted and regulated by Sections 3.11.D through 3.11.F.
- O. Wind energy conversion systems which comply with Section 19.5.X including L-WECS (exceeding 110 feet in height) and certain S-WECS as provided by Section 3.28.
- P. Agritourism event business which complies with Section 19.5.Y.
- Q. Commercial greenhouses and commercial nurseries, in compliance with Section 19.5.Z.

5.4 **Accessory Buildings.**

Accessory buildings and structures may be permitted in accordance with Section 3.2.

5.5 **Height, Area and Access Regulations.**

The following regulations apply in the AG District:

- A. **Height.** No principle building shall exceed a height of 35 feet unless excepted by Section 3.9.
- B. **Lot Area.** There shall be a minimum lot area of not less than two acres.

- C. **Lot Width (Road Frontage).** All lots shall have a minimum lot width of 150 feet as measured at the road right-of-way line.
- D. **Front Yard.** There shall be a front yard of at least 50 feet as measured from the road right-of-way line.
- E. **Side Yard.** There shall be two side yards, and no side yard shall be less than 15 feet.
- F. **Rear Yard.** There shall be a rear yard of at least 50 feet.
- G. **Access.** Access to all lots shall be by means of a private driveway extending either (i) directly off of a public road or (ii) off of a private road that serves not more than four lots and has direct access to a public road. Private roads serving more than four lots shall not be permitted. Newly created points of access onto a public street shall be subject to the approval of the Kent County Road Commission.

CHAPTER 6
SFR-L SINGLE FAMILY RESIDENTIAL - LOW DENSITY DISTRICT

6.1 Intent.

The SFR-L Single Family Residential - Low Density District is intended for single family dwellings and associated low density residential uses. It encompasses areas where general farming is marginal, and where environmental constraints are not commonly present. To promote a very low density development pattern, cluster development forms shall be discouraged within the district.

6.2 Uses Permitted by Right.

Only the following uses are permitted by right:

- A. Single family dwellings, including underground homes (refer to Sections 3.7 and 3.24) or other alternative energy-saving dwellings.
- B. Neighborhood parks and playgrounds.
- C. Home occupations as permitted and regulated by Sections 3.11.A through 3.11.C.
- D. Agricultural uses, including farm operations for the production of crops, animal husbandry operations, hatcheries, poultry farms, beekeeping, dairying and similar uses as permitted and regulated by Section 3.3.
- E. State-licensed residential facilities and family day care homes licensed under Act 116 of the Public Acts of 1973 or Act 218 of the Public Acts of 1979, as amended, providing care or supervision to six or less persons; but not including facilities for the care and treatment of persons released from or assigned to an adult correctional institution.
- F. Small wind energy conversion systems which do not exceed 110 feet in height and which comply with the requirements of Section 3.28.
- G. Storage buildings for personal use, as permitted and regulated by Section 3.5.

6.3 Special Land Uses.

The following uses may be approved by the Planning Commission and are subject to the provision contained in Chapter 19, Special Uses.

- A. Removal of natural resources.
- B. Private recreation areas.
- C. Animal hospitals and veterinary clinics.

- D. Group day care homes licensed under Act 116 of the Public Acts of 1973 which are authorized to serve more than six persons but not more than 12 persons; provided that no such facility shall be closer than 1,500 feet to the property line of another group day care home or foster care facility.
- E. Golf courses.
- F. Institutional or public uses.
- G. Kennels, private and commercial.
- H. Campgrounds.
- I. Home occupations as permitted and regulated by Sections 3.11.D through 3.11.F.
- J. Wind energy conversion systems which comply with Section 19.5.X including L-WECS (exceeding 110 feet in height) and certain S-WECS as provided by Section 3.28.
- K. Agritourism event business which complies with Section 19.5.Y.
- L. Commercial greenhouses and commercial nurseries, in compliance with Section 19.5.Z.

6.4 **Accessory Buildings.**

Accessory buildings and structures may be permitted in accordance with Section 3.2.

6.5 **Height, Area and Access Regulations.**

The following regulations apply in the SFR-L District:

- A. **Height.** No principle building shall exceed a height of 35 feet unless excepted by Section 3.9.
- B. **Lot Area.** There shall be a minimum lot area of not less than two acres for each single family dwelling.
- C. **Lot Width (Road Frontage).** All lots shall have a minimum lot width of 150 feet as measured at the road right-of-way line.
- D. **Front Yard.** There shall be a front yard of at least 50 feet as measured from the road right-of-way line.
- E. **Side Yard.** There shall be two side yards, and no side yard shall be less than 15 feet.
- F. **Rear Yard.** There shall be a rear yard of at least 25 feet.

- G. **Access.** Access to all lots shall be by means of a private driveway extending either (i) directly off of a public road or (ii) off of a private road that serves not more than four lots and has direct access to a public road. Private roads serving more than four lots shall not be permitted. Newly created points of access onto a public street shall be subject to the approval of the Kent County Road Commission.

CHAPTER 7
R-M RESIDENTIAL – MEDIUM DENSITY DISTRICT

7.1 Intent.

The R-M Residential – Medium Density District is intended for single family, two family and multiple family residential development in areas where a need has been identified for higher density housing alternatives, such as duplexes, apartment buildings, foster care homes and senior housing. Provision of public water supply and sanitary sewer service to new residential developments shall be strongly encouraged. On-site water and sewer facilities shall be permitted only if it is shown that public services cannot reasonably be provided and that the soils are capable of supporting the on-site facilities.

7.2 Uses Permitted by Right.

Only the following uses are permitted by right:

- A. Single family dwellings.
- B. Neighborhood parks and playgrounds.
- C. Home occupations as permitted and regulated by Sections 3.11.A through 3.11.C.
- D. Agricultural uses, including farm operations for the production of crops, animal husbandry operations, hatcheries, poultry farms, beekeeping, dairying and similar uses as permitted and regulated by Section 3.3.
- E. State-licensed residential facilities and family day care homes licensed under Act 116 of the Public Acts of 1973 or Act 218 of the Public Acts of 1979, as amended, providing care or supervision to six or less persons; but not including facilities for the care and treatment of persons released from or assigned to an adult correctional institution.
- F. Small wind energy conversion systems which do not exceed 110 feet in height and which comply with the requirements of Section 3.28.

7.3 Special Uses.

The following uses may be approved by the Planning Commission and are subject to the provision contained in Chapter 19, Special Uses.

- A. Multiple family dwellings.
- B. Churches.
- C. Convalescent or nursing homes.

- D. Group day care homes licensed under Act 116 of the Public Acts of 1973 which are authorized to serve more than six persons but not more than 12 persons; provided that no such facility shall be closer than 1,500 feet to the property line of another group day care home or foster care facility.
- E. Private recreation areas.
- F. Meeting halls.
- G. Institutional or public uses.
- H. Home occupations as permitted and regulated by Sections 3.11.D through 3.11.F.
- I. Wind energy conversion systems which comply with Section 19.5.X including L-WECS (exceeding 110 feet in height) and certain S-WECS as provided by Section 3.28.

7.4 Accessory Buildings.

Accessory buildings and structures may be permitted in accordance with Section 3.2.

7.5 Height and Area Regulations.

The following regulations apply in the R-M District:

- A. **Height.** No principle building shall exceed a height of 35 feet unless excepted by Section 3.9.
- B. **Lot Area.** There shall be a minimum lot area of not less than one acre for each single family dwelling. The minimum lot area for two family and multiple family dwellings shall comply with the special land use requirements set forth in Section 19.5.A.
- C. **Lot Width (Road Frontage).** All lots shall have a minimum lot width of 110 feet as measured at the road right-of-way line.
- D. **Front Yard.** There shall be a front yard of at least 35 feet as measured from the road right-of-way line.
- E. **Side Yard.** There shall be two side yards, and no side yard shall be less than ten feet.
- F. **Rear Yard.** There shall be a rear yard of at least 25 feet.

**CHAPTER 7A
PLR PINE LAKE RESIDENTIAL DISTRICT**

7A.1 Intent.

The purpose of the Pine Lake Residential District is to provide and encourage proper development of land around a valuable resource of surface waters and lake environment. The District is generally intended for single family detached dwellings.

7A.2 Uses Permitted by Right.

Only the following are uses permitted by right:

- A. Single family dwellings.
- B. Home occupations as permitted and regulated by Sections 3.11.A through 3.11.C.
- C. Other residential uses expressly permitted by state law.
- D. Small wind energy conversion systems which do not exceed 110 feet in height and which comply with the requirements of Section 3.28.

7A.3 Special Uses.

The following uses may be approved by the Planning Commission and are subject to the provisions contained in Chapter 19, Special Uses.

- A. Neighborhood parks and playgrounds.
- B. Churches.
- C. Non-profit recreational uses and campgrounds.
- D. Home occupations as permitted and regulated by Sections 3.11.D through 3.11.F.
- E. Other residential uses expressly permitted as special uses by state law.
- F. Wind energy conversion systems which comply with Section 19.5.X including L-WECS (exceeding 110 feet in height) and certain S-WECS as provided by Section 3.28.

7A.4 Existing Lots and Uses.

In addition to and notwithstanding the provisions of Chapter 16 governing nonconforming uses and lots, a dwelling or accessory building which is not conforming because of setbacks, lot coverage, or lot area, may be rebuilt or altered so long as it is contained within the footprint of the foundation of the building existing as of June 1, 2008. In addition, any such buildings may be added to or extended beyond the footprint provided the addition or extension complies with the provisions of this Ordinance or any amendments thereto.

7A.5 Additional Developmental Standards for Accessory Buildings on Riparian Lots.

Accessory buildings on non-riparian lots are permitted subject to the provisions governing accessory buildings in Chapter 3. Notwithstanding and in addition to the provisions governing accessory buildings in Chapter 3 of this Ordinance, accessory buildings on riparian lots are subject to the following additional development standards.

A maximum of two detached accessory buildings shall be permitted on a single lot, as follows:

- A. One accessory building may be located in the lake yard of a dwelling, subject to the following restrictions:
 - (1) The accessory building shall be no larger than 200 square feet.
 - (2) The accessory building shall be set back at least 35 feet from the ordinary high water elevation of Pine Lake.
- B. Detached accessory buildings located in the roadside yard shall be set back at least ten feet from the public or private road right-of-way.
- C. Multiple accessory building located in the PLR District shall not exceed 1,500 square feet or 3 percent of the total area of the lot or parcel, whichever is greater.

7A.6 Height and Area Regulations.

In addition to Section 3.13, the following regulations apply in the PLR District:

- A. **Height.** No building or structure shall exceed a height of 35 feet unless excepted by Section 3.9.
- B. **Lot Area.** There shall be a lot area of at least 10,000 square feet for each single family dwelling or other permitted principal building.
- C. **Lot Width.** All lots shall have a minimum lot width of 100 feet as measured at the public street or private road right-of-way line.
- D. **Roadside Yard.** In the case of a lot having water frontage on Pine Lake, the front yard shall be considered a lakeside yard and shall consist of the area between the shoreline and building line of the main building. The rear yard shall be considered a roadside yard. The roadside yard setback for any such lot shall be at least 35 feet as measured from the road right-of-way. See Diagrams 7A, 7B, and 7C.
- E. **Lakeside Yard.** In the case of a lot having water frontage on Pine Lake, the front yard shall be considered the lakeside yard and shall consist of the area between the shoreline and the building line of the main building. The rear yard shall be considered a roadside yard. The lakeside yard for any such lot shall be at least 35

feet from the ordinary high water elevation of Pine Lake. See Diagrams 7A, 7B, and 7C.

- F. **Front Yard.** For lots without water frontage on Pine Lake, there shall be a front yard setback of at least 35 feet as measured from the road right-of-way line. In addition, lots with water frontage which have both a front yard and a lakeside yard as set forth in Diagram 7B and 7C, shall maintain a front yard setback of at least 35 feet as measured from the road right-of-way line.
- G. **Rear Yard.** For lots without water frontage on Pine Lake, there shall be a rear yard setback of at least 25 feet.
- H. **Side Yard.** There shall be two side yards, and no side yard shall be less than ten feet.
- I. **Lot Coverage.** All principal buildings must conform to Section 3.7 of the Zoning Ordinance. In addition, the footprint of the principal building shall not exceed 30 percent of the lot size.
- J. **Accessory Buildings.** In addition to the foregoing regulations, accessory buildings in the PLR District shall not be located closer than five feet from any side lot line nor closer than ten feet from any rear lot line.

7A.7 Fence Regulations.

- A. Fences located parallel to the shoreline of Pine Lake, in a yard abutting the shoreline, shall not exceed three feet in height and shall be set back a minimum of 20 feet from the ordinary high water elevation of Pine Lake, provided, however, a fence subject to these regulations may be four feet in height provided the entire fence is made of chain link or other similar transparent material.
- B. Fences perpendicular to the shoreline of Pine Lake shall not exceed six feet in height and shall be set back a minimum of ten feet from the ordinary high water elevation of Pine Lake. Between ten and 20 feet from Pine Lake the fence shall not exceed three feet in height unless the entire fence is made of chain link or other similar transparent material, in which the case the fence shall not exceed four feet in height. Fences which are set back at least 20 feet from the ordinary high water elevation of Pine Lake may not exceed a maximum of six feet in height.
- C. Fences near the roadway shall not be erected or maintained in such a way as to obstruct the clear vision of vehicle drivers and shall be constructed of usual and customary fencing materials and shall at all times be maintained in good condition and repair.

CHAPTER 8
INTERCHANGE/FREEWAY MIXED USE DISTRICT

8.1 Intent.

It is the intent of this Ordinance to designate certain portions of the Township for manufactured housing communities, commercial businesses and services, industrial services and other types of businesses that have large land and accessibility needs, and are generally not compatible with small scale retail shopping and service establishments or larger scale shopping centers, but also to permit agricultural use of these lands in order to preserve these areas for more intensive uses as the Township develops.

8.2 Uses Permitted by Right.

Land and/or buildings in this district may be used for the following purposes as of right:

- A. Manufactured housing communities in compliance with Sections 8.4 through 8.6 of this Ordinance.
- B. Uses permitted and as regulated in the I Industrial District.
- C. Uses permitted and as regulated in the AG Agricultural.
- D. Accessory parking areas and parking areas as a principal use, and accessory signs.
- E. Accessory uses normally incidental to a permitted principal use, including incidental minor repairing, assembly or fabrication.
- F. Small wind energy conversion systems which do not exceed 110 feet in height and which comply with the requirements of Section 3.28.

8.3 Special Land Uses.

The following uses may be approved by the Planning Commission and are subject to the provisions contained in Chapter 19 of this Ordinance, Special Uses.

- A. Uses permitted only as a special land use in the I Industrial District.
- B. Wind energy conversion systems which comply with Section 19.5.X including L-WECS (exceeding 110 feet in height) and certain S-WECS as provided by Section 3.28.

8.4 Manufactured Housing Community Design Requirements.

All manufactured housing communities shall comply with the following design requirements:

A. Access and Roads.

- (1) The community's internal roads shall have access to a public thoroughfare or shall be connected to a public thoroughfare by a permanent easement.
- (2) Two access points shall be provided to a public thoroughfare to allow a secondary access for emergency vehicles. A boulevard entrance extending to the first intersection of a community road shall be interpreted as satisfying this requirement.
- (3) All internal roads shall be constructed of concrete or bituminous asphalt and supported by a suitable subgrade in compliance with the standards of the American Association of State Highway and Transportation Officials ("AASHTO").
- (4) An internal road that has no exit at one end shall terminate with an adequate turning area. Parking shall not be permitted within the turning area.
- (5) Safe-sight distance shall be provided at intersections.
- (6) An offset at an intersection or an intersection of more than two internal roads is prohibited.
- (7) The following types of internal roads shall have driving surfaces that are not less than the following widths:
 - (a) One-way, no parking 16 feet
 - (b) Two-way, no parking 21 feet
 - (c) One-way, parallel parking, one side 23 feet
 - (d) One-way, parallel parking, two sides 33 feet
 - (e) Two-way, parallel parking, one side 31 feet
 - (f) Two-way, parallel parking, two sides 41 feet
- (8) All entrances to communities that have 300 or more home sites shall be a minimum of 30 feet in width. The entrance shall consist of an ingress lane and a left and right egress turning lane at the point of intersection between a public road and the community's internal road, and shall be constructed as follows:
 - (a) All turning lanes shall be a minimum of ten feet in width and 60 feet in depth, measured from the edge of the pavement of the public road into the community.

- (b) The turning lane system shall be tapered into the community internal road system commencing at a minimum depth of 60 feet.
 - (c) The ingress and right egress turning lanes of the ingress and egress road shall connect to the public road with a curved line that has a minimum radius of 15 feet. The intersection of the public road and ingress and egress road shall not have squared corners.
- (9) An orderly street name system and unit numbering system shall be established by the community owner and the plan of such system approved by the Township. Manufactured home space numbers shall be located uniformly on each space, housing unit or identification marker, throughout the community, and street names shall be adequately marked at all internal road intersections.
- (10) Appropriate traffic control signs shall be provided on all internal roads, and a regulation stop sign shall be installed at the point of intersection with a public road, unless a traffic control device is provided.

B. Driveways.

- (1) Improved hard-surface driveways shall be provided on the site where necessary for convenient access to service entrances of buildings, and at delivery and collection points for fuel, refuse, and other materials.
- (2) The minimum width of driveways shall be ten feet. The entrance to the driveway shall have the flare or radii, and horizontal alignment for safe and convenient ingress and egress.

C. Resident Vehicle Parking.

- (1) All home sites shall be provided with two parking spaces.
- (2) If vehicle parking is provided on the home site, it shall be in compliance with both of the following provisions:
 - (a) The parking space shall be constructed of concrete or bituminous asphalt and supported by a suitable subgrade in compliance with the standards of AASHTO.
 - (b) The parking spaces may be either in tandem or side by side. If spaces are in tandem, then the width shall not be less than ten feet and the combined length shall not be less than 40 feet. If spaces are side by side, then the combined width of the two parking spaces shall not be less than 19 feet and the length shall be not less than 20 feet.
- (3) If the two resident vehicle parking spaces required by this section are provided off the home site, then the parking spaces shall be within 30 feet of

the home site and each parking space shall have a clear parking width of ten feet and a clear length of 20 feet.

- (4) If parking bays are provided for resident vehicle parking, they shall contain individual spaces that have a clear parking width of ten feet and a clear length of 20 feet.

D. Visitor Parking Facilities.

- (1) A minimum of one parking space for every three home sites shall be provided for visitor parking.
- (2) Visitor parking shall be located within 500 feet of the home sites the parking is intended to serve, as measured along a road or sidewalk.
- (3) If parking bays are provided for visitor parking, they shall contain individual spaces that have a clear parking width of ten feet and a clear length of 20 feet.

E. Sidewalks.

- (1) Sidewalks shall be constructed in the community and maintained for the safe and convenient movement from all home sites to principal destinations within the community and connection to the public sidewalks outside the community. Sidewalks shall be installed along one side of all internal collector roads within the community and to the public right-of-way and to all service facilities including but not limited to central laundry, central parking, and recreation areas. Sidewalks shall also be required along that portion of a community fronting along public thoroughfares.
- (2) All sidewalks shall be constructed in compliance with all of the following requirements:
 - (a) Sidewalks shall have a minimum width of four feet and shall be constructed in compliance with Act 8 of the Public Acts of 1973, being Section 125.1361 *et. seq.* of the Michigan Compiled Laws, an act which regulates sidewalks for handicappers.
 - (b) All sidewalks shall meet the standards established in Rule 928 of the Manufactured Housing Commission Rules and AASHTO standards.
- (3) An individual sidewalk with a minimum width of three feet shall be constructed between at least one entrance, or patio, porch, or deck if provided, and the parking spaces on the home site or parking bay, whichever is provided, or the common sidewalk.

F. Lighting.

- (1) Access points shall be lighted. If the public thoroughfare is lighted, then the illuminated level shall not be more than the average illumination level of the adjacent illuminated thoroughfare.
- (2) At all internal road intersections and designated pedestrian crosswalks, the minimum illumination shall not be less than .15 foot candle.
- (3) Internal roads, parking bays, and sidewalks shall be illuminated at not less than .05 foot candle.
- (4) If a community directory is provided, then it shall be illuminated at not less than 3.15 horizontal foot candles on any entry on the directory.

G. Utilities.

- (1) All electrical, telephone, cable television, natural gas, and other utility services shall be installed underground and specifically designed in conformance with the Manufactured Housing Commission Rules. When separate meters are installed, each meter shall be located in a uniform manner on each housing site.
- (2) All manufactured housing sites and all other buildings within the community shall be connected to the water system of the Township, if it is available to the community, or to another state-approved system. The community water system shall conform to Parts 2-4 of the Michigan Department of Environmental Quality manufactured housing community standards.
- (3) Fire hydrants shall be installed in all communities for which public water systems are available and shall be in compliance with the requirements and provisions of the fire code. There shall be no more than 500 feet between hydrants as measured along adjacent roadways within the community.
- (4) All manufactured housing sites and all other buildings within the community shall be connected to the sanitary sewage system of the Township, if it is available to the community, or to another state-approved system. The community's sanitary sewage system shall conform to the Michigan Department of Environmental Quality manufactured housing community standards.
- (5) All storm sewers shall be constructed in accordance Parts 2-4 of the Michigan Department of Environmental Quality manufactured housing community standards. Additional requirements for a community may be established by the Kent County Drain Commissioner, pursuant to Section 11(3) of Public Act 96 of 1987, as amended.

H. **Site Size, Spacing and Setback Requirements.**

- (1) **Home Site Area.** The manufactured housing community shall be developed with sites averaging 5,500 square feet per manufactured housing unit. This 5,500 square feet average may be reduced by 20 percent provided that each individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of the average site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space. This open space shall be in addition to that required under R 125.1946, Rule 946 and R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code, and Section 8.4.J of this chapter.
- (2) **Required Distances Between Homes and Other Structures.**
 - (a) Home sites shall be arranged to allow for, and manufactured homes shall be located to comply with, all of the following minimum separation distances, as measured from the wall/support line or foundation line, whichever provides the greater distance:
 - (i) For a home not sited parallel to an internal road, 20 feet from any part of an attached structure of an adjacent home that is used for living purposes.
 - (ii) For a home sited parallel to an internal road, 15 feet from any part of an attached structure of an adjacent home that is used for living purposes if the adjacent home is sited next to the home on the same internal road or an intersecting internal road.
 - (iii) Ten feet from either of the following:
 - (I) The parking space on an adjacent home site.
 - (II) An attached or detached structure or accessory of an adjacent home that is not used for living purposes.
 - (iv) Fifty feet from permanent community-owned structures, such as either of the following:
 - (III) Club houses.
 - (IV) Maintenance and storage facilities.
 - (v) One hundred feet from a baseball or softball field.
 - (vi) Twenty five feet from the fence of a swimming pool.

- (b) Attached or detached structures or accessories that are not used for living space shall be a minimum of ten feet from an adjacent home or its adjacent attached or detached structures.
- (c) Any part of an accessory structure, such as steps, porches, supported or unsupported awnings, decks, carports or garages, or similar structures shall be set back the following minimum distances:
 - (i) Ten feet from the edge of an internal road.
 - (ii) Seven feet from a parking bay off a home site.
 - (iii) Seven feet from a common sidewalk.
 - (iv) Twenty five feet from a natural or man-made lake or waterway.
- (d) A carport shall be in compliance with both of the following setbacks if it is completely open, at a minimum, on the two long sides and the entrance side:
 - (i) Support pillars that are installed adjacent to the edge of an internal road shall be set back four feet or more from the edge of the internal road or two feet or more from the edge of a sidewalk.
 - (ii) Roof overhangs shall be set back two feet or more from the edge of the internal road.
- (e) Steps and their attachments shall not encroach into parking areas more than three and one-half feet.

(3) Setbacks From Property Boundary Lines.

- (a) Homes, permanent buildings and facilities, and other structures shall not be located closer than 20 feet from the property boundary line of the community.
- (b) If homes, permanent buildings and facilities, and other structures abut a public right-of-way, then they shall not be located closer than 50 feet from the boundary line. If the boundary line runs through the center of the public road, then the 50 feet shall be measured from the road right-of-way line.

I. **Screening/Landscaping.** Manufactured housing communities shall be landscaped as follows:

- (1) If a manufactured housing community abuts an existing residential development, the community shall be required to provide screening along the boundary abutting the residential development.
- (2) If the community abuts a non-residential development, it need not provide screening.
- (3) In all cases, however, a community shall provide screening along the boundary abutting a public right-of-way.
- (4) The landscaping shall consist of evergreen trees or shrubs at least three feet in height which are spaced so they provide a continuous screen at maturity. Alternative screening devices may be utilized if they conceal the manufactured housing community as effectively as the required landscaping described above.
- (5) Exposed ground surfaces in all parts of the community shall be paved or covered with ornamental stone or protected with grass, trees, or shrubs that are capable of preventing soil erosion. The ground surface and all parts of the community shall be graded and equipped to drain all surface water in a safe and efficient manner.

J. **Open Space Requirements.**

- (1) A community that contains 50 or more sites shall have not less than 2 percent of the community's gross acreage dedicated to designated open space, but in no case less than 25,000 square feet. At least one-half of the required open space, up to two acres, shall be dedicated to community recreation uses, such as, but not limited to, picnic areas, athletic fields, playgrounds, walking trails, shuffleboard courts and lawn game areas.
- (2) Required setbacks may not be used in the calculation of open space area.

K. **Site Constructed Buildings and Dwellings.**

- (1) Site constructed buildings within the community such as community buildings or laundries, but not including manufactured homes and their accessory storage buildings, shall be reviewed by the Township at the time of submission for a building permit, unless approved as part of the original plan for the community.
- (2) The maximum height of any community or similar building shall not exceed 25 feet, or two stories in height, whichever is less. Storage or service buildings shall not exceed 15 feet, or one story in height.

- (3) Community or service buildings shall not be located adjacent to an adjoining parcel that is either zoned or developed for single family residential purposes.
- (4) Site-built single family dwellings may be located in a community as follows:
 - (a) One single family dwelling may be permitted for the exclusive use of the community owner or manager in a community of 30 acres or less.
 - (b) Two single family dwellings may be permitted for the exclusive use of the community owner, manager, or caretaker in a community in excess of 30 acres.
 - (c) Any such single family dwellings permitted under this section shall comply in all respects with the requirements of single family dwellings in the SFR-L, Single Family Residential-Low Density District.

L. **Signs.** There shall be a maximum of one sign per road frontage with an entrance which shall bear only the name of the community. Such a sign shall be located from the street a distance equal to the setbacks established in Rule 944(2) of the Manufactured Housing Commission Rules. The sign may be lighted, provided that the source of the light is not visible and is not of the flashing or intermittent type. One sign, not exceeding 32 square feet in area shall be permitted for the first entrance provided to the community. For multiple entrances, a 16 square foot sign shall be permitted at each entrance after the first. Signs may be double-faced, but each side of the sign shall have identical copy and be flush with the other side.

M. **RV Storage.** If boats, boat trailers and utility trailers are permitted to be parked within the manufactured housing community, adequate parking spaces for such vehicles in a central or collective parking area shall be provided. This area shall be in addition to the automobile parking requirements of this Ordinance and shall be adequately locked, fenced and permanently buffered.

N. **Compliance with Regulations.** The design, layout, construction and use of a manufactured housing community shall in all other respects comply with the regulations on the design, construction and use of manufactured housing communities, the sale and leasing of manufactured housing lots and all other aspects of the construction and use of manufactured housing communities, as set forth in the rules of the Michigan Manufactured Housing Commission, as amended from time to time.

8.5 **Manufactured Homes Within Manufactured Housing Communities; Operation of Communities.**

A. **Home Size.** A manufactured home within a community shall not have less than 760 square feet of area, as measured by its outside dimensions, nor have an outside width of less than 13 feet.

- B. **Installation.** The installation of manufactured housing on each site within the community shall conform with the requirements of Rule 602 and Rule 602A of the Manufactured Housing Commission Rules. All utility connections to homes within the community shall be performed in accordance with the requirements of Rule 603 of the Manufactured Housing Commission Rules.
- C. Skirting shall be installed around all manufactured housing units and meet all of the following requirements:
- (1) Such skirting shall be compatible aesthetically with the appearance and construction of the manufactured housing unit. All skirting shall be installed prior to the issuance of a certificate of occupancy. In the event that such installation is delayed due to weather, or for other similar reasons, a temporary certificate of occupancy may be issued for a period not to exceed 90 days. All skirting shall meet the requirements established by the rules of the Michigan Manufactured Housing Commission.
 - (2) Individual manufactured housing units shall be skirted around the perimeter of the manufactured housing unit to conceal the underbody from view. Skirting shall be vented in accordance with the requirements of Rule 604 of the Manufactured Housing Commission Rules. All skirting shall be manufactured of fire resistant material and certified as such by the manufacturer. Skirting shall be installed in a manner so as to resist damage under normal weather conditions and shall be properly maintained.
- D. No personal property shall be stored outside, under any mobile home or within carports which are open on any side. Storage sheds with a maximum area of 144 square feet may be placed upon any individual mobile home site.
- E. Towing mechanisms shall be removed from all homes at the time of installation and stored so as not to be visible from the exterior of the community.
- F. A manufactured home shall be used only as a single family dwelling.
- G. No manufactured home shall be occupied for dwelling purposes unless it is placed on a site or lot and connected to water, sanitary sewer, electrical, and other facilities as may be necessary, prior to building official inspection and approval.
- H. New or pre-owned manufactured homes, which are to remain on-site in the manufactured housing community, may be sold by the resident, owner or a licensed dealer or broker, provided that manufactured housing development management permits the sale.
- I. The owner or operator of any community shall be responsible for all street maintenance within the confines of the community and shall be responsible for all snow removal within the confines of the community and shall be responsible for picking up trash and garbage within the confines of the community.

- J. Swimming pools, if provided, shall be in compliance with Act 368 of the Public Acts of 1978, as amended, and the rules promulgated thereunder.
- K. Individual fuel oil, liquid petroleum, or other fuel tanks or personal property shall not be permitted to be stored in or under any home.
- L. Each home site shall be provided with approved garbage containers that meet the requirements of the Manufactured Housing Commission. The containers shall be kept in sanitary conditions at all times. It shall be the responsibility of the community operator to ensure that all garbage containers do not overflow and to ensure that all areas within the community are maintained free from any trash or other discarded materials.
- M. Every community shall be equipped with fire extinguishment equipment in good working order, with type, size and number so located as to be in compliance with Rule 702A of the Manufactured Housing Commission Rules. Each fire extinguisher shall be periodically examined and kept at all times in a useable condition in compliance with the regulations of the State Police Fire Marshal Division.

8.6 **Review and Approval of Preliminary Manufactured Housing Community Plans.**

- A. **Review.** Prior to the establishment of a new manufactured housing community, an expansion of a manufactured housing community, or construction of any building within the community not previously approved, a plan shall be presented to the Planning Commission for its review and approval.
- B. **Application.** All plans submitted to the Planning Commission for review under this section shall contain the following information:
 - (1) The date, north arrow and scale. The scale shall not be less than 1"=50' for property under three acres and at least 1"=100' for those three acres or more.
 - (2) All site and/or property lines are to be shown in dimension.
 - (3) The location and height of all existing and proposed structures on and within 500 feet of the subject property.
 - (4) The location and dimensions of all existing and proposed internal drives, sidewalks, curb openings, signs, exterior lighting, parking areas (showing dimensions of a typical parking space), unloading areas, community buildings, open space and recreation areas.
 - (5) The location and the pavement and right-of-way width of all abutting roads, streets, or alleys.
 - (6) The name and firm address of the registered civil engineer, registered landscape architect, or other registered professional responsible for the preparation of the site plan.

- (7) The name and address of the property owner and developer.
- (8) The location of all rubbish receptacles and landscaping and the location, height, and type of fences and walls.
- (9) Location of all fire hydrants, if applicable.
- (10) The number of manufactured housing sites proposed.
- (11) The submittal shall contain a narrative of the arrangements to be made for water supply and sewage disposal service, including approximate capacity, source of water supply, discharge points for sewage disposal, and description of storm water management facilities.
- (12) Utility and other easements.
- (13) Clusters of trees and existing individual trees over 24 inches in diameter.
- (14) Existing wetlands.
- (15) Proposed sign locations.
- (16) All required setbacks for front, side and rear yards.

Provided, however, that detailed construction plans shall not be required to be submitted to the Township.

C. **Fee.** Fees for the review of a manufactured housing community plan shall be established by resolution of the Township Board.

D. **Decision.**

- (1) The plan shall be reviewed by the Planning Commission for compliance with the design standards for manufactured housing communities contained in this chapter, and the regulations of the State Manufactured Housing Commission. If it is determined that the manufactured housing community complies with the ordinance and regulations, it shall be approved.
- (2) The plan shall be approved, approved with conditions, or denied within 60 days after received by the Township, unless the applicant consents to allow a longer period of review.

CHAPTER 9 C COMMERCIAL

9.1 **Intent.**

The commercial district is intended to meet the shopping and service needs of the residential community.

9.2 **Uses Permitted by Right.**

Only the following uses shall be permitted by right:

- A. Retail sales of goods and merchandise such as a drug store, food store, hardware store, variety store, clothing store, dry goods store, produce store, jewelry or gift shop, retail bakery shop, video sales and rental appliance store, or furniture store.
- B. Personal service uses such as a flower shop, restaurant, barber shop, beauty salon, professional offices, music or dance studio, photographic salon, shoe repair, household appliance service, bank, post office, drinking establishment, or pet shop.
- C. Accessory parking areas and parking areas as a principal use, and accessory signs.
- D. Accessory uses normally incidental to a permitted principal use, including incidental minor repairing, assembly or fabrication thereof and up to a maximum of five amusement devices such as video games, pinball machines or other amusement devices.
- E. Existing single family dwellings and existing residential accessory buildings.
 - (1) For purposes of this subsection, existing dwellings and existing residential accessory buildings mean such dwellings and such accessory buildings that existed at the effective date of the zoning ordinance amendment that added this subsection E to Section 9.2.
 - (2) Any additions to or expansions of such existing single family dwellings and such existing residential accessory building shall comply with minimum building setback requirements of the SFR-L District.
 - (3) New residential accessory buildings may be constructed and used, but they shall comply with the minimum building setback requirements for accessory buildings in the SFR-L District.
 - (4) In the event that any existing single family dwelling or any existing residential accessory building is destroyed by fire or other casualty, whether in whole or in part, such existing dwelling or such existing residential accessory building may nevertheless be repaired, restored, rebuilt or replaced, upon compliance with the Township Building Code and other applicable requirements. Any such replacement buildings may be of an area different

from that of the former buildings, but they shall comply with the minimum building setback requirements of the SFR-L District.

- F. Small wind energy conversion systems which do not exceed 110 feet in height and which comply with the requirements of Section 3.28.
- G. Farms for both generalized and specialized agricultural activities, and the sale, storage and processing of products produced by the owner of the premises.

9.3 **Special Uses.**

The following uses may be approved by the Planning Commission and are subject to the provision contained in Chapter 19, Special Uses.

- A. Churches and schools.
- B. Adult care facilities.
- C. Animal hospitals and veterinary clinics.
- D. Outdoor automobile sales.
- E. Vehicle repair shops or gas stations.
- F. Dry cleaning or laundry facilities with community sewer.
- G. Sale of unoccupied mobile homes.
- H. Indoor commercial recreational facilities.
- I. Outdoor motion picture theaters.
- J. Adult uses.
- K. Lumber yards.
- L. Hotels and motels.
- M. Junkyards.
- N. Wind energy conversion systems which comply with Section 19.5.X including L-WECS (exceeding 110 feet in height) and certain S-WECS as provided by Section 3.28.
- O. Commercial greenhouses and commercial nurseries, in compliance with Section 19.5.Z.
- P. Mini-warehousing and self storage.

9.4 **Height and Area Regulations.**

The following requirements are the minimum permitted in the C District:

- A. **Height.** No building shall exceed a height of 35 feet.
- B. **Front Yard.** There shall be a front yard of at least 25 feet. Canopies or marquees which are at least seven and one half feet above the ground level are exempt from the setback requirement.
- C. **Side Yard.** Where a side yard is provided, it shall be at least five feet in width.
- D. **Rear Yard.** There shall be a rear yard of at least ten feet.
- E. **Lot Area.** No minimum required.
- F. **Lot Width.** No minimum required.
- G. **Site Plan.** Site development plan approval is required for all structures and parking areas.
- H. **Buffers.** Where a commercial district is adjacent to a residential district, there shall be provided and maintained a buffer of no less than ten feet in width. Each buffer shall be located adjacent to the residential district. Parking areas adjacent to residential district shall be screened in accordance with the provisions of Chapter 14, Parking and Loading.

CHAPTER 10 I INDUSTRIAL

10.1 Intent.

The zone is intended to permit industrial uses which are not unreasonably offensive, hazardous, or debilitating to surrounding property or the community through the effects of noise, smoke, odor, dust, dirt, noxious gases, vibration, glare, heat, fire hazards, industrial wastes, or traffic. In those instances where there may be doubt regarding the effect of the operation, the Planning Commission may require the prospective operator to demonstrate, through the use of qualified technical persons and acceptable testing techniques, that protective devices shall be utilized that will categorically assure the control of the questioned factors. Land and/or buildings in this district may be used for the following purposes:

- A. Processing of agricultural products.
- B. Food and kindred products.
- C. Chemicals and processing of chemical products such as plastics, synthetic fibers, and cosmetics.
- D. Wood and wood products, including sawmills and planing mills.
- E. Metals and metal products, including metal plating.
- F. Glass and glass products.
- G. Paper and paper products.
- H. Insulation manufacture.
- I. Rubber and rubber products.
- J. Automotive assembly, including major repair.
- K. Textile mill products, such as woven fabric, knitted goods, floor coverings, yarn, and thread.
- L. Apparel and similar products made from fabrics, leather, fur, canvas, and similar material.
- M. Prefabricated structural wood products, containers, and lumberyards, but excluding sawmills.
- N. Furniture and fixtures.
- O. Printing, publishing, and allied industries.
- P. Drugs and pharmaceutical products.

- Q. Electrical machinery, equipment, and supplies.
- R. Fabricated metal products.
- S. Tool and die shop and screw machine products.
- T. Metal bending and welding.
- U. Central dry cleaning or laundry.
- V. Building trades contractors.
- W. Research and development and testing laboratories.
- X. Warehousing and general storage.
- Y. Truck and trailer and heavy equipment sales, leasing and rental.
- Z. Mini-warehousing and self storage.
- AA. Wholesale establishments.
- BB. Retail sales where such use is clearly incidental to the primary use and where the area devoted to retail sales does not exceed 15 percent of the total floor area.
- CC. Offices, provided they are incidental to an industrial use located on the same site.

10.2 Special Uses.

The following uses may be permitted but are subject to the provisions and conditions outlined in Chapter 19.

- A. Auction houses if operation ceases before midnight and is wholly enclosed within a building.
- B. Gasoline service stations.
- C. Livestock auctions not closer than 500 feet to any residential district.
- D. Freestanding office buildings located on substandard parcels or lots in existence prior to the effective date of this Ordinance.
- E. Processing and removal of natural resources.
- F. Sanitary landfills, provided such facilities are a minimum of 1,000 feet from a residential district.
- G. Vehicle repair shops.

- H. Junkyards and salvage yards.
- I. Recycling centers.
- J. Other industrial uses.
- K. Small wind energy conversion systems which do not exceed 110 feet in height and which comply with the requirements of Section 3.28.
- L. Wind energy conversion systems which comply with Section 19.5.X including L-WECS (exceeding 110 feet in height) and certain S-WECS as provided by Section 3.28.

10.3 Height and Area Regulations.

All operations and storage shall be conducted wholly within the confines of a building or behind a solid screening wall or fence of adequate height to obscure the view of any such operation or outdoor storage from a street or adjacent property, provided that the outdoor storage of natural resources, coal, new equipment, and new material may utilize required side yard and rear yard space if it is not adjacent to a residential district. The following requirements shall also be met:

- A. **Height.** No building shall exceed a maximum of 40 feet in height.
- B. **Yards.** Every permitted use shall provide a front yard of at least 60 feet, and rear and side yards of at least 50 feet each

Where an industrial lot abuts a residential zone, no building or storage area for material and/or equipment shall be located closer than 100 feet to the residential zone and further, no vehicle parking and loading areas shall be located within 25 feet of the adjacent residential zone and a screening shall be installed pursuant to the provisions of Chapter 14.

The yard areas required above shall be the minimum that are required and may be further subject to the other provisions of this Ordinance, the Building Code, and the fire marshal who may impose greater requirements when they are necessary to ensure proper and safe access for fire control vehicles and equipment around the perimeter of the building.

- C. **Lot Dimensions.** Each lot shall have a minimum width of 200 feet exclusive of street rights-of-way and shall contain a minimum of 43,560 square feet. The minimum lot width for corner lots shall be 200 feet on each street.
- D. **Parking and Loading.** Parking and loading is permitted in all yards. Parking and loading and the screening of such areas shall be provided as required in Chapter 14.
- E. **Landscaping and Outdoor Storage.** All outdoor storage areas and any required screening wall or fence shall be maintained in good order and repair so as not to

constitute a safety or fire hazard nor to constitute a junk yard as defined by this Ordinance. All unpaved areas other than designated storage areas shall be landscaped or otherwise provided with natural flora in a manner to avoid dust or erosion of the soils. Unpaved areas other than vehicles on designated storage areas shall not be used for storage or collection of material or equipment and shall be regularly maintained.

- F. **Site Plan.** Site development plan approval is required for all nonresidential and nonagricultural structures and parking areas.

10.4 Performance Standards.

As part of site development plan review, the Planning Commission shall make findings of fact relative to the following performance standards and no occupancy permit shall be granted unless the applicant demonstrates that the use will meet the standards once the use is in operation.

- A. **Fire and Explosion Hazards.** All buildings, storage, and handling of flammable materials, and other activities shall conform to county and Township building and fire ordinances and to any applicable state and federal regulations or requirements. No use of any building shall in any way represent a fire or explosion hazard to a use on adjacent property or to the public on a public street.
- B. **Smoke, Fumes, Gases, Dust, and Odors.** There shall be no emission of any smoke, radiation, fumes, gases, dust, odors, or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot occupied by such use in such a manner as to cause property damage or hazards to public health or to be detrimental to the property rights of other property or to be obnoxious to the general public.
- C. **Liquid or Solid Waste.** No industrial operations shall directly discharge industrial waste of any kind into any river, stream, reservoir, pond or lake. All methods of sewage disposal and industrial waste treatment and disposal shall be approved by the Township and by the county and Michigan State Health Departments.
- D. **Vibration.** There shall be no vibration which is discernible to the human sense of feeling beyond the boundaries of the immediate site on which such use is conducted.
- E. **Noise.** There shall be no noise emanating from the operation which will adversely affect an adjoining permitted use.
- F. **Glare.** There shall be no direct or sky-reflected glare harmful to the human eye at the property line of the lot occupied by such use.
- G. **Utilities.** Any use in this district must connect to public water and sewer if available. If public water and sewer are not available, a private system must be provided as approved by the Township Engineer.

CHAPTER 11
NR NATURAL RIVER OVERLAY

11.1 NR Natural River (Overlay District) Intent.

In accordance with the Rogue River Management Plan, as contained in the *Natural River Report: Rogue River*, prepared by the Michigan Department of Natural Resources and adopted by the Michigan Natural Resources Commission in 1973, and under the authority of P.A. 231 of 1970, the natural river overlay district is hereby established to preserve and enhance the Rogue River watershed, including certain tributaries, especially for its values for water conservation, fish, wildlife, natural scenic beauty, floodplain preservation, and recreation potential.

Henceforth, this district shall regulate the use of land and the bulk requirements along the designated Rogue River tributaries known as Duke and Cedar Creeks. This district comprises the lands lying within 300 feet from the ordinary high water mark on each side of and paralleling the above-mentioned tributaries.

11.2 Special Use and Development Guidelines for the Natural River (NR) District.

The natural river district is established as an overlay zoning district. Such district is construed as not to be a separate and distinct district, but a secondary district which overlays those parts of the primary districts which are adjacent to Duke and Cedar Creeks. In all cases, applicants for building permits and special use permits in this overlay district must meet all the requirements of the primary district, and in addition, must conform to the specific provisions, requirements and restrictions herein provided for the natural river district. Where there is conflict between other provisions of this Ordinance and those specifically applied to the natural river overlay district, the latter shall control.

11.3 Uses Permitted by Right.

Same uses as listed in the primary zoning district, except that no new commercial or industrial structures, uses, or additions, shall be permitted within the limits of the overlay district.

11.4 Uses Permitted by Special Use Permit of Planning Commission.

Same as special uses listed in primary zoning district, except no new commercial or industrial structures, uses, or additions, shall be permitted within the limits of the overlay district.

11.5 Conditions of Approval.

All building permits issued by Nelson Township shall be subject to conformance with the following:

- A. **Minimum Required Stream Frontage Building and Septic Field Setbacks (for new structures and septic fields or additions).** All setbacks from the stream's edge of Duke and Cedar Creeks shall be a minimum of 100 feet.
- B. **Lots.** All lots located, in whole or in part, in the Natural River Overlay District, shall have a minimum lot width of 150 feet as measured at the road right-of-way line.
- C. **Site Design and Screening Option for Existing Structures.** While not required, all existing structures are encouraged to be developed using natural materials and unobtrusive colors. All existing structures within direct view from Duke and Cedar Creeks are encouraged to provide a natural screen of native vegetation between the structure and the stream's edge.
- D. **Cutting, Filling, or Building in a Flood Plain Prohibited.** All cutting, filling in, or construction made into or upon the topography of the flood plain area of the NR District is prohibited.
- E. **Minimum Depth of Highest Ground Water Table.** Building sites within the NR District must be on land where the seasonally highest water table is at least six feet from the surface.
- F. **Stream Alteration Prohibited.** No damming, dredging, filling or channelization in Duke or Cedar Creek shall be permitted. Water withdrawal shall be permitted in accordance with the riparian doctrine of reasonable use.
- G. **Utilities.**
 - (1) Gas, oil pipeline and electric transmission lines shall not be permitted to extend across the NR District, except on existing utility rights-of-way without first obtaining prior written approval from the Michigan Natural Resources Commission.
 - (2) Local service utilities shall not be located within the minimum required stream frontage setback.
- H. **Signs.** Only local signs necessary for (a) identification, (b) direction, (c) resource information, and (d) regulation, shall be permitted.
- I. **Docks.** Docks may be erected only according to the following maximum dimensions: six feet wide by 20 feet long. No dock shall extend more than four feet above the water.
- J. **Disposal of Solid Wastes Prohibited.** No land use accommodating the disposal of solid wastes shall be located in the NR District.

- K. **Natural Buffer Strip Required.** A buffer or green belt of natural vegetation measuring 25 feet in width and bordering the stream's edge of Duke and Cedar Creeks shall be maintained. Clear cutting of trees, shrubs and weeds in the buffer shall be prohibited, except if found to be dead, diseased, unsafe, fallen or noxious. This does not apply to minor pruning off of trees and shrubs which is beneficial to the health of such vegetation.
- L. **Agricultural Livestock.** Should the Michigan Bureau of Water Management later determine that livestock grazing within the natural buffer strip has led to stream depredation in Duke and Cedar Creeks, fencing of cattle away from the stream and buffer strip shall then be required.
- M. **Mineral Extraction.** Extraction, exploration and production of gas, oil, salt brine, sand, and gravel or other minerals, other than groundwater are not permitted on private lands within this district.
- N. **Road Access to Streams.** No new public or private road access to Duke and Cedar Creeks in the NR District shall be permitted.

CHAPTER 12 OS-PUD OPEN SPACE PLANNED UNIT DEVELOPMENT

12.1 Intent.

It is the intent of this chapter to offer an alternative to traditional subdivisions through the use of a planned unit development (PUD). Some degree of flexibility is permitted in the use, height, bulk, and placement requirements for PUD developments, but it is also intended that each PUD District afford reasonable protection to uses that are near and adjacent to the PUD District. The OS-PUD District is intended for the following purposes:

- A. Implementing the goals and objectives of the Township's master land use plan relating to the preservation of open space, rural character and natural resources.
 - B. Encouraging the use of Township land in accordance with its character and adaptability.
 - C. Assuring the permanent preservation of open space and other natural resources and allowing for the continuation of limited farming activities.
 - D. Providing recreation facilities within a reasonable distance of all residents of the open space development.
 - E. Encouraging the provision of open space of a useable size.
 - F. Allowing innovation and greater flexibility in the design of residential developments.
 - G. Facilitating the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner.
 - H. Ensuring compatibility of design and use between neighboring properties and a density consistent with that permitted in the current zoning district.
 - I. Encouraging a less sprawling form of development, thus preserving open space as undeveloped land.
 - J. Preserving wildlife habitat.
- (1) These regulations are intended to preserve the character of the Township through the creation of residential neighborhoods with supporting open space. It is the intent of these regulation to produce a development consistent with Zoning Ordinance standards, yet to allow for modifications from the general standards to meet the intent of this Ordinance. Zoning decisions made pursuant to this chapter shall give due consideration to the maintenance of reasonable conditions for PUDs with regard to density of land uses, general appearance and character of the PUD, reasonable compatibility with nearby land uses, effects on values of surrounding lands, water supply and sanitary sewage disposal, storm water management, groundwater quality,

ease of police and fire protection, traffic congestion, pedestrian safety, blighting influences and other considerations pertaining to the effects or possible effects of a PUD.

- (2) The provisions of this chapter are not intended, nor shall they be applied, to circumvent the land use planning decision inherent in the Township's master land use plan. A PUD that is otherwise qualified under this chapter shall be approved only if the resulting land use and the density and other characteristics thereof are consistent with the master land use plan's provisions or land use designations for the lands involved. The underlying goal of the Planning Commission and Township Board, in recommending and approving this chapter, is that creative and imaginative residential land development might be enhanced, for the benefit of the Township as a whole, but not in a manner or with such lack of care as would tend to defer or undermine the land use goals and objectives of the Township.

12.2 **Definition.**

An open space PUD is a predominantly single family, attached and detached residential development in which dwelling units are placed together into one or more groupings within a defined project area. The dwelling units are separated from adjacent properties or other groupings of dwellings by substantial open space that is perpetually protected from development.

12.3 **Authorization.**

An OS-PUD Zoning District may be approved in any location zoned for residential use within Nelson Township by the Township Board in accordance with the procedures of this Ordinance; however, an OS-PUD approved in the AG or SFR-L zoning district shall not be permitted to contain any use other than uses permitted in those districts except as specifically provided in this Chapter. The granting of an open space planned unit development rezoning application shall require an amendment of the Zoning Ordinance and the zoning map constituting a part of this Ordinance. An approval granted under this chapter, including all aspects of the final plan and conditions imposed, shall constitute part of the Zoning Ordinance, although it need not be incorporated into codifications or compilations of the Zoning Ordinance. Violation of any provision of a planned unit development ordinance shall in all respects be considered a violation of the Zoning Ordinance.

12.4 **Eligibility Criteria.**

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

- A. **Recognizable Benefits.** An open space PUD shall result in recognizable and substantial benefits both to the residents of the project and to the overall quality of life in the Township. The benefits can be provided through site design elements in excess of the requirements of this Ordinance such as high quality architectural

design, combination of lots which would not result in as desirable a development if developed separately, extensive landscaping, sensitivity to adjacent residential land uses, unique site design features, preservation of natural features, preservation of farm land and maintenance of rural appearance.

- B. **Minimum Size.** The parcel shall be a minimum of five contiguous acres.
- C. **Unified Control.** The proposed development shall be under unified ownership or control, so that one person or entity has proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions indicating that the development will be completed in its entirety as proposed.
- D. **Guarantee of Dedicated Open Space.** The applicant shall provide an open space preservation and maintenance agreement to the Township Board stating that all dedicated open space portions of the development shall be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in title to commitments made as part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the open space PUD plan, unless an amendment is approved by the Township Board.

The agreement must be acceptable to the Township Board and may consist of a recorded deed restriction, covenants that run perpetually with the land or a conservation easement established according to the Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended.

The agreement shall:

- (1) Indicate the proposed allowable use(s) of the dedicated open space.
- (2) Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.
- (3) Provide standards for scheduled maintenance of the dedicated open space including necessary pruning, harvesting of trees and new plantings.
- (4) Provide for maintenance to be undertaken by Nelson Township in the event that the dedicated open space is inadequately maintained, or is determined by the Township to be a public nuisance. Any costs incurred by the Township shall be assessed to the owners of the property within the PUD.
- (5) Provide that the open space may include a recreational trail, picnic area, children's play area, greenway, linear park, and agricultural use or other use which, as determined by the Planning Commission, is substantially similar to these uses. The agreement shall also provide that, as to any recreational improvements the Township requires to be constructed and maintained in the

open space, the Township has the authority to enforce said construction and maintenance requirements.

12.5 Permitted Uses.

Land and buildings in an open space PUD may only be used for the following uses or combination of uses:

- A. Single family detached dwelling units.
- B. Two family attached dwelling units (duplexes). If a duplex is proposed in the AG or SFR-L district, each unit shall be counted for density purposes as if it occupied an individual lot which satisfied the minimum lot requirements for the district.
- C. Multi-family dwelling units up to eight units per building but only if the land requested for rezoning to open space PUD is currently zoned R-M.
- D. Golf courses, tennis courts, ball fields, bike paths, walking paths, playground, community buildings, and similar recreational facilities as well as day care facilities, provided such uses are accessory to the residential uses in the PUD and designed to be used primarily by residents of the PUD.
- E. Accessory uses, structures, and buildings which are customarily associated with the uses specified above.
- F. Home occupations permitted by right or by special land use in the residential districts.
- G. Small wind energy conversion systems which do not exceed 110 feet in height and which comply with the requirements of Section 3.28.
- H. Wind energy conversion systems which comply with Section 19.5.X including L WECS (exceeding 110 feet in height) and certain S-WECS as provided by Section 3.28.

12.6 Development Requirements.

- A. **Lot Size, Width and Setbacks.** The lot area, lot width, and building setback requirements shall be determined by the Planning Commission and Township Board, based on the application of site planning criteria to achieve integration of the project with the characteristics of the project area. In making these determinations, the criteria considered shall include the following:
 - (1) Number and type of dwelling units.
 - (2) Proximity to adjacent existing and future land uses. The extent to which the PUD is buffered from the adjacent and nearby existing land uses, by landscaping or other means.

- (3) Preservation of existing vegetation or other natural features on site.
- (4) Topography on the site.
- (5) Provision of public or community (private system) water and sanitary sewer.
- (6) Approval of the Kent County Health Department for private or community septic systems and wells.
- (7) Appropriateness of the lots as building sites.
- (8) Overall design of the project relative to its compatibility with nearby existing or proposed land uses.
- (9) Compliance with the perimeter buffer, lots and use requirements of Section 12.7.

12.7 **Open Space and Preservation of Natural Features Requirements.**

- A. An open space PUD shall provide and maintain a minimum of 40 percent of the gross area of the site as dedicated open space or a minimum of two acres of the site's gross area as open space, whichever is greater. Only PUD lands that are of significant, contiguous area shall qualify for dedicated open space. The dedicated open space shall be for the convenient use by all residents of the PUD. Reasonable and convenient access to the dedicated open space shall be available to all PUD residents. Except as noted in Section 12.7.D, any undeveloped land area within the boundaries of the PUD may be included as dedicated open space. Only open space areas meeting the standards in Section 12.7.E shall be included in the calculations for the minimum dedicated open space.
- B. All land within a development not devoted to a residential unit, an accessory structure or use, vehicle parking, a roadway, or an approved land improvement shall be set aside as open space for recreation, conservation, or preservation in an undeveloped state. The open space shall be located so as to be readily accessible by all PUD residents. Connections with open space and bike paths on adjacent and nearby lands shall be encouraged. Walkable paths within open spaces shall be included unless waived by the Planning Commission and the Township Board.
- C. If a golf course is included as open space, it shall not account for more than 50 percent of the required open space.
- D. **Areas Not Considered Open Space.** The following land areas shall not be classified as dedicated open space for the purposes of this section:
 - (1) The area within any public street right-of-way.
 - (2) The area within private road access easements.

- (3) Any easement for overhead utility lines unless adjacent to qualified open space.
- (4) Seventy-five percent of any lakes, streams, retention ponds, detention ponds, drainage swales, wetlands and flood plains, and 75 percent of any other type of surface water body.
- (5) The area within a platted lot or site condominium lot.
- (6) Parking and loading areas.
- (7) Fifty percent of land surface areas with existing slopes exceeding 20 percent and 50 percent of created slopes exceeding 10 percent.

E. **Standards for Open Space.** The following shall apply to the dedicated required open space provided in the development:

- (1) The dedicated open space may be centrally located, may be located along the street frontage of the development, may be located to preserve significant natural features, or located in such a manner as to connect open space areas throughout the development, but in any event, dedicated open space shall consist of significant, contiguous area.
- (2) If the site contains a lake, stream, or other body of water, the Township may require that a portion of the dedicated space shall abut the body of water.
- (3) A portion of the required open space shall be located along the public road frontage abutting the site. The depth of this area shall be at least 200 feet, as measured from the public road right-of-way to the property line of the nearest lot, unit or parcel in the site, and this area shall be left in its natural condition or planted with landscape buffering that provides an effective visual barrier to reduce the view of houses on site from the adjacent roadway and preserve the rural view.
- (4) A dedicated open space area shall be configured such that the open space is available for convenient access by residents of the PUD and readily usable by PUD residents. The minimum size of a dedicated open space area shall be 20,000 square feet; provided, however, that the required open space abutting a public street may be less than 20,000 square feet; and further provided, that the Planning Commission may approve other dedicated open space areas of less than 20,000 square feet if such areas are designed and established as pedestrian or bicycle paths or are otherwise determined by the Planning Commission to be open space that is conveniently accessible and readily usable by residents of the PUD.
- (5) Open space areas shall be located so as to be conveniently accessible to the residents using them.

(6) Grading in the open space shall be minimal. Existing topography shall be preserved where practical.

- F. **Allowable Accessory Structures and Uses in the Open Dedicated Space.** A structure or building accessory to a recreation or conservation use or any entryway may be erected within the required open space, subject to the approved open space plan. These accessory structure(s) and building(s), shall not exceed, in the aggregate, 1 percent of the dedicated open space area. Accessory structures or uses of a significantly different scale or character than the abutting residential districts shall not be located near the boundary of the development if it may negatively impact the residential use of the adjacent lands as determined by the Planning Commission and Township Board.
- G. **Perimeter Buffers, Lots and Uses.** Notwithstanding any of the provisions of this Chapter, the Planning Commission and the Township Board may require that the OS-PUD shall be designed and constructed with lot sizes, uses, and setbacks that are consistent with planned or existing adjacent uses. If adjacent lands are under common ownership or control there is a presumption that those lands are or will be included in the OS-PUD or buffered from the OS-PUD by a 250 foot setback from the adjacent property line or other such buffer or setback as determined by the Planning Commission and Township Board.

12.8 Density and Number of Dwelling Units.

The density (dwelling units per acre) and the number of dwelling units permitted in an open space PUD shall be determined in the following manner:

- A. The density within an open space PUD shall conform to the density permitted in the zoning district which is being requested for rezoning to open space PUD or as set forth in the Township master plan for the parcel to be rezoned.
- B. To determine the number of dwelling units which may be constructed within the open space PUD, multiply the permitted density from the underlying district by the total acreage of the site excluding one half of those areas within the 100-year flood plain, wetland areas and areas permanently inundated by water such as lakes, ponds, streams and rivers. The Planning Commission and the Township Board may, in their discretion, allow fewer dwelling units than would otherwise be permitted by this section.

The determination of the existence of wetlands and floodplain areas on a parcel shall be demonstrated to the satisfaction of the Planning Commission through a written determination by the Michigan Department of Natural Resources or by an analysis performed by a professional biologist, ecologist, environmental engineer or similar professional person deemed acceptable to the Planning Commission.

- C. Additional dwellings above what is allowed by Section 12.8.B may be permitted at the discretion of the Township Board and Planning Commission if the development provides additional amenities or preserves additional open space which would result in a significant recognizable benefit to the Township and residents of the PUD. Items which could be added to a PUD so it may be eligible for consideration for additional dwelling units shall include one or more of the following items as well as similar items:
- (1) Provision of recreational facilities such as playground areas with play equipment, ball fields, golf course, bike path, walking path, man-made lake, community building or similar recreation facility.
 - (2) Additional landscaping to preserve or enhance the rural view along the roadway.
 - (3) Enhancement of existing wetlands, subject to applicable regulations.
 - (4) Provision of additional unique open space or mature stands of trees which would be of recognizable benefit to Township residents.
 - (5) Provision of a public or private community water and/or sanitary sewer system.
- D. If additional dwelling units are to be permitted, the maximum number of dwelling units shall be determined by multiplying the density set forth in the Township master plan by the total acreage of the site including wetlands, floodplain, and bodies of water and portions of the site within existing road right-of-way. In no case shall the number of dwelling units exceed what is permitted by this subsection.

12.9 Design Standards.

- A. Dwelling units may be clustered or located within several small areas of the site, with each cluster separated by open space or natural features. If houses are arranged in this manner a minimum of 30 feet shall be maintained between dwelling units. Within any one cluster, there shall be not less than four dwelling units, nor more than 15 dwelling units; provided, however, that the Planning Commission and Township Board may, in their discretion, modify this requirement, so as to achieve the intent and purposes of this district.
- B. PUD layouts which are varied in design and layout are encouraged.
- C. Dwelling units shall be arranged or screened by landscaping or berming so they do not constitute the predominant view along the public roadway.
- D. The placement of dwelling units on slopes of 12 percent or more shall be discouraged unless evidence is presented that measures will be taken to minimize erosion of slopes during and after construction.

- E. In order to maintain scenic views and a rural character, dwelling units placed directly on hilltops shall be discouraged if they are unscreened from the view of adjacent properties. If such units are permitted, they should be one story to avoid walkout units from having the appearance of a three story structure and detracting from the rural view.

12.10 Roads and Driveways.

- A. Interior roadways serving an open space PUD shall not be constructed in areas with existing slopes of 20 percent or more.
- B. Private roads serving an open space PUD shall comply with the Township's private road regulations as contained in Section 3.17.
- C. Driveways to individual dwellings shall not exceed a slope often 10 percent unless specifically allowed by the Planning Commission and Township Board in the PUD approval process. The PUD site plan shall note those lots where driveways may exceed 10 percent.
- D. Public or private roadways may be required to be extended to exterior lot lines in order to allow a connection to roadways on adjacent parcels, so as to provide for secondary access, continuity of the roadway system, and to reduce traffic on collector roads.

12.11 Procedures.

The application and procedures to review an open space PUD shall be the same as contained in Section 13.6 through 13.10 of this Ordinance.

12.12 Modification of an Open Space PUD.

Minor changes to a PUD final site development plan may be approved by mutual agreement of the applicants or successors in interest and the Planning Commission, provided the changes comply with all applicable requirements of this Zoning Ordinance and all other Township regulations or state law. Minor changes include all matters that were approved by the Planning Commission in the final development plan that were not part of the preliminary development plan, that the location of structures, roads, parking areas, signs, lighting, and driveways may be moved provided that are in the same general location as approved in the preliminary site development plan as determined by the Planning Commission, and building size that does not exceed 5,000 square feet or 5 percent of the gross floor area, whichever is smaller.

A major change to an approved PUD shall comply with the original approval procedures for a PUD. Major changes include but are not limited to increase in density or number of dwelling units, increase in land area or building size, except as noted above or addition of other uses not authorized by the original PUD approval.

12.13 Performance Guarantees.

Performance guarantees may be required as per Section 3.16 of this Ordinance. Escrow deposits may be required as per Section 3.16A of this Ordinance.

12.14 Time Limitations on Development.

The time limit to begin construction of a PUD shall commence within one year. Extensions for PUD commencement may be granted for appropriate circumstances as determined by the Planning Commission.

12.15 Large-Scale Developments as OS-PUDs.

- A. In the AG, SFR-L and R-M Districts, unless the subdivision (as defined in subsection B) has been approved by the Township as an OS-PUD, no subdivision shall be established or created; and no lot, site condominium unit or parcel of land in a subdivision shall be sold, conveyed, transferred or otherwise established; and no building permit or zoning approval permit shall be issued for any land in a subdivision.
- B. For purposes of this section, a “subdivision” means any land or property, wherever located, improved or unimproved, which is divided, split, conveyed, proposed to be divided, split or conveyed, or developed as a site condominium or recorded plat, for the purpose of sale, transfer or building construction, into or including eight (8) or more lots, parcels of land, site condominium units or any other interests in land, or any combination thereof, whether in whole or in part. For purposes of this section, “subdivision” also includes any lands, if eight (8) or more lots, parcels of land, site condominium units or other units or interests are offered as part of a common promotional plan for sale or conveyance, or where the subdivision is being developed or is offered for sale, transfer or building construction by one developer, or more than one developer, whether acting individually or in concert.
- C. If lots or parcels of land are contiguous or if they are known, designated or advertised as a single or common development, or by a single or common name, the land shall be deemed to be offered for disposition as part of a common promotional plan and shall accordingly be deemed to be part of a subdivision, if the total number of lots, parcels of land, site condominium units or other interests is eight (8) or more.
- D. For purposes of this section, “contiguous” land means any additional land adjacent to or adjoining the subdivided land included in any subdivision.
- E. If one (1) or more lots or parcels of land are created, divided or split from or out of another lot or parcel of land, and if any of such resulting or remainder lots or parcels are further divided, split or used to create site condominium units, or if any of such actions is proposed, within seven (7) years after the recording of the first land division or land split, then each parcel, lot or unit shall be considered a subdivision for purposes of this section. Accordingly, each parcel, lot or unit shall be subject to

OS-PUD approval, if eight (8) or more parcels, lots or units are created or developed from or out of the resulting and remainder lots or parcels.

CHAPTER 13
PUD PLANNED UNIT DEVELOPMENT DISTRICT

13.1 Intent.

This chapter provides enabling authority and standards for the submission, review, and approval of applications for non-residential planned unit developments. It is the intent of this chapter to authorize the consideration and use of planned unit development regulations for the following purposes:

- A. To encourage the use of land in accordance with its character and adaptability.
- B. To promote the conservation of natural features and resources.
- C. To encourage innovation in land use planning and development.
- D. To promote the enhancement of employment, shopping, traffic circulation, and recreational opportunities for the people of the Township.
- E. To promote and ensure greater compatibility of design and use between neighboring properties.
- F. To provide for the regulation of land uses not otherwise authorized within this Ordinance.

The provisions of this chapter are not intended as a device for ignoring the Zoning Ordinance or the planning upon which it has been based. To that end, provisions of this article are intended to result in land use development consistent with the underlying zoning, with modifications and departures from generally applicable requirements made in accordance with standards provided in this chapter to ensure appropriate, fair, and consistent decision-making. A planned unit development must comply with this chapter.

13.2 Qualifying Conditions.

- A. In order to be eligible for PUD rezoning, the proposed area shall consist of a minimum of two acres.
- B. Public water and sanitary sewer shall be available to service the site. Private water and/or systems may be permitted subject to the approval of the Kent County Health Department.

13.3 Development Requirements.

- A. In each case, the Planning Commission shall review the development based on the following standards. The proposed use(s) shall:

- (1) Be designed, constructed, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
 - (2) Be served adequately by essential public facilities and services, such as highways, streets, pedestrian ways, police and fire protection, drainage structures, refuse disposal, water and sewer.
 - (3) Not create excessive additional requirements at public cost for public facilities and services.
 - (4) Be developed in accordance with the intent for a planned unit development as contained herein.
- B. **Green Space.** Each PUD shall contain green space areas equal to a minimum of 10 percent of the total site area which is devoted to the principal use. Such open space shall be maintained by the developer or homeowner's association and shall be set aside for the common use of the home or lot owners within the PUD with written assurances that the required green space shall remain green and be properly maintained.

For purposes of this section, green space shall only be considered to be those areas having a minimum dimension 50 feet by 100 feet. Land in streets, sidewalks, and parking areas shall not be considered as green space. Required yard setback area may be included in the green space area.

13.4 **Applicable Regulations.**

- A. Unless specifically waived by the Township Board upon the recommendation of the Planning Commission through the provisions of 13.4.B below, all regulations of the underlying zoning district prior to the PUD request relative to lot size, lot width, yard area, structure height, setback, signs, parking and loading, landscaping, general provisions and other applicable regulations shall apply, except that in projects within an underlying residential district which contain mixed uses, the most restrictive district regulations within this Ordinance under which each non-residential use would otherwise be permitted shall apply.
- B. Consistent with the planned unit development concept, and to encourage flexibility and creativity in development, departures from the regulations outlined in the immediately preceding 13.3.A may be granted at the discretion of the Township Board upon the recommendation of the Planning Commission as part of the approval of a planned unit development. Such departures may be authorized if there are features or planning mechanisms designed into the project which would achieve the objectives of each of the regulations from which a departure is being requested.

13.5 PUD Design Considerations.

A proposed planned unit development shall take into account the following specific design considerations, as they are necessary to ensure compliance with all applicable regulations and to ensure the compatibility of the project with adjoining properties and the general area in which the property is located.

- A. Perimeter setbacks.
- B. Street drainage and utility design with respect to location, availability, ownership, and compatibility.
- C. Underground installation of utilities.
- D. Insulation of pedestrian ways from vehicular streets and ways.
- E. Achievement of integrated and harmonious development with respect to signs, lighting, landscaping, and construction materials.
- F. Noise reduction and visual screening mechanisms from adjoining residential uses.
- G. Ingress and egress to the property with respect to automotive and pedestrian safety and convenience, traffic flow and control, street capacity, and emergency access.
- H. Off-street parking, loading, refuse, and other service areas with respect to ingress and egress and the potential effects of noise, glare, vibration, and odor emanating from such facilities on adjoining properties and uses.
- I. Screening and buffering with respect to dimensions and character.
- J. Yard areas and other open space.
- K. Density and intensity of development expressed in terms of percent of gross and net land area coverage and/or gross and net housing units per acre and the height of buildings and other structures.
- L. The preservation of natural resources and natural features.

13.6 Application And Processing Procedures.

- A. **Effects.** The granting of a planned unit development rezoning application shall require an amendment of the Zoning Ordinance and the zoning map constituting a part of this Ordinance. An approval granted under this article including all aspects of the final site development plan and conditions imposed shall constitute an inseparable part of the Zoning Ordinance.

B. Preapplication Conference. Prior to the submission of an application for planned unit development, the applicant shall meet with the Zoning Administrator, and such consultants as deemed appropriate. At the preapplication conference the applicant shall present a narrative describing the PUD, including the following information:

- (1) The nature of the project.
- (2) The proposed density, number and types of dwelling units, if a residential PUD.
- (3) A statement describing how the proposed project meets the objectives of the PUD.
- (4) A statement from a registered professional engineer describing how the proposed project will be served by public or private water, sanitary sewer and storm drainage.
- (5) Proof of ownership or legal interest in the property.

C. Preliminary Development Plan.

- (1) An applicant for PUD rezoning shall submit to the Township eight copies of a site plan of the development which contains the information required for site plans according to Chapter 17 of this Ordinance, and which contains the following additional information:
 - (a) A narrative describing the PUD.
 - (b) Proposed restrictive covenants for the development.
 - (c) Wooded areas, wetlands, ponds, streams or other bodies of water.
 - (d) Proposed building envelopes and areas for drainfields and set aside drainfields.
 - (e) Description of means proposed to dispose of sanitary sewage and supply potable water.
 - (f) Areas proposed to be left in a natural state, and areas proposed for open space uses.
- (2) The copies of the preliminary development plan shall be forwarded to the Planning Commission. If required by the Planning Commission, the preliminary development plan shall include additional information reasonably necessary to determine and consider the environmental impact of the development, impact on services to be provided by governmental units and school districts and traffic. The Planning Commission may, in addition, request that the applicant obtain comments from the County Health

Department, County Road Commission, County Drain Commissioner, Department of Natural Resources, Department of Environmental Quality, and other governmental units regarding impacts on matters within their jurisdiction.

- D. **Review of Preliminary Development Plan.** The Planning Commission shall review the preliminary development plan and make recommendations to the applicant regarding the PUD, together with any recommended change or modification thereof. The recommendations shall be based upon consideration of the requirements of this Ordinance and, in particular, the requirements of this chapter.
- E. **Advisory Public Hearing.** In the course of its consideration of the preliminary development plan, the Planning Commission may, but is not required to, convene an advisory public hearing to receive public comments concerning the preliminary development plan. Informal notice of such advisory hearing shall be given by one publication and by mail to all persons to whom any real property is assessed within 300 feet of the lands included in the PUD, not less than seven days prior to the date of the advisory public hearing. Failure to give notice of such an advisory public hearing shall not affect the validity of the proceedings.
- F. **Final Development Plan.** After receiving the recommendations of the Planning Commission concerning the preliminary development plan, the applicant shall submit eight copies of a final development plan to the Township. Copies of the final development plan and an application for PUD rezoning shall be forwarded to the Planning Commission. The final development plan shall contain the information required for a preliminary development plan and information which addresses other matters requested by the Planning Commission. The plan shall also state the projected time for completion of the PUD, any proposed phasing of the PUD, the projected time for completion of each phase, and also include the following specific information:
- (1) Final building elevations.
 - (2) Proposed contour lines at not greater than five foot intervals.
 - (3) Location of sidewalk, foot paths, or other pedestrian walkways.
 - (4) Final distances of all buildings from lot lines, right-of-ways and other principal buildings.
 - (5) Exterior architectural drawings noting building materials, height and area of buildings and accessory structures.
 - (6) Proposed phases of project, including number of units and acreage for each phase.

- G. **Public Hearing on Final Development Plan.** The Planning Commission shall hold a public hearing on the final development plan and the application for rezoning. Notice of the hearing shall be given in the manner required by Section 21.14 of this Ordinance.
- H. **Recommendation by Planning Commission.** After public hearing, the Planning Commission shall make recommendations to the Township Board regarding the final development plan. The Planning Commission may recommend in favor of rezoning the lands in accordance with the final development plan; it may recommend against rezoning of the lands in accordance with the final development plan; or it may recommend such rezoning only if certain changes or modifications in the PUD are made or if certain specific conditions are imposed. Before making a recommendation for approval or approval with conditions, the Planning Commission must find that the proposed PUD meets the intent of the PUD District and the following standards:
- (1) Granting of the planned unit development rezoning will result in a recognizable and substantial benefit to the ultimate users of the project into the community where such benefit would otherwise be unfeasible or likely to be achieved.
 - (2) In relation to the underlying zoning, the proposed type and density of use shall not result in a material increase in the need for public services, facilities and utilities, and shall not place a material burden upon the subject or surrounding land or property owners and occupants or the natural environment.
 - (3) The proposed development shall be compatible with the master plan of the Township and shall be consistent with the intent and spirit of this chapter.
 - (4) The planned unit development shall not change the essential character of the surrounding area.
 - (5) The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with this Ordinance. This provision shall not prohibit a transfer of ownership or control upon due notice to the Zoning Administrator.
- I. **Consideration by Township Board.**
- (1) Upon receiving the Planning Commission recommendation regarding the proposed PUD, the Township Board shall review the PUD plan, the record of the Planning Commission proceedings and the recommendation submitted by the Planning Commission.
 - (2) The Township Board shall convene a public hearing on the PUD plan and the proposed ordinance to rezone the land to the PUD district.

- (3) Notice of the public hearing shall be given by publication of a notice in a local newspaper of general circulation in the Township stating the date, time, place and purpose of the public hearing. The notice shall be published at least 15 days prior to the date of the public hearing. Public notice shall also be given by the mailing of the same or a similar notice by first-class U.S. mail to the owners of all lands within 300 feet of the lands proposed for PUD rezoning, as the names and addresses of the owners of such lands are shown in the current Township property tax assessment roll, as supplemented by any recent changes.
- (4) Following the public hearing, the Township Board shall determine whether the final development plan complies with the standards, conditions and requirements of this Ordinance and, in addition, shall determine whether the proposed project promotes the purposes of this chapter. Upon a determination of the project and of each such standards, conditions and requirements, the Township Board may approve the final development plan and grant the rezoning request, or deny such plan and request, or approve with conditions. A building permit shall not be issued until Township Board approval of the PUD final site development plan.

Where provisions of the Michigan Public Act 288 of 1967, as amended, shall apply, the applicant shall thereafter submit the information and plans as may be required by Act 288 and all other local procedures or regulations pertaining to platting approval.

13.7 **Conditions.**

- A. In approving a PUD final site development plan, the Planning Commission or Township Board may impose reasonable conditions which include but are not limited to conditions necessary to: 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; protect the natural environment and conserve natural resources and energy; ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
 - (1) Be designed to protect natural resources, the health, safety, and welfare, and the social and economic well being of those who will use the land use or activity under consideration, residents, and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - (2) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 - (3) Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the ordinance for the land use or

activity under consideration, and be necessary to ensure compliance with those standards.

- B. The conditions imposed with respect to the approval of a PUD final site development plan shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of conditions which are unchanged. The final site development plan, as approved, shall act as a restriction upon the development. The development must conform with the final site development plan.

13.8 Performance Guarantees.

The Planning Commission may require a performance guarantee in accordance with Section 3.16 of this Ordinance in order to ensure the completion of required improvements. The Planning Commission may also require escrow deposits as per Section 3.16A of this Ordinance.

13.9 Time Limitations on Development.

The time limit to begin construction of a PUD shall commence within one year. Extensions for PUD commencement may be granted for appropriate circumstances as determined by the Planning Commission.

13.10 Modification of a PUD.

Minor changes to a PUD final site development plan may be approved by mutual agreement of the applicants or successors in interest and the Planning Commission, provided the changes comply with all applicable requirements of this Zoning Ordinance and all other Township regulations or state law. Minor changes include all matters that were approved by the Planning Commission in the final development plan that were not part of the preliminary development plan, that the location of structures, roads, parking areas, signs, lighting, and driveways may be moved provided that are in the same general location as approved in the preliminary site development plan as determined by the Planning Commission, and building size that does not exceed 5,000 square feet or 5 percent of the gross floor area, whichever is smaller.

A major change to an approved PUD shall comply with the original approval procedures for a PUD. Major changes include but are not limited to increase in density or number of dwelling units, increase in land area or building size, except as noted above or addition of other uses not authorized by the original PUD approval.

**CHAPTER 14
PARKING AND LOADING**

14.1 Intent.

The purpose of this chapter is to permit and regulate off-street parking of motor vehicles and the off-street loading and unloading of vehicles in all zoning districts.

In all zoning districts, off-street parking facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees, and patrons of buildings erected, altered, or extended after the effective date of this Ordinance shall be provided as prescribed herein. Such areas shall be maintained and shall not be encroached upon so long as the main building or structure remains, unless an equivalent number of spaces and area are provided elsewhere on the site in accordance with this Ordinance.

14.2 Size and Units of Measurement.

All off-street parking facilities required by this article shall be of adequate size and design to provide safe ingress and egress to all parking spaces. For the purposes of this Ordinance, the average parking area consisting of one parking space with maneuvering lane shall be 300 square feet.

A. **Minimum Size Standards.** The minimum standards for parking spaces and aisles are as indicated in the following table.

MINIMUM PARKING SPACE AND MANEUVERING LANE STANDARDS

Parking Pattern	Lane Width		Parking Space		Total Width of Two Tiers Plus Lane	
	One-way (ft)	Two-way (ft)	Width ⁽¹⁾ (ft)	Length ⁽²⁾ (ft)	One-way (ft)	Two-way (ft)
Parallel	11	17	9	25	30	36
30°-50°	12	20	9	21	47	55
54°-74°	13	24	9	21	49	60
75°-90°	15	26	9	20	55	66

⁽¹⁾ Measured Perpendicular to the space centerline.

⁽²⁾ Measured along the space centerline.

14.3 Internal Access Drives.

Each lane of driveway providing access to parking areas shall be a minimum of ten feet in width. Where a turning radius is necessary, it shall be of an arc that allows unobstructed vehicle flow.

14.4 Required Construction.

All parking and loading facilities and access drives for uses other than one and two family residential, bed and breakfast establishments, agricultural, and accessory farm produce sales shall be provided with a pavement surface consisting of asphalt or concrete. Driveways shall be constructed with materials equal to or better than the standards set forth by the Kent County Road Commission for commercial driveways. Parking lots and driveways shall be completely constructed prior to the issuance of an occupancy permit, weather permitting. All parking surfaces shall be maintained in good condition, free from dust, trash, and debris. All paved parking areas with more than four spaces shall have such spaces legibly designated on the paved surface.

14.5 Location of Off-Street Parking Facilities.

Required off-street parking facilities shall be located on the same lot as the permitted principal use in all residential zones and may be located within the required side or rear yard area. In C and I Districts, off-street parking may be permitted in all front, side, and rear yard areas and as a permitted principal use on a separate lot.

14.6 Drainage.

All off-street parking and loading areas shall be graded and drained to dispose of surface water. No surface water shall be permitted to drain onto adjoining property unless there is a common engineered drainage system shared with the adjoining property or an appropriate watershed easement has been obtained.

All drainage plans shall be approved by the Kent County Drain Commissioner and/or the Kent County Road Commission and/or the Township Engineer.

14.7 Lighting.

With the exception of facilities for one and two family dwellings and permitted agricultural uses, the parking and loading facilities utilized during night-time hours shall be artificially illuminated. Lighting fixtures providing illumination for or within parking facilities shall be designed and arranged to:

- A. Deflect light away from adjacent properties, streets, and highways. The source of illumination in any parking facility located within 200 feet of a residential use or district shall not be more than 20 feet above the parking surface and shall be shrouded to prevent glare.

14.8 Buffering.

Except when accessory to one or two family dwellings and permitted agricultural uses, every parking area with four or more parking spaces hereafter established or enlarged which is adjacent to or opposing a residential use or district shall be screened as follows:

- A. **Industrial, Commercial, and Institutional Uses.** Parking areas for such uses shall be screened by an evergreen hedge or berm with natural landscaping consisting of a combination of evergreens, deciduous trees, and shrubs. The effective height of such trees or trees and berm in combination at the time of installation shall be at least eight feet in height and sufficiently dense that the visibility of the parking area is obscured. If the owners of the adjacent or opposing properties agree, this screening may be a solid uniformly painted fence or wall kept in good repair, a minimum of four feet in height.
- B. When the use of a berm is employed, this berm shall be one of three types. Generally, it shall be a continuous undulating serpentine form. It shall have a maximum slope ratio of four feet horizontal to one foot vertical. A flat horizontal area at the crest is required to be four feet in width. The berm shall range in height from three to ten feet, depending upon the specific existing natural and proposed architectural conditions. Capacity requirements are to be 60 percent in winter and 80 percent in summer within two years after planting.

If existing trees are six inches diameter at breadth height or greater, the berm may be designed in a natural format. The berm itself may be divided and formed on either side or continue around the existing trees. The plantings are to be primarily evergreen trees on the crest of the berm. These may be supplemented with shrubs that regenerate on each side of the berm (i.e., red twig dogwood, fragrant sumac, arrowroot viburnum). The berm shall be hydrosphere.

The minimum sizes of all plants when planted are to be five feet in height for evergreen trees, three inch caliper for deciduous trees, two inch caliper for small deciduous trees, 30 inch for small shrubs. Spacing to be in a triple spacing or equilateral triangle format. Evergreen trees shall be a minimum of ten feet on center, deciduous trees 15 feet on center. All plants are to be mulched with four inch shredded hardwood bark.

14.9 Required Parking Per Use.

The amount of required off-street parking area and spaces by type of use shall be determined and provided in accordance with the following schedule. Parking spaces for disabled or handicapped persons as required to meet state and federal standards shall be provided and included in the calculations for meeting the standards of this Ordinance.

Use	Minimum Number of Spaces Per Unit of Measure
(1) Residential.	
(a) One or two family	Three per dwelling unit
(b) Multiple family	Two and one-half spaces per residential unit, rounded up to the next full number

(2) Institutional.

- | | | |
|-----|-----------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (a) | Church | One per each four seats or eight feet of pew in the main place of assembly |
| (b) | Hospital | Two per bed |
| (c) | Nursing homes, sanitariums | One per bed plus one per employee during the maximum shift |
| (d) | Elementary and junior high schools | Two per classroom plus additional for auditorium requirements and one space for each 300 square feet of administrative office area |
| (e) | Senior high school | Seven per classroom plus auditorium requirements and one space for each 300 square feet of administrative office area |
| (f) | Day care centers | One per employee plus one for each ten students |
| (g) | Private clubs and lodges | One per each three persons allowed within the maximum occupancy load as established by the appropriate fire, health or building code, whichever is most restrictive |
| (h) | Public or private swimming pool clubs, tennis clubs, and similar uses | One per each 1,000 feet of net floor area |
| (i) | Auditorium, stadium, sports arena, theater | One for each three seats or each six feet of bench |

(3) Business and Commercial.

- | | | |
|-----|-----------------------------------------------------|--------------------------------------------|
| (a) | Retail stores, except as otherwise specified herein | One per each 200 square feet of floor area |
| (b) | Auto repair shop and service station | One per each 300 square feet of floor area |

- (c) Auto wash Five per premises plus sufficient waiting space to accommodate 25 percent of the hourly rate capacity
 - (d) Beauty salon or barber shop One per 100 square feet of floor area or three for each chair or station, whichever is greater
 - (e) Bowling alley Five per lane plus additional for each accessory use
 - (f) Establishments for the sale and consumption of beverages, food, or refreshments on the premises One and one-half per 100 square feet of floor area or one per each three persons allowed for the maximum occupancy load as established by the appropriate fire, health, or building code, whichever is greater
 - (g) Motor/hotel One per each unit plus one for each five units plus additional per requirements for dining and meeting rooms, based on occupancy load
 - (h) Vehicle sales, machinery sales, wholesale outlets, furniture and appliance stores, hardware, paint and home improvement stores One per each 200 square feet of floor area plus one for each service stall
 - (i) Loading space See Section 14.14
- (4) **Offices.**
- (a) Banks, business and general offices One per each 200 square feet of floor area
 - (b) Medical, dental and veterinary offices and clinics One per each 150 square feet of floor area
 - (c) Loading space See Section 14.14
- (5) **Industrial.**
- (a) Manufacturing, assembly, research and processing One per each 600 square feet of industrial and office floor area or one per each two employees, whichever is greater

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|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| (b) Warehousing | One per each 1,000 square feet of floor area plus additional for offices (one per 200 square feet) or one per each two employees, whichever is greater |
| (c) Mini storage | Five per premises plus one for each five storage bays |
| (d) Loading space | See Section 14.14 |

14.10 Mixed Occupancies and Joint Usage.

Where a parking area is intended for the joint use of two or more distinct land use activities, the total parking area required shall be the same as required for those uses computed separately.

Where a proposed use intends to share parking facilities with another use, the Planning Commission, before authorizing a building permit, shall require guarantees, agreements, covenants or similar arrangements between the parties involved to insure that adequate parking will always be available for both properties.

Exceptions to these provisions may be provided by the Planning Commission in those cases where uses have parking demands that do not coincide in time of day or in the day of the week, such as churches and businesses, theaters and businesses, or churches and schools. However, in no event shall the parking requirements for the respective uses be reduced to less than 70 percent of that normally required by this chapter. The Planning Commission, before authorizing a building permit, shall secure such guarantees, agreements, covenants or similar arrangements as are necessary to insure that adequate parking will always be provided. In considering such exceptions, the Planning Commission shall consider:

- A. The nature of the uses and their respective parking demands.
- B. Their hours of operation and the days of the week during which they operate.
- C. The location of the parking area intended for joint use and its proximity to the uses.
- D. The nature of the surrounding area and the potential impact of a parking area intended for joint usage.

14.11 Site Development Plan Required.

Site development plan approval is required for all new and expanded parking areas which over four spaces, except for one and two family dwelling units and permitted agricultural uses. Such plans shall be reviewed pursuant to the provisions of Chapter 17, Site Plan Review.

14.12 Permits.

The following permits are required, as appropriate to the circumstances involved, for all parking areas except one and two family dwelling units and permitted agricultural uses:

- A. No parking area may be constructed or enlarged before the issuance of a building permit. Before issuing a building permit, the Zoning Administrator shall be presented with a site development plan, where required, approved by the Planning Commission. In those cases where an approved driveway permit from the County Road Commission is required, said permit shall be submitted to the Zoning Administrator prior to the issuance of a building permit.
- B. No parking area shall be occupied or used as a parking area prior to the issuance of an occupancy permit nor shall it be used or occupied if an occupancy permit has been revoked. The Zoning Administrator is hereby authorized to revoke an occupancy permit for a parking area whenever the occupant fails to comply with the conditions or requirements of the approved site development plan, this Ordinance, or any special conditions imposed by the Board of Appeals. Such use or occupancy shall cease within 60 days following such revocation.
- C. The Zoning Administrator may issue a temporary occupancy permit with special conditions stated thereon where the full improvement of a parking area and drives thereto would not be warranted due to a settling ground, adverse weather conditions, contractor scheduling, or similar reasonable circumstances. A temporary use permit may be issued for up to 12 months and may not be renewed except by direction of the Board of Appeals.
- D. A performance guarantee may be required by the Planning Commission as per Section 3.16 of this Ordinance.

14.13 Parking Variation.

Where it can be shown, as provided herein, that the parking requirements of this section would provide an unnecessary amount of parking area for the peculiar needs of a particular use, the Planning Commission may approve a site development plan with a lesser paved area, provided all the following conditions are present:

- A. Said use does not attract or provide services to the general public.
- B. The maximum number of employees and visitors during any one eight-hour period is stated on the site development plan.
- C. A signed agreement is legibly shown on said site development plan to provide additional parking if an increase in employees or visitors shall occur at a future time.
- D. The paved parking area proposed accommodates one car for each stated employee or visitor plus 10 percent more parking area than such number.

- E. An open lawn area, meeting the additional required area of this section, is shown reserved for future parking on the site development plan.
- F. Said site development plan approval of lesser requirements shall be valid only for the stated use. An occupancy permit for a new use shall not be issued unless a new site development plan is reviewed and approved.

14.14 Required Off-Street Loading and Unloading Space.

In all districts, every building or part thereof, hereafter erected, which is to be occupied for manufacturing, storage, retail sales, warehousing, wholesale sales, or a hotel, hospital, mortuary or laundry, or uses similarly requiring the receipt or distribution in vehicles of materials or merchandise shall provide and maintain, on the same premises, paved off-street loading spaces in relation to floor area as follows:

Up to 20,000 square feet	1 space
20,000 to 50,000 square feet	2 spaces
50,000 to 100,000 square feet	3 spaces
1 additional space for each additional 100,000 square feet or part thereof	

The following shall apply with regard to off-street loading and unloading spaces:

- A. Each loading space shall be at least ten feet in width, 25 feet in length, and 14 feet in height.
- B. Such space may occupy all or any part of any required yard.
- C. No such space shall be located closer than 50 feet to any lot in any residential district unless wholly within a completely enclosed building or enclosed on all sides by a wall or uniformly painted fence not less than six feet in height.

Such loading spaces as may be required shall be considered separate and distinct from required off-street parking areas but shall meet the requirements of Section 14.4 with regard to surface material.

14.15 Miscellaneous Off-Street Parking Provisions.

- A. **Existing Off-Street Parking at the Effective Date of this Ordinance.** Off-street parking existing at the effective date of this Ordinance which serves an existing building or use, shall not be reduced in size to less than that required under the terms of this Ordinance.
- B. **Fractional Requirements.** When units of measurement determining the number of required parking spaces result in the requirement of a fractional space, the fraction shall be considered one full required space.

- C. Requirements for a use not listed shall be the same for that use which is most similar to the use not listed as determined by the Zoning Administrator and/or the Planning Commission.
- D. For the purposes of determining off-street parking and loading requirements, the following provisions shall apply:
 - (1) Floor area shall mean net floor area of all floors of a building as defined in Chapter 2.
 - (2) Joint or collective provision of off-street parking areas for buildings or uses on one or more properties shall not be less than the sum of the requirements for the participating individual uses computed separately.
- E. It shall be unlawful to use any off-street parking or loading area established to meet the requirements of this Ordinance for any purpose other than parking of licensed vehicles or the loading or unloading of necessary service trucks, unless otherwise provided.
- F. Parking of vehicles shall be deemed to mean the temporary placement of vehicles while making use, by the driver or occupants of such vehicle, of the property on which such vehicle is temporary located, and shall not include the storage of any such vehicles.

CHAPTER 15 SIGNS IN ALL DISTRICTS

- 15.1 **Intent of Regulation.** These sign regulations are intended to protect the health, safety and welfare of the general public, promoting and balancing public and private interests. Signs inform, direct, advertise and communicate information, but must do so in a manner that does not unduly detract from the community or the safety of the traveling public. The sign regulations are intended to further the following objectives:
- A. **Aesthetics.** Protect and further the public health, safety and welfare; maintain and approve the Township's appearance and preserve community character.
 - B. **Traffic safety.** Minimize traffic hazards and distractions; provide safer conditions, including information and direction for the traveling public and for pedestrians.
 - C. **Promote businesses.** Promote economic development and commercial activity.
 - D. **Foster free speech.** Preserve and respect the right of free speech.
 - E. **Business identification.** Allow for adequate and effective signage for business identification and other commercial speech, non-commercial speech and distribution of public information.

15.2 **Definitions.**

Abandoned Sign. A sign which no longer identifies or advertises a bona fide business, owner, landlord, person, service, product or activity, or for which no legal owner can be found. A sign shall be considered an abandoned sign if the owner has failed to secure a permit as required by this Ordinance, or where the owner has failed to respond to notices issued under this Ordinance.

Address Sign. A sign which identifies the street address of a property with numbers or letters no greater than six (6) inches in height for residences and no greater than eighteen (18) inches in height for all other uses.

Alteration. As used in this chapter, the term "alteration" (or "alter," "altered" etc.) means any change in a sign, including, without limitation, any change in a sign's dimensions, shape, area, height, number or orientation of sign faces, structural support, location on the property, materials or lighting; provided, however, a change solely in the wording of the copy of a sign shall not constitute an "alteration" for purposes of this chapter, unless the result of the change would cause the sign to be reclassified to a type of sign that is subject to different or more restrictive regulation.

Awning or Canopy. A retractable or fixed shelter on a supporting framework, constructed of fabric, plastic or other non-rigid materials, projecting from and supported by the exterior wall of a building.

Balloon Sign. A sign composed of a non-porous structure filled with gas or supported by air.

Billboard or Off-Premises Sign. Any structure, including the wall of any building, on which lettered, figured or pictorial matter is displayed for advertising a business, service, or entertainment which is not conducted on the land upon which the structure is located or products not primarily sold, manufactured, processed, or fabricated on such land. This definition does not include a Portable Sign, or a Garage or Estate Sale Sign, as defined in this Section. New billboard or off premises signs are prohibited.

Business Sign. Any sign structure, including the wall of any building, on which lettered, figured, or pictorial matter is displayed for advertising a business, service, or entertainment conducted on the same land where the sign structure is located, or advertising products sold, manufactured, processed, or fabricated on the same land where the sign structure is located.

Community Special Event Sign. A portable sign not exceeding four (4) square feet in area, erected for the purpose of calling attention to non-commercial, special events of interest to the general public which are sponsored by governmental agencies, schools or other non-profit groups whose purpose is of a public, charitable, philanthropic, religious or benevolent nature.

Construction Sign. A sign less than twelve (12) square feet in area which identifies the owners, lenders, contractors, architects, and engineers of a project under construction, as well as the project itself.

Copy. The wording, numbering or lettering on a sign surface in either permanent or removable letter or number form.

Device Sign. A permanent sign on vending machines, gas pumps, ice containers and similar equipment or fixtures indicating only the contents of such device, provided that the sign area of each sign shall not exceed three (3) square feet in area, and shall be limited to one (1) sign per vending machine, gas pump, ice container or other similar equipment.

Digital Billboard. A billboard consisting of, or incorporating, a digital sign as defined herein.

Digital Sign. A sign that consists of, or incorporates an image, display or sign face that is projected or otherwise produced, in whole or in part, by the use of specialized light-emitting technologies, such as, but not limited to, light-emitting diodes (LEDs), liquid crystal display (LCD) or plasma display panels, computer-generated imaging or similar means.

Directional Sign. A sign which gives directions, instructions, or facility information for the movement of vehicles or pedestrians on the same lot on which the sign is located, such as parking or exit and entrance signs. A directional sign shall not exceed four (4) square feet in area and shall be set back at least ten (10) feet from the street right-of-way line and the edge of all driveways. It shall bear no advertising matter other than a logo, trademark or identifying name of the business or entity subject to such directional sign.

Electronic Message Board. A sign that uses lights to display messages, such as, but not limited to, the current time, temperature, date of the immediate environment and limited advertisement, commercial or informational message or image.

Flags. Flags or insignia of any governmental or non-profit organization when not displayed in connection with a commercial promotion or as an advertising device.

Garage or Estate Sale Sign. A non-permanent sign not exceeding four (4) square feet in area, erected to advertise the resale of personal property belonging to the resident. This definition includes signs for garage sales, estate sales, rummage sales, yard sales or other similar casual sale of property. Not more than four (4) such signs may be installed and used for a single event, at any given time, and such signs shall be displayed for not more than 14 days in any calendar year.

Gateway Sign. A freestanding sign identifying, in the case of a residential district, a residential development or development of multiple dwelling buildings, and in the case of a commercial development or an industrial park, the name of the business center or industrial park. In the case of an industrial or commercial center, the gateway sign may include the names of the individual businesses or land uses within the development or park, subject to the regulations contained in this Ordinance. In the case of a planned unit development, a gateway sign shall comply with the requirements for a residential development, or for the requirements of a commercial or industrial development, as applicable. If the PUD is a mixed use development, the names of the individual businesses or land uses within the development or park may be listed on the gateway sign.

Ground Sign (a/k/a Monument Sign). A freestanding sign not attached to a building or wall which is supported by one (1) or more poles or braces or which rests on the ground or on a foundation resting on the ground, the bottom of which is no more than 24 inches above the finished grade.

Governmental and Essential Service Sign. A sign erected or required to be erected by the Township, Kent County, or the state or federal government, traffic and highway signs, and signs denoting utility lines, airports or railroads.

Historic markers. A plaque, marker or sign made of cast iron or similar durable material commemorating a historic person or event or identifying a historic place, structure or object, including a centennial farm. A sign of this type shall not exceed four (4) square feet in area.

Human or Animal Signs. A sign for commercial purposes that is held, supported, carried or worn by a person or animal, including the wearing of a sandwich board or other message.

Identification Sign. A sign located on the same premises it pertains to, which serves only to identify only the name of the occupants, the name of the premises, and/or the address of the premises, and which in the case of a commercial farm operation, may also include the name of the farm operation or principal farm product produced on the same premises.

Name Plate Sign. A non-electric on premise sign not exceeding four (4) square feet in area, giving only the name, address, and/or occupation of a tenant, occupant or group of occupants.

Non-conforming Sign. A sign which was legally erected prior to the effective date of this Section, but which does not conform to this Section.

Placard. A sign not exceeding two (2) square feet which provides notices of a public nature, including warnings and safety messages, such as “no trespassing” or “no hunting.”

Pole or Pylon Sign. A freestanding sign, the bottom of which is more than 24 inches above the finished grade, and which is supported by a structure, poles, or braces which are less than 50 percent of the width of the sign.

Political Sign. A non-commercial, portable sign displayed in connection with a governmental election or referendum. This definition also includes portable signs that communicate ideological messages or ideas that are not commercial in nature, and which, by their nature, are afforded the highest level of constitutional protection under the First Amendment.

Portable Sign. A sign that is not permanent or affixed to a building or structure or, which by its nature, may be or is intended to be moved from one location or another, whether rented or owned, such as “A” frame signs. A portable sign may contain directional information about the location of a business or activity (e.g., “1/4 mile to U-Pick Orchard”).

Projecting Sign. A double-faced sign attached to a building or wall that extends in a perpendicular manner more than 12 inches, but not more than 36 inches, from the exterior face of the building or wall to which it is attached.

Public Utility Signs. Signs of a non-commercial nature erected by public utilities with respect to services, products, warnings or other information regarding the utility.

Real Estate Sign. A non-illuminated, portable sign that advertises the real estate upon which the sign is located as being for sale, rent or lease, provided the real estate sign does not exceed four (4) square feet in area for single or two-family residences or eight (8) square feet for commercial, industrial and other residential properties (including undeveloped land). A real estate sign shall not have a height greater than six (6) feet, and not more than one (1) such sign shall be located on a single lot or parcel at any given time.

Roof Sign. A sign which is erected, constructed and maintained on the roof of the building.

Sign. A device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of any business, establishment, person, entity, product, service or activity, or to communicate information of any kind to the public.

Temporary Sign. A sign, flag, banner, feather sign, flutter sign, inflatables, figure, pennant or valance, usually constructed of cloth, canvas, light fabric, plastic, mylar, cardboard, wallboard or other light materials, with or without frames, or any other sign, other than a portable sign, that is not permanently secured and is not intended or designed for permanent use.

Temporary Window Sign. A window sign that is used only temporarily and is not permanently mounted. A sign which is intended to be or is in place for more than one (1) year is not a temporary sign.

Vehicle Sign. A sign affixed, painted or drawn on a vehicle or trailer, the primary purpose of which is to advertise or identify an establishment, product, service or activity, rather than merely to identify the vehicle or trailer while it is being used for transport, delivery or similar purpose, but excluding a sign on a licensed vehicle or trailer being parked overnight or otherwise being parked for a time of short duration and associated with the use of the vehicle or trailer for travel, transport, delivery or the like.

Wall Sign. A sign painted or attached directly to and parallel to the exterior wall of a building, which does not extend more than 12 inches from the exterior face of the wall to which it is attached.

Window Sign. A sign installed inside a window intended to be viewed from the outside, which complies with the following requirements:

- (1) Temporary window signs or displays are permitted provided that the signs or displays shall not cover more than thirty percent (30%) of the total window or door surface.
- (2) Permanent window signs or displays shall be limited to fifteen (15%) percent of the total window surface.
- (3) One address sign, containing only the street address, is permitted in the window of each tenant in a building that has more than one tenant. The address sign shall not exceed one (1) square foot in area. The address sign shall not be included in the calculation of permitted area for window signs.

15.3 Permit Required; Exemptions. A sign shall not be erected, altered, placed or permitted to be placed or replaced within the Township without first obtaining a sign permit, except that if the following signs comply with applicable definitions and restrictions contained in this chapter, such signs shall be exempt from the requirement to obtain a sign permit. All signs, including the following exempt signs, shall comply with the general sign provisions of Section 15.4:

- A. Address signs.
- B. Community special event signs.
- C. Construction signs
- D. Device Signs.
- E. Directional signs.
- F. Public utility signs.
- G. Flags.
- H. Garage sale and estate sale signs.
- I. Historic markers.

- J. Name plate signs.
- K. Placard signs.
- L. Political signs.
- M. Real estate signs.
- N. Governmental and traffic control signs.
- O. Window signs.

15.4 **General Sign Provisions.** The following regulations are applicable to all signs in all zoning districts, including exempt signs:

A. **Sign Structure and Placement.**

- (1) **Wind and weather resistant.** Signs shall be constructed to withstand all wind and vibration forces which can normally be expected to occur.
- (2) **Not in Public Right-of-Way.** Signs shall not be placed in, upon or over any public right-of-way, alley, or other place, except as may be otherwise permitted by the Kent County Road Commission or Michigan Department of Transportation. Signs placed in the right-of-way in violation of this ordinance shall be deemed to be an abandoned sign and a safety hazard, subject to immediate removal and disposal by the Township. In addition, signs on private or public property shall be set back 10 feet from the edge of the right-of-way.
- (3) **Not on utility pole.** A light pole, utility pole or other supporting member shall not be used for the placement of any sign, except as may be specifically permitted by this chapter.
- (4) **Not a traffic distraction.** A sign shall not be erected in any place where 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 constitute a nuisance per se.
- (5) **Not above the roof peak.** No sign attached to a building shall extend above the top of a parapet wall or highest point on the roof, whichever is higher.
- (6) **Within lot lines.** A sign and its supporting mechanism shall not extend beyond or above any lot lines of the property on which it is located.
- (7) **Off-Premises and Portable Signs.** All signs shall be stationary, anchored and shall pertain only to the business or activity conducted on the premises, except for directional signs, community special event signs and billboards. No directional sign, community special event sign or billboard shall be

placed on an off-premises property without the written consent of the property owner.

- (8) **Changeable Copy Signs.** Wall and freestanding signs may include changeable message displays within the maximum size limits permitted for the sign; provided the message is static and is not changed more frequently than permitted by this section and by the applicable district sign regulations.
- (9) **Maintenance.** Signs and their supporting foundations shall be cleaned and maintained in good repair, and shall be clearly legible, not faded.

B. Measurement of Sign Area. No sign shall exceed the maximum sign area allowed for the district in which it is located. The sign area is to be expressed in square feet, computed to the nearest tenth of a square foot, and shall be calculated as follows:

- (1) **Area.** The 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 structure necessary to support the sign.
- (2) **Double-faced sign.** The area of a freestanding, ground or projecting sign that has two or more faces shall be measured by including the area of all sign faces, except if two faces are placed back-to-back and are no more than two feet apart at any point, the area of one face shall be counted toward the maximum size requirement. If the two back-to-back faces are of unequal size, the larger of the two sign faces shall be counted as the one face.
- (3) **Wall sign.** For a sign consisting of individual letters and/or a logo affixed directly onto a building, the area of the sign shall be computed by measuring the area of the envelope required to enclose the lettering and logo.
- (4) **Height.** The height of a sign shall be measured as the vertical distance from the highest point of the sign to the finished grade of the ground immediately beneath the sign, excluding any artificially constructed earthen berms.
- (5) **Multiple tenant buildings.** For buildings with multiple tenants, the sign area for wall, projecting, canopy or awning signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing the sign requirements for that portion of the total wall.

C. Illumination and Movement.

- (1) Unless otherwise provided, signs may be illuminated internally or externally. If externally illuminated, the source of the light shall be enclosed and directed to prevent light from shining directly onto traffic or neighboring property. Beacon lights and search lights shall not be permitted.
- (2) Flashing, moving, oscillating, blinking, or variable intensity light shall not be permitted. Electronic message boards, digital signs, or changeable copy signs in which the copy consists of an array of light are permitted provided the frequency of message change is not less than five (5) seconds. All lights in a display shall activate simultaneously, remain activated for not less than five (5) seconds, and deactivate simultaneously; provided, however, sign copy may be refreshed by text that appears or disappears through travel, scroll, fade or dissolved transitions if the visual impact is not to give the appearance of flashing, animation or other sudden movement likely to be unduly distracting to traveling motorists, and provided that each message on the sign, including the copy, must be displayed for a minimum of five (5) seconds. No sign shall have blinking, flashing or fluttering lights or other illuminated devices, such as changing light intensity, brightness or color.
- (3) A sign shall not contain any moving or animated parts, nor have the appearance of having moving or animated parts, except for time and temperature signs and barber pole signs.

15.5 Prohibited Signs. The following signs are prohibited within the Township notwithstanding anything to the contrary in this chapter, except stated in this section:

- A. Any sign not specifically permitted by this Ordinance.
- B. A sign, any part of which extends above the top of the parapet wall, or highest point on the roof of the building, whichever is higher.
- C. Digital billboards and Tri-vision billboards.
- D. New billboards and off-premises signs, being proposed to be erected after the effective date of this Chapter 15 are prohibited.
- E. Vehicle signs.
- F. Human or Animal signs.
- G. Banners, pendants and balloon signs, and other devices used to attract the attention of the public, except as otherwise allowed by this Ordinance as a temporary sign.
- H. Light strings, and flashing, moving, oscillating, blinking, or variable intensity light.
- I. Signs which depict vulgarity or pornography.

15.6 Regulations for Portable and Temporary Signs.

A. Portable signs are permitted only as follows:

- (1) Portable political signs are permitted in all districts. Other types of portable signs may be permitted only in the AG, SFR-L, R-M and PLR Districts, provided that they shall not be erected unless a permit therefore has been issued by the Zoning Administrator. Portable signs are prohibited in the C, I, Interchange/Freeway, Mixed Use, and other non-residential districts unless specifically allowed by this Chapter.
- (2) Where permitted, portable signs shall comply with each of the following requirements:
 - (a) A portable sign may be used and displayed for a duration not to exceed 30 days in any calendar year.
 - (b) A portable sign shall not be installed within a public road right-of-way.
 - (c) A person shall not affix a portable sign to a property unless that person is (i) an owner of the property of which the sign is affixed, or (ii) has the express written permission of the owner of the property on which the sign is affixed.
 - (d) Not more than four (4) portable signs may be installed and used by any one person or business, at any given time.
 - (e) A portable sign shall not have an area of more than eight (8) square feet and shall not have a height of more than six (6) feet.

B. Temporary signs are permitted only as follows:

- (1) Temporary political signs are permitted in all districts. Other non-exempt temporary signs are permitted provided that they shall comply with the applicable definitions and restrictions contained in this Ordinance, and provided that they shall not be erected unless a permit therefore has been issued by the Zoning Administrator.
- (2) Where permitted, temporary signs shall comply with each of the following requirements:
 - (a) A temporary sign may be used and displayed for a duration not to exceed fourteen (14) days in any calendar year, and only for the purpose of advertising a special or one-time commercial sales event or commercial celebration event.
 - (b) A temporary sign shall not be installed within a public road right-of-way.

- (c) A person shall not affix a temporary sign to a property unless that person is an owner of the property of which the sign is affixed.

15.7 **District Regulations.** Signs are permitted within the various zoning districts according to the following terms:

A. **Residential Districts.** Signs in the AG, SFR-L, RM, and PLR Districts shall be permitted only in accordance with the following provisions and other applicable provisions of this Ordinance:

- (1) There may be one (1) ground sign or wall sign for a non-residential use, including but not limited to a permitted institutional use, such as a church, school, community center, library, museum, art gallery, park, playground, or governmental administrative or service building, not exceeding thirty two (32) square feet in area on each lot or parcel of land or exceeding six feet (6) in height above the grade.
- (2) A residential development, a residential site condominium development, apartment complex, PUD or other unified multiple dwelling residential project may have a gateway sign on each street frontage, not exceeding two signs for each development. The gateway sign shall not exceed thirty two (32) square feet in area or six (6) feet in height and shall be set back a minimum of ten (10) feet from the right-of-way line and from all lot lines.
- (3) One home based business sign per business is permitted on the same lot or parcel that is lawfully engaged in a permitted home based business. It shall be non-illuminated, shall not exceed four (4) square feet in area, and shall not exceed a height of six (6) feet.
- (4) Exempt signs are permitted, provided that they comply with the applicable terms and definitions of this Ordinance, and provided that such signs are not used for a commercial purpose that is not permitted in the district by this Ordinance.
- (5) Digital signs are not permitted in the RM District.

B. **Commercial and Industrial Districts.** Signs in the C, I, and Interchange/Freeway Mixed Use Districts shall be permitted only in accordance with this section and other applicable provisions of this Ordinance:

- (1) Two business signs are permitted for non-residential uses in the C, I, and Interchange/Freeway Mixed Use Districts. Only one wall sign or one roof sign is permitted on the same side of the building.
- (2) If a business sign is a freestanding sign, its surface area shall not exceed forty (40) square feet and fifteen (15) feet in height.

- (3) If a business sign is a freestanding sign, no part of the sign shall be closer than ten (10) feet from the street right-of-way, and shall not otherwise obstruct visibility at street intersections.
- (4) If a business sign is a wall sign, its surface area shall be not more than (a) 32 square feet, or (b) 10% of the surface area of the face of the building wall to which it is attached (whichever is greater), taking into account the first floor wall area only. Notwithstanding the preceding size limitations, a wall sign may be mounted above the first floor of a building.
- (5) If a business sign is a wall sign, no part of the sign shall extend farther than 18 inches from the exterior face of the wall to which it is attached. If it is a projecting sign, no part of the sign shall extend farther than 36 inches from the exterior face of the building or wall to which it is attached.
- (6) If a business sign is a roof sign, its surface area shall be not more than (a) 32 square feet, or (b) 10% of the area of the face of the smallest building wall which is below it, taking into account first floor wall area only. No part of the sign shall project above the highest point of the roof.
- (7) A unified commercial or industrial development may have a single gateway sign on the street frontage of its primary entrance. The gateway sign shall not exceed thirty two (32) square feet in area or six (6) feet in height and shall be set back a minimum of ten (10) feet from the right-of-way line and from all lot lines.
- (8) Exempt signs are permitted, provided that they comply with the applicable terms and definitions of this Section.

15.8 Signs for Special Land Uses and Planned Unit Development District Uses and Other Modifications.

- A. Signs in and for special land uses shall be permitted only in accordance with the district regulations for the applicable special land use, unless the Planning Commission and/or the Township Board specifically approves, as part of the special land use procedures under Chapter 19 additional or different signage provisions.
- B. Signs in and for the PUD District shall be permitted only in accordance with the district regulations for the PUD District, unless otherwise approved by the Planning Commission and the Township Board as part of the PUD District approving ordinance.
- C. The Planning Commission may modify the sign regulations contained in this Chapter, with respect to an increase in the height, number or area of signs, or other modification of the requirements contained in this Chapter, where the purposes of this Chapter will nevertheless be achieved by the modified provisions. In approving such modifications, the Planning Commission shall consider the following criteria:

- (1) Standards for Modification.
 - (a) The modification shall be compatible with adjacent existing and future land uses and shall not be injurious to the use and enjoyment of nearby property.
 - (b) The modification shall improve and not impede emergency vehicle or personnel access, traffic or pedestrian circulation.
 - (c) The modification shall be necessary because of topography, natural features, visual obstructions or other unusual aspects of the site.
 - (d) The modification shall not result in traffic or safety hazards, shall not result in visual clutter or distraction, and shall not otherwise result in a detriment to the public health, safety and welfare.
- (2) Requests for Modification. When requesting modifications from the provisions of this Chapter, the applicant shall provide the Planning Commission with a written statement of justification, indicating the site conditions that warrant the requested modifications and specifying how the modifications would nevertheless carry out the basic intent and purposes of this Chapter.

15.9 Non-conforming Signs, Including Non-conforming Billboards.

- A. **Intent.** It is the intent of this chapter to encourage eventual elimination of signs that as a result of the adoption of this chapter become non-conforming, to administer this chapter to realize the eventual removal of illegal non-conforming signs, to avoid any unreasonable invasion of established private property rights and to adopt regulations on the limited alteration or provisional relocation of certain nonconforming signs, in particular circumstances. This section includes specific, detailed provisions regarding non-conforming signs, and accordingly, in the event of a conflict between the provisions of this section and Chapter 16 of this Ordinance, the provisions of this section shall control.
- B. **Lawful Existing Signs.** A sign lawfully existing at the time of the adoption of these provisions which does not fully comply with the provisions of this chapter or other relevant provisions of this Ordinance shall be deemed a lawful non-conforming sign and may be permitted to remain if the sign is properly maintained and if it has no serious adverse effects on the public health, safety and general welfare, except as otherwise stated in this section.
- C. **Continuance of Non-conforming Signs other than Billboards.** This subsection C regulates only non-conforming signs that are not billboards, and accordingly, references in this subsection to signs do not include billboards.
 - (1) **Alteration/Repair.** Non-conforming signs shall not be altered, expanded, enlarged, extended, or repaired, without being brought into full compliance

with all applicable regulations under this chapter, except as expressly provided by this subsection.

- (a) A non-conforming sign may be diminished in size or dimension without jeopardizing the privilege of non-conforming use. As with conforming signs, a change solely in the wording of the copy of a non-conforming sign shall not constitute an alteration for purposes of this chapter, unless the result of the change would cause the sign to be reclassified to a type of sign subject to different or more restrictive regulation.
- (b) Routine repair to maintain a non-conforming sign in a safe and aesthetic condition exactly as it existed at the time of the enactment of this chapter and so as to continue the useful life of the sign shall not constitute an alteration for purposes of this chapter, unless the estimated cost of repair exceeds fifty (50%) percent of the appraised replacement cost of the entire sign prior to the repair, as determined by the Township. If the estimated cost of repair exceeds fifty (50%) percent of that appraised replacement cost, the right to continue using the non-conforming sign shall thereupon terminate and the sign must be brought into full compliance with all applicable provisions and requirements of this chapter prior to further use.
- (c) In no event shall the alteration of a non-conforming sign result in an increase in the nature or degree of any aspect of the sign's non-conformity.

- (2) **Signs Accessory to Non-conforming Uses.** A sign related to a non-conforming use may be erected in the Township in accordance with the sign regulations for the zoning district in which the property is located.
- (3) **Damage or Destruction.** If a non-conforming sign is damaged or destroyed by fire, explosion, flood, wind or other calamity, the sign may be restored to the condition exactly as it existed immediately prior to the damage or destruction, unless the estimated cost of restoration or replacement exceeds 50% of the appraised replacement cost of the entire sign prior to the loss, as determined by the Township. If the estimated cost of restoration or replacement exceeds 50% of that appraised replacement cost, the right to continue using the non-conforming sign shall thereupon terminate and the sign shall be brought into full compliance with all applicable provisions and requirements of this chapter prior to further use.
- (4) **Abandoned Signs.** Any sign which the Township determines to be abandoned shall be removed by the owner. If the owner does not remove the sign, or if no owner can be found, the Township may remove and dispose of the sign. If the sign is removed by the Township and the owner is known, the Township shall have the right to recover from the owner of the sign the full

costs of removing and disposing of the sign. Signs in the public right-of-way shall be subject to immediate removal by the Township.

- (5) **Portable and Temporary Signs.** Portable and temporary signs that are non-conforming shall be altered to comply with the provisions of this chapter or they shall be removed within ninety (90) days after the effective date of this section.

D. **Continuance of Non-conforming Billboards.** This subsection D regulates only non-conforming billboards. Non-conforming signs that are not billboards are regulated by subsection C above.

- (1) A non-conforming billboard shall not be enlarged or expanded in area or increased in height, in whole or in part.
- (2) A non-conforming billboard shall not be changed to another non-conforming billboard or another non-conforming sign, except as permitted under Section E.
- (3) A non-conforming billboard shall not be removed, in whole or in part, from its current location and then relocated, re-erected or re-installed at another location, on the same parcel of land, except as permitted under subsection E. A non-conforming billboard may not be relocated, re-erected or re-installed on a different parcel of land.
- (4) A non-conforming billboard shall not be repaired, re-erected or re-installed after being damaged as a result of casualty, if the repair, re-erection or re-installation of the billboard, within any 12-month period, would cost more than 60 percent of the cost of an identical new billboard. In evaluating evidence presented as to the cost of an identical new billboard, the Township may require the submission of cost estimates from multiple suppliers or contractors or other reliable proof of such cost.
- (5) A non-conforming billboard shall not be altered or revised, except as permitted under subparagraph (7) of this subsection; provided, however, that the following actions with respect to a non-conforming billboard shall be permitted: normal and usual maintenance; the changing of the billboard surface-area to a lesser or equal area (but changing the billboard surface-area from a static surface-area to a changeable, digital, electronic or tri-vision surface-area, in whole or in part, shall not be permitted); the replacement of landscaping below the base of the billboard; or the alteration of the billboard's background, letters, figures, graphics or other characters (but such alterations shall not cause the background, letters, figures, graphics or other characters to become changeable, or to be in a digital, electronic or tri-vision format or configuration).

- (6) A non-conforming billboard shall not be changed, altered, revised or reconstructed so as to be or constitute an electronic message board or a changeable, digital, electronic or tri-vision billboard, in whole or in part.
- (7) A non-conforming billboard may be (1) changed to another non-conforming billboard or another non-conforming sign, (2) removed from its current location and then relocated, re-erected or re-installed at another location on the same parcel of land, and (3) altered or revised, or any of them, only as a special land use pursuant to Chapter 19.
- (8) Any billboard which the Township determines to be abandoned shall be removed by the owner. If the owner does not remove the billboard, or if no owner can be found, the Township may remove and dispose of the billboard. If the billboard is removed by the Township and the owner is known, the Township shall have the right to recover from the owner of the billboard the full costs of removing and disposing of the billboard.

CHAPTER 16
NONCONFORMING USES AND LOTS

16.1 Continuance of Nonconforming Uses and Structures.

Lawful nonconforming uses or structures, as defined in Chapter 2, may be continued, but shall not be extended, added to or altered, unless each such extension, alteration or addition is in conformity with the provisions of this Ordinance.

- A. Where a non-farm structure or use of land is nonconforming because the use is not permitted in the district, such structure or land usage shall not be enlarged or further increased. However, if upon application to the Board of Appeals it shall find upon reasonable evidence that:
- (1) There will be no danger to the safety, health, or welfare of the residents of the vicinity.
 - (2) It will be done in such a manner as to safeguard the character of the zone.
 - (3) There are no other nonconforming structures within 150 feet of the proposed extension of the nonconforming structure (measuring from building line to building line); or in the case of a proposed extension of a nonconforming use, in land area the proposed extension must be 200 feet from any conforming structure (measuring from the building line of the conforming structure to the nearest point of the area which will compose the extended portion of the nonconforming use).
 - (4) There is a reasonable need for the extension of a nonconforming use; then the Board of Appeals may allow an extension of 50 percent from the original existing floor space or existing land area comprised of the nonconforming use, or structure, or both.
- B. The Board of Appeals shall have no power to extend a nonconforming use or nonconforming structure more than 50 percent of the original nonconforming use or structure. For the purpose of this subsection, "original" shall mean the existing floor space or existing land area at the time of initial application to the Board of Appeals as allowed hereunder. This section shall only apply to legal pre existing, nonconforming structures or uses. The applicant shall further submit to the Board of Appeals a site development plan, at a scale of no less than 1"=100', indicating:
- (1) The structure and/or property in question in relation to other properties within 200 feet.
 - (2) A property description.
 - (3) The present dimensions of the property and/or structure and the dimensions of the property and/or structure after the proposed extension.

- C. Agricultural uses permitted in Section 5.2 shall be permitted to enlarge existing buildings up to 50 percent of their size at the time of the adoption of this Ordinance in any district prohibiting such uses, provided that the retail sale of products produced in the premises to the general public and structures accessory to such sales may not be so expanded.
- D. Structures which are permitted uses in the district but do not conform to height, yard, parking or lot area provisions may be extended, altered or modernized provided that no additional encroachment of the provisions of this Ordinance is occasioned thereby.

16.2 Discontinuance of Occupancy of Nonconforming Uses and Structures.

If the occupancy of a nonconforming use of any land or structure terminates for a continuous period of over 12 months or more, such use shall not be re-established and any future use of such land or structure shall be in conformity with this Ordinance.

16.3 Restoration and Repair.

Such repairs and maintenance work as are required to keep a legal nonconforming building or structure in a sound condition may be made. If a nonconforming building or structure is damaged or destroyed to the extent of 60 percent of its real value by fire, flood, wind or other calamity, its reconstruction and subsequent use shall be in accordance with this Ordinance. A nonconforming building damaged to a lesser extent may be restored to its size at the time prior to such damage and its use resumed. Any such restoration must be started within a period of one year of the time of such damage and diligently pursued to completion.

16.4 Nonconforming Lots of Record (Substandard Lots).

In any district, any use permitted by right in that district may be erected on a lot that fails to meet any applicable dimensional requirement for a lot, provided that all other applicable provisions of this Ordinance, including setbacks, are met. Such lots must be in separate ownership at the time of application and certified by the applicant as not being contiguous with other lots under the same ownership and shall meet all current minimum space requirements for a lawful health disposal system. Two or more contiguous lots that fail to meet any applicable dimensional requirement and are under the same ownership shall be considered one lot.

CHAPTER 17
SITE PLAN REVIEW

17.1 Intent and Purpose.

It is the intent of this section to require site development plan approval for buildings, structures, and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent land uses and on the character of future development. It is the purpose of this section to achieve, through site plan review, safe and convenient traffic movement; harmonious relationships of buildings, structures, and uses; and the conservation of natural features and resources, and compliance with Township ordinances and other applicable law.

17.2 Uses Requiring Site Plan Review.

The following buildings, structures and uses require site plan approval by the Planning Commission:

- A. All special uses.
- B. All commercial uses.
- C. All industrial uses.
- D. Parking areas in commercial and industrial districts.
- E. Parking areas in residential districts with more than four spaces.
- F. Planned unit developments.
- G. Private roads.
- H. All platted subdivisions and site condominium or condominium subdivisions.
- I. All residential developments containing four or more units or parcels, including the remnant parcel.
- J. Any expansion, alternation, or changes in or to any of the above mentioned uses.

17.3 Contents of Site Plan.

A site plan shall include all of the following information, unless waived by the Zoning Administrator.

- A. A site plan based on an accurate certified land survey showing:
 - (1) The date, north arrow, and scale. The scale shall be not less than 1"=100' for those sites three acres or more.

- (2) The name and firm address of the professional individual responsible for the preparation of the site plan.
- (3) The name and address of the property owner or petitioner.
- (4) A locational sketch.
- (5) Legal description of the subject property.
- (6) The size (in acres) of the subject property.
- (7) Property lines and required setbacks.
- (8) Refuse and service areas.
- (9) Loading and unloading facilities.
- (10) Exterior lighting and signs.
- (11) The location of all existing structures, driveways, and parking areas within 300 feet of the subject property's boundaries.
- (12) The location and dimensions of all existing and proposed structures on the subject property.
- (13) The location of all existing and proposed drives, acceleration/deceleration lanes, sidewalks and existing and proposed parking areas.
- (14) The location and right-of-way width of all abutting roads, streets, alleys or easements.
- (15) The current uses of all properties abutting the subject property.
- (16) The location and a general description of all existing vegetation, and the location, type, and size of all proposed landscaping, and the location, height and type of existing and proposed fences and walls.
- (17) Location and nature of existing and proposed water supply and sewage disposal facilities, including any proposed connections to public sewer or water supply systems.
- (18) The location and size of all existing and proposed surface water drainage facilities.
- (19) Existing and proposed topographic contours.
- (20) Recreation areas, common use areas, and areas to be conveyed for public use.
- (21) Existing and proposed lakes, streams and other bodies of water.

- (22) Flood plain areas and basement and floor elevations of all buildings.
 - (23) Any deed restrictions or covenants.
 - (24) Typical elevation views of the front and side of each building.
 - (25) A brief narrative description of the project.
- B. Preliminary architectural sketches and/or a general statement as to the type of construction and materials to be used in the proposed buildings or structures. Height and area of buildings and structures shall be described.
 - C. The period of time within which the project will be completed.
 - D. Proposed staging of the project, if any.
 - E. Gross areas of buildings and parking.
 - F. Delineation of the 100-year floodplain and any proposed uses therein.
 - G. Additional information which the Township may request and which is reasonably necessary to evaluate the site plan.

The application for site plan approval shall be accompanied by a fee, as established by Township Board resolution from time to time. The Planning Commission may waive any of the required contents of the site plan, if such items are deemed not necessary to a decision concerning the site plan.

17.4 **Standards of Review.**

The Planning Commission shall approve a site plan if it determines that the plan complies with the requirements of this Ordinance; is consistent with the intent and purposes of the Ordinance; will be compatible with adjacent land uses, and the natural environment and capacities of public services and facilities; and will be consistent with the public health, safety and welfare. In addition, the site plan shall comply with the following standards:

- A. **Building Permit.** Where a site plan has been approved for any use, any building permit issued shall provide that the development be completed in accordance with the approved site plan. A failure to conform with the site plan shall be a violation of this Ordinance, and if necessary the Township may issue a stop work order.
- B. **Traffic Circulation.** The number, location, and size of access and entry points, and internal traffic and pedestrian circulation routes shall be designed to promote safe and efficient access to and from the site, and circulation within the site. In reviewing traffic circulation features, the Planning Commission shall consider spacing and alignment with existing and probable future access points on nearby properties, and may require that provision be made for shared access with adjacent properties.

- C. **Storm Water.** Storm water detention and drainage systems shall be designed so that the removal of surface waters will not adversely affect neighboring properties or public storm water drainage systems.
- D. **Landscaping.** The landscape shall be preserved in its natural state, insofar as practicable, by minimizing unnecessary tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. The Planning Commission may require that landscaping, buffers, or greenbelts be preserved or provided, to ensure the proposed uses will be adequately buffered from one another and from surrounding property.
- E. **Screening.** Where commercial uses abut residential uses, appropriate screening consisting of attractively designed, fencing or screening, or equivalent landscaping, shall be provided so as to shield residential properties from noise, headlights, and glare, and from the view of trash receptacles, dumpsters and similar outdoor, utilitarian uses, common to commercial activities.
- F. **Lighting.** Outdoor lighting shall be designed so as to minimize glare on adjacent properties and public streets.
- G. **Exterior Uses.** Exposed storage areas, machinery, heating and cooling units, service areas, loading areas, utility buildings and structures, and similar accessory areas shall be located so as to have only a minimum negative effect on adjacent properties, and shall be screened if reasonably required to ensure compatibility with surrounding properties.
- H. **Utilities.** Water supply and sewage disposal facilities shall comply with all Township, county and state requirements.
- I. **Signs.** Signs shall comply with Chapter 15 and any other sign regulations in this Ordinance.
- J. **Parking and Loading.** Off-street parking and loading facilities shall comply with Chapter 14 and any other parking regulations in this Ordinance.

17.5 **Conditions.**

The Planning Commission may impose reasonable conditions on the approval of a site plan. Such conditions may include but need not be limited to conditions necessary to insure compatibility with adjacent land uses, to promote the use of land in a socially and economically desirable manner, to protect the natural environment and conserve natural resources and to insure that public services and facilities affected by a proposed land use or activity will be capable of handling increased service and facility demands caused by the land use or activity.

17.6 Improvements; Financial Guarantees.

To insure compliance with the Zoning Ordinance and any conditions imposed thereunder, the Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township covering the estimated cost of the improvements proposed in the site plan, be deposited with the Township Clerk to insure timely and faithful completion of the improvements.

17.7 Procedures.

- A. Ten copies of a site plan and a completed application form, and the application fee shall be submitted to the Zoning Administrator. After the Zoning Administrator determines that a proposed land use complies with the Zoning Ordinance, the Building Code and other ordinances of the Township, the site plan shall be placed on the agenda of a Planning Commission meeting.
- B. The Planning Commission may approve the site plan, disapprove it, or approve it with conditions.
- C. Any conditions or modifications approved or required by the Planning Commission shall be recorded in the minutes of the Planning Commission meeting.
- D. Decisions on a site plan shall be made by a majority vote of those present.
- E. Upon approval of a site plan, the site plan as approved shall become part of the record of approval of the land use. All subsequent actions relating to the land use shall be consistent with the approved site plan, unless changes therein are approved by the Planning Commission pursuant to Section 17.8. Failure to conform to an approved site plan shall be a violation of this Ordinance.
- F. In the event of construction work or other activity that does not comply with an approved site plan, the Township Zoning Administrator or Township Supervisor may issue a stop work order, whereupon all work in violation of or inconsistent with the approved site plan shall cease, until the stop work order is withdrawn by the Township.
- G. Upon approval of a site plan, three copies of the approved plan shall be submitted and shall be signed by the chairperson of the Planning Commission; with one copy to the Zoning Administrator, one copy to the Township Clerk and one copy shall be returned to the applicant.

17.8 Changes in Approved Site Plans.

- A. The holder of an approved site plan shall notify the Zoning Administrator of any proposed change in the approved site plan.
- B. Minor changes in an approved site plan may be approved by the Zoning Administrator, upon a determination that the proposed change will not alter the basic

design of the development or any specific conditions imposed as a part of the original approval. Minor changes shall include the following:

- (1) Change in building size, up to 5 percent in total floor area.
 - (2) Change in location of buildings or other structures by no more than ten feet.
 - (3) Replacement of plant material specified in the landscape plan, with comparable material.
 - (4) Changes in building materials to a comparable or higher quality.
 - (5) Changes in floor plans which do not alter the character of the use.
 - (6) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
 - (7) Changes required or requested by the Township for safety reasons.
 - (8) Changes which will preserve the natural features of the site without changing the basic site layout.
 - (9) Other similar changes of a minor nature which are deemed by the Zoning Administrator to be not material or significant in relation to the entire site, and which the administrator determines would not have a significant adverse effect upon adjacent or nearby lands or the public interest.
- C. The Zoning Administrator may refer any decision regarding any proposed site plan change to the Planning Commission for review and approval (regardless of whether the change may or may not qualify as a minor change.)
- D. Should the Zoning Administrator determine that the requested change to the approved site plan is not a minor change, then the site plan shall be resubmitted to the Planning Commission, for consideration of an amendment in the site plan, under the same procedures as are required for original approval of a site plan.

CHAPTER 18 SITE CONDOMINIUMS

18.1 Purpose and Scope.

Site condominiums shall be subject to review and approval as provided in this chapter, pursuant to authority provided in the Condominium Act, Public Act 59 of 1978, as amended.

18.2 Zoning Compliance.

Site condominium projects may be approved in any zoning district. All site condominium subdivision lots and structures shall conform to the use, size, height, area, setback, side and rear yards, general and special regulations applicable to the use and zoning district in which it is located.

For the purpose of determining compliance with this Ordinance, each condominium unit and its appurtenant limited common element shall be considered the equivalent of a lot as defined in this Ordinance.

18.3 Site Condominium Plans-Required Content.

All site condominium plans submitted for approval shall include the following:

- A. Project description which describes the nature and intent of the proposed development.
- B. A complete legal description of all included property.
- C. An ownership disclosure statement which gives the names of all parties which have ownership interests in the development or other written evidence that the applicant has the right to purchase the property from the owners of record.
- D. A sample purchase agreement and deed for the condominium units.
- E. A sealed survey plan of the site condominium subdivision showing the location, size, shape, area and identification of each condominium unit. The location, size, shape, area and intended use of general common elements within the site condominium development should also be shown.
- F. A site plan as described in Chapter 17. In site condominium subdivisions intended for the single family residential use, the location, shape and size of the dwellings and accessory buildings need not be shown but can be submitted with the individual building permit applications.
- G. A utility plan showing a sanitary sewer, water and storm sewer lines, when applicable; along with all easements for the installation, repair and maintenance of all utilities.

- H. A storm drainage and storm water management plan, including all lines, drains, basins and other facilities, if applicable.
- I. The use, occupancy restrictions and maintenance provisions for all general common elements as will be contained in the master deed.
- J. A street construction, paving and maintenance plan for all streets within the proposed development.
- K. Estimated cost for all the improvements in the proposed development.

18.4 **Streets.**

- A. **Private Streets.** All private streets in a site condominium development shall be constructed to the standards as given in Section 3.17 and be paved.
- B. **Public Streets.** All public streets in a site condominium shall be constructed to the standards required by the Kent County Road Commission for platted streets.

18.5 **Utilities.**

Extension and provision of utilities shall be provided as may be required by the Nelson Township Planning Commission as conditions of approval. The site condominium plans shall include all the necessary easements granted to Nelson Township, Kent County or others for the purpose of constructing, operating, inspecting, maintaining and repairing all utilities.

18.6 **Master Deed-Contents.**

The proposed master deed and condominium bylaws should be submitted to the Township as a part of the site condominium approval process, and the approval by the Township Planning Commission must be obtained before they are recorded with the Register of Deeds. All provisions of the site condominium plans which are approved by the Nelson Township Planning Commission must be incorporated as approved in the master deed for the site condominium subdivision. A copy of an approved master deed as filed with the Kent County Register of Deeds for recording must be provided to Nelson Township within ten days after such filing.

18.7 **Review and Approval.**

The Nelson Township Planning Commission shall review and approve all site condominium projects before improvements are initiated and before the master deed is recorded. The review process shall consist of the following steps:

- A. **Preliminary Plan Review.** In the preliminary review, The Planning Committee shall review the overall plan for the development including basic street and condominium unit configurations and the consistency of the plans with the applicable provisions of the ordinance. Plan submitted for the preliminary review shall include the information required in parts A, B, C, E and G of Section 18.3.

- B. **Advisory Public Hearing.** In its discretion the Planning Commission may convene an advisory public hearing in order to receive comments concerning the preliminary development plan. If such advisory public hearing is deemed desirable, the Planning Commission may give notice of such hearing by one publication in a newspaper of general circulation within the Township, at least five days but not more than fifteen days before such hearing. Notice of the public hearing may also be mailed or delivered personally to all persons to whom any real property is assessed within 300 feet of the premises in question; such notice, if given, shall be mailed or delivered at least five but not more than 15 days prior to the date of the public hearing.
- C. **Final Plan Review.** Upon receipt of preliminary plan approval, the applicant should prepare the appropriate engineering plans and submit them to the Planning Commission for final review and approval. Final plans shall contain all the information required in Section 18.3 and other applicable information required in this Ordinance. Final plans (if applicable) shall be submitted to the Kent County Health Department, Kent County Road Commission, Kent County Drain Commissioner, Michigan Department of Natural Resources and other appropriate agencies having direct approval or permitting authority over all or parts of the plan. Final Planning Commission approval will not be granted until such time as all applicable review agencies have had opportunity to comment on the plans.
- D. **Public Hearing on the Final Development Plan.** The Planning Commission may hold a public hearing on the final development plan of the condominium project. If such public hearing is held, the Planning Commission may give notice thereof in the same manner and to the same extent as specified in subparagraph B of this chapter pertaining to the advisory public hearing.

Approval of a site condominium project shall serve as conditional authorization to proceed with the project and the construction of the required improvements to the land in conformity with the approved plan. Lands approved for a site condominium project shall nevertheless be subject to all other applicable provisions of this Ordinance, including the zone district provisions, private road requirements and other applicable provisions.

18.8 **Revisions.**

Any changes to an approved site condominium, including relocation of the boundaries or the subdivision of a condominium unit, must be reviewed and approved by the Nelson Township Planning Commission as set forth in Section 18.7.

18.9 **Time Limit.**

Approval of a final site condominium project plan shall be effective for a period of more than one year, unless construction of the project commences within the one year period and is diligently pursued to completion in accordance with the terms and conditions of the approval. This one year period may be extended for an additional one year at the discretion of the Planning Commission.

18.10 Performance Guarantees.

In its review and approval of any site condominium project, the Planning Commission may require a performance guarantee as per Section 3.16 of this Ordinance. The Planning Commission may also require escrow deposits as per Section 3.16A of this Ordinance.

CHAPTER 19 SPECIAL USES

19.1 Special Use Permits.

In order that this Ordinance be flexible and reasonable, certain uses are permitted by this Ordinance only by special use permit granted by the Planning Commission. Conformance to special use standards is required, in addition to all other requirements of this Ordinance. All such uses are hereby declared to possess characteristics of such unique and distinct form that each specific use shall be considered on an individual case. The granting of a special use permit does not negate the requirement for any other required permit(s).

19.2 Contents of Application.

An application for special use permit shall include the following:

- A. Names and address of applicant or applicants.
- B. Location, shape, area and dimension of the lot, and of the proposed structure or improvement (shown on the site plan).
- C. Description of proposed use and of the building (dwelling, structure, barn, garage, etc.) or improvement.
- D. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other users.
- E. The yard, open space and location of parking spaces (as shown on the site plan).
- F. A required site plan which must be approved before any granting of a special use permit.

19.3 General Procedural Steps.

Upon submission of an application for a special use permit:

- A. **The Zoning Administrator.**
 - (1) Reviews application package:
 - (a) To make sure that it is the right application for the zoning action requested.
 - (b) To see that all required information is submitted.
 - (c) To make sure that the proposed use is permitted in a particular district by special use permit.

- (2) Takes one or more of the following actions:
 - (a) Requests from the applicant that any omitted or necessary information now be submitted.
 - (b) If necessary, seeks ordinance interpretation from the Board of Appeals.
 - (c) Make advisory comments about the site plan, based on site plan review standards.
 - (d) Forwards the complete application, with comments, to the Planning Commission for review and approval.

B. The Planning Commission.

- (1) Reviews the site plan according to site plan review standards, as set forth in the Zoning Ordinance.
- (2) Reviews the proposed special use according to standards for special use permits, as set forth in this Ordinance.
- (3) Reviews for compliance with any and all additional site facility design requirements and standards, as may be required by the ordinance.
- (4) Publishes and delivers a notice of public hearing in accordance with Section 21.14 of this Ordinance.
- (5) Holds a public hearing.

19.4 General Standards.

In approving any special use, the Planning Commission shall require that the following general standards be satisfied:

- A. Upon review of each application there shall be a determination as to whether each use on the proposed site will:
- (1) Be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the area in which the use is proposed.
 - (2) Be adequately served by essential facilities and services such as highways, streets, police and fire protection, drainage, refuse disposal, water and sewer facilities, and schools.
 - (3) Not create excessive additional requirements at public cost for public facilities and services.

- (4) Not cause traffic congestion by utilizing service roads, minimizing the number of new drive cuts, and increasing the distances between proposed and existing drive cuts.
 - (5) Not involve uses, activities, processes, materials, equipment, or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of noxious or offensive production of noise smoke, fumes, glare, vibration, odor, or traffic.
- B. All applicable federal, state, and local licensing regulations shall be complied with. Initial and annual proof of such compliance shall be a condition of special use approval and the continuance thereof.
- C. As a minimum or unless specifically modified by the provisions set forth for specific special uses, the dimensional standards and landscape, buffering, and parking regulations otherwise applicable to the use and/or zoning district shall be maintained as outlined within the other various applicable chapters of this Ordinance. For uses permitted by right in one district, but which require special use approval in another district, the standards relating to the district in which the use is permitted by right shall serve as the minimum standards to which the site shall be designed. In such cases where there are conflicting standards, the most restrictive shall apply, unless specifically modified by the provisions of this chapter.
- D. **Noncompliance.**
- (1) Upon a finding that any condition, safeguard, or requirement has been breached, the Zoning Administrator may revoke the occupancy permit for the premises and/or suspend the special use permit for the premises. All operations shall cease not more than 14 days following notification by the Zoning Administrator of such violations, unless such conditions are corrected within that 14-day period. Reinstatement of a revoked occupancy permit shall require a new application and approval thereof.
 - (2) If a special use permit has been suspended, it shall not thereafter be effective, and no permitted operations can be conducted thereunder, until such time as the permittee has demonstrated to the Zoning Administrator's satisfaction that all violations have been corrected and an acceptable plan to prevent future occurrences of the same violation has been established by the permittee. The Zoning Administrator may, in his or her sole discretion, refer any suspended special use permit to the Planning Commission, in which case the special use permit shall not thereafter be effective until such time as the permittee has demonstrated to the Planning Commission's satisfaction that all violations have been corrected and an acceptable plan to prevent future occurrences of the same violation has been established by the permittee. If a holder of a suspended special use permit has failed to demonstrate compliance within one year after suspension, the permit shall be deemed conclusively abandoned and of no further effect, in which case the special

use may not thereafter be conducted on the premises unless a new special use permit is applied for and obtained pursuant to this chapter.

- E. The site development plan shall meet the requirements of Chapter 17 and shall be part of the final action by the Planning Commission.
- F. Unless specifically modified by the provisions for specific special land uses set forth in Section 19.5 of this chapter, a special use permit shall remain in effect indefinitely, so long as the terms of the permit and of this chapter are complied with and so long as the permit is not abandoned or suspended.

19.5 Special Use Design Standards.

Requirements set forth in this section are requirements which apply to specific uses or specific types of uses. Such requirements are in addition to the general standards outlined or included by reference in above Section 19.4.

A. **Multiple Family Dwellings.** Multiple family dwellings are buildings containing more than one residence. In this chapter, each individual residence will be referred to as a Residential Unit.

(1) **Required Conditions.**

- (a) Multiple family dwellings are to be permitted only in the R-M Zoning District.
- (b) There shall be a maximum of eight residential units per multiple family dwelling.
- (c) There shall be a maximum of 32 residential units per parcel of land.

(2) **Design Requirements.** More than one multiple family dwelling may be permitted on a parcel of land.

Number of Residential Units Per Parcel	Lot Area in Acres	Lot width (road frontage)	Front Yard Setback	Side Yard Setback	Back Yard Setback
2 (duplex)	1	150	50	15	50
3-4	1 1/2	165	50	15	50
5-8	2	220	75	20	75
Over 8	2 Acres + 5,500 square feet per residential unit over 8	330	75	20	75

- (3) **Side Yard.** There shall be two side yards.
- (4) **Minimum Spacing Between Multiple Family Dwellings.** Thirty feet.
- (5) **Maximum Building Height.** Thirty five feet unless excepted by Section 3.9.

(6) **Utilities, Water and Sewer.**

- (a) Two-unit multiple family dwellings (duplexes), shall be serviced either by private well and septic systems, or by a publicly owned community water supply system and public sanitary sewer services.
- (b) Multiple family dwellings containing three and over residential units shall be served by a publicly owned community water supply system and public sanitary sewer services.

(7) **Required Off-Street Parking.**

- (a) Each multiple family dwelling shall be located within 150 feet, but not closer than 30 feet, of an off-street parking area.
- (b) Off-street parking areas shall be at least 15 feet from all lot lines.
- (c) Off-street parking shall be established in compliance with Chapter 14.9.

(8) **Other Conditions.** During the approval process of a site development plan that would include one or more multiple family dwellings, the Planning Commission may impose additional terms and conditions, including but not limited to, provisions for green belts, landscaped areas, playgrounds, and/or other outdoor recreation areas.

B. Removal of Natural Resources. The removal or extraction of sand, gravel, soil, top soil, rock, minerals, and similar natural resources or the reshaping, enlarging, straightening, damming or diminution of lakes, waterways, ponds or other bodies of water is only permitted with the intent and in such manner as to prepare or render the premises suitable for the primary intended uses of the district in which such premises is located. No such operation, change, removal or extraction shall be permitted unless the following provisions are complied with:

(1) **Exceptions.** The provisions of this section shall not apply to the following:

- (a) Where the removal or extraction of natural resources is more than 500 feet from any street or property line, occupies not more than two acres in area, does not constitute an average intensity of use of more than five yards of material per day, and creates no area which fills with water other than a watering pond for farms.
- (b) Where only natural resources processing, storage or refining takes place in an I District.
- (c) The control and regulation of oil or gas.

- (d) Farm or decorative ponds of less than one acre in area where excavated material will be spread on the property, or removed from the property.
- (e) For items (a) and (d) the applicant shall furnish the Zoning Administrator a sketch plan of the proposed work of sufficient detail to enable the Zoning Administrator to determine that:
 - (i) The excavated area has reasonable separation from adjacent parcels so as not to cause them damage.
 - (ii) Disposition of the excavated material will not block drainage from adjacent properties nor spill or erode onto adjacent properties.
 - (iii) Removal of excavated material from the site will occur within a four month period and shall not cause an unreasonable nuisance for neighboring parcel owners.
 - (iv) That disturbed areas will be properly restored with grass or other means to prevent erosion.
 - (v) Pond slopes shall be a maximum of 1:4 to a depth of five feet.

Zoning Administrator approval under this section does not relieve the applicant from compliance with other governmental agencies (Kent County Road Commission, Kent County Drain Commissioner, Michigan Department of Environmental Quality, etc.) that may be involved.

- (f) Removal or importation of topsoil, sand or soil on a site when incidental or necessary pursuant to:
 - (i) An approved site development plan.
 - (ii) Plat.
 - (iii) PUD.
 - (iv) Special use not specifically involving the removal of natural resources.

Provided any excess material is removed from the site or incorporated into the landscape prior to the issuance of a certificate of occupancy for a single use building, or for multi-use projects when 70 percent of the project has been granted certificate of occupancy.

- (2) **Required Information.** No building permit shall be issued to the owner of any parcel of land or body of water desiring to proceed with any undertaking

set forth in this section until application to the Planning Commission for a special use permit has been approved. Said application shall include the following information and fees in addition to that required under Section 19.3:

- (a) A fee as determined by the Township Board.
- (b) A map of the parcel to be so changed depicting all buildings, streets, drainage facilities and natural features within 200 feet thereof, which map shall show contour elevation readings at five-foot intervals along the perimeter of the subject property or portion involved.
- (c) A two-foot interval contour plan of proposed final elevations, the location of proposed temporary structures, drives, parking areas, loading equipment, drainage facilities and the extent of the operation during the first year.
- (d) A written statement describing the equipment to be used and the process involved, estimating the time such removal will require, describing the proposed use of the premises after such removal, and an agreement to conform to the provisions of this section.

(3) **Required Conditions.** The following conditions shall be complied with:

- (a) Final grades shall be harmonious with surrounding grades and shall not be in excess of 5 percent unless demonstratively necessary for the future intended use of the land. No topsoil shall be removed from the property unless demonstratively necessary for the proper intended use of the property. All remaining topsoil shall be redistributed properly upon expiration of the building permit. Except as provided in (c) of this section, no final grades shall be such as to create any area which will fill with water after the removal operation. No removal shall be permitted below the grades of the proposed plan unless a cash bond satisfactory to the Township Board, or at its discretion, a surety bond, is posted with the Township to insure that the final grades of the plan will be met by the expiration date of the permit.
- (b) No mechanical processing of natural resources shall be permitted in any residential or commercial district where such operation would be detrimental to an adjacent conforming use of land. Storm or water runoff shall be led to existing drainage systems in a manner approved by the Township and the county.
- (c) The creation or enlargement of a lake shall only be permitted where the applicant can demonstrate from engineering and geological studies that such water will not become polluted or stagnant; submits a plan for future use of the lakeshore and lake; and shows that such

lake has been approved by the Department of Environmental Quality of the State of Michigan and the Kent County Drain Commissioner.

- (d) The alteration, straightening, damming, widening or diminution of a waterway or body of water shall be approved by the said department and commissioner.
 - (e) No removal, storage area, structure, access drive, or loading area shall be closer than 150 feet to a principal structure on adjoining property unless across a public street therefrom. All unpaved areas and roadways shall be regularly maintained and kept in a dust-free condition.
 - (f) Truck routing shall be only on streets approved by the County Road Commission under such conditions and securities as may be imposed by the Township or the county to protect or repair the roads and to insure the safety of the public. Access drives shall be paved for the first 200 feet from the street right-of-way. The drives shall be maintained dust free or as determined by the Planning Commission.
 - (g) All structures and stored material equipment shall be removed from the property within six months of the discontinuance of the use for removal or extraction of natural resources. All land shall be graded to final elevations and reseeded and maintained in a growing state so as to avoid erosion following the expiration of activities.
- (4) The Planning Commission shall examine the proposed plans in relation to the Township master plan, the effect of such use or change upon the area involved, the relationships of proposed ultimate uses planned and future streets, lots, grades and waterways proposed.
- (5) **Determination by Planning Commission.** Following public hearing, the Planning Commission shall determine the proper disposition of the application. In making its determination, the Planning Commission shall, in addition to review of the project in light of the standards outlined in Section 19.4, determine that the proposed change or removal will:
- (a) Prepare the premises for a permitted primary intended use for its district in a reasonable period of time.
 - (b) Conform to all provisions of this section.
- (6) **Authorization.** Upon approval of the application, the Planning Commission shall inform the Township Board of its action, of the amount of bond required, and of special conditions imposed. Upon receipt of the cash bond or irrevocable letter of credit, or in its discretion, upon approval of a corporate surety bond by the Township Board, the Township Board shall direct the Zoning Administrator to issue any necessary building permit and a

temporary occupancy permit for a one year period. All approved plans, sureties, recommendations, reports and special conditions shall be filed by the Zoning Administrator for future reference.

- (7) **Renewal of Permit.** An occupancy permit may be renewed for up to three years at a time or for the duration of an accepted surety bond or irrevocable letter of credit, whichever is lesser, upon a finding by the Planning Commission that all conditions and plans are being complied with and no nuisance has been created by prior operations. Where any new area is to be considered, or where any area not shown by the contour plan is to be included, the procedures for a new application shall be followed.

C. **Sanitary Landfills.** Open public or private dumps are prohibited. Sanitary landfills for the discarding of wastes, garbage, materials or similar disposed matter shall only be permitted in a manner which will ultimately prepare land for a primary intended use. All sanitary landfills shall conform with state and county regulations and no such uses shall be located in an AG, SFR-L, R-M or C District. Applications therefor shall meet the provisions of the above regulations and, in addition thereto, shall meet the following requirements:

- (1) There are no existing residential structures within 1,000 feet of the point where they are placed.
- (2) There is a uniform two to one by volume mix of sand to hazardous or liquid material prior to cover, and the mix must be completed the same day the liquid or hazardous material is received.
- (3) One hour before sundown, each day, the hazardous or liquid material shall be covered with a four-inch dirt cover. Said cover must remain intact and may not be used for later mix or any other purpose.
- (4) The area in which the hazardous material is located must be completely surrounded by a six foot high fence with a 12-inch barb wire barrier on the top and must be equipped with gates that can be locked.
- (5) Hazardous or liquid materials may only be received at a sanitary landfill between the hours of 8:30 a.m. and 5:00 p.m.
- (6) The gate to the area designated for liquid or hazardous wastes shall be locked at all times when the area is not open to receive such materials.
- (7) The area in which the liquid or hazardous material is placed shall have watchmen or supervisors present 24 hours a day and shall be within said fenced area at all times, and shall directly supervise the dumping of all such materials.
- (8) There must be a layer of clay of a minimal thickness of five feet designed in such a way that all hazardous or liquid material are unable to escape beyond

this barrier into surrounding ground. This barrier must also be of a bowl type design with sides of the thickness herein stated completely surrounding the hazardous material or liquid material mass on all sides. The liquid material and/or hazardous material mass may not be closer to the original ground level as existing prior to the construction of landfill than four feet. Said barrier shall be of such a low permeability so as to maintain integrity of the barrier for 500 years.

- (9) The sanitary landfill must be continuously licensed by the State of Michigan or its agencies as a sanitary landfill.
- (10) In the event that any material, substance or compound in a liquid, semi-liquid or jelled state or declared to be hazardous by any agency of the State of Michigan or the United States, including but not limited to toxic materials and metal hydroxides, is to be placed within a landfill, then the requirements of the State of Michigan relating to disposal of Type I hazardous waste shall apply and are incorporated herein by reference.
- (11) A licensed engineer must attest that the construction of any landfill meets all the requirements of this Ordinance; all Kent County ordinances, rules and regulations; and all statutes, rules and regulations of the State of Michigan.
- (12) A cash bond shall be required of all landfill operators or owners equal in value to a minimum 10 percent of the estimated cost of construction of the particular landfill, and such bond shall be defaulted to the Township upon the failure of the operator or owner to comply with any of the regulations of this Ordinance. Such bond shall be held until ten years after the operation of the landfill ceases. The proceeds from any such default shall be used as follows:
 - (a) To bring the operation into compliance with these regulations.
 - (b) To compensate any adjacent landowners who may be injured by the noncompliance.
 - (c) To alleviate the conditions caused by noncompliance that are detrimental to adjacent landowners.
 - (d) To defray any administrative costs caused by noncompliance with these regulations.
 - (e) To pay any experts hired by the Township for matters provided for in subparagraph (3) above.
 - (f) To pay the costs of the enforcement of the Zoning Ordinance.

- D. **Private Recreation Area.** Private recreation areas are permitted as a special land use in the districts where private recreation area is listed as a permitted special land use only, providing the Planning Commission finds:

- (1) Such use will not create a health or pollution problem from over intensive use of the land or improper sewage disposal or unsafe water supply.
- (2) Not more than one family may reside on the premises as a caretaker of the facility and the Planning Commission finds that such residential use is an accessory use to the private recreation area and must be at least 100 feet from any property line or street right-of-way line or property line.
- (3) Any store, drinking establishment, or other use done in conjunction with the private recreation area must be found by the Planning Commission to be an accessory use to the private recreation area and must be within a building which is at least 300 feet from any existing building on adjacent property or 100 feet from any street right-of-way line or property line, whichever is greater.
- (4) The intended use, accessory uses, keeping of animals, or location of structures or buildings will not adversely affect adjoining permitted uses or adversely affect the safety of the intended occupants of the premises or the occupants of adjoining premises.
- (5) There is adequate parking in addition to that required by Chapter 14 for the maximum expected use of the private recreation area and that all such parking areas and all areas designated for vehicle traffic are paved with either asphalt or concrete.
- (6) If the use is a defined track, area, or artificial or natural earth features, to be used for racing, practicing, exhibition, competition, eventing, or testing of motorcycles, off-road vehicles or other motorized vehicles, such as a motocross track, mud bog, or similar use, then special land use approval may be granted only on an annual basis, subject to annual renewal in the manner of a new special land use application:
 - (a) Approval may be given for not more than six days over the course of one year;
 - (b) The proposed use shall otherwise satisfy all requirements of this Ordinance and this chapter; and
 - (c) The use shall be subject to limitations on days and hours of operation, and other conditions which are related to satisfaction of this Ordinance.

E. **Airfields, Hangars, and Landing Strips.** The creation of additional private or public airfields serving more than one airplane is hereby deemed to be inconsistent to the sound development of the Township and the safety of future residents. Existing airfields may expand provided the Planning Commission finds that such expansion will not adversely affect existing or future development of the area. Private airfields or landing strips may be permitted if the Planning Commission finds that:

- (1) Such use will not adversely affect existing or future development of the district.
- (2) The takeoff and landing pattern within 1,000 feet of the runway does not pass over an occupied structure and is secured by right of ownership or easement to ensure that future structures shall not be located within the area prescribed within 1,000 feet.
- (3) Not more than two airplanes, one of which is owned by the owner of the premises, use the landing strip.
- (4) The landing strip is at least 200 feet from any property line.
- (5) The safety of the citizens of the Township is not adversely affected.
- (6) The landing strip conforms to all Federal Aviation Administration rules and regulations.

F. **Vehicle Repair Shops.** A vehicle repair shop may be permitted in a I District by the Planning Commission as a special use provided the following documents are submitted and the following conditions are met:

- (1) Architectural elevation drawings of proposed buildings and screen fencing are submitted.
- (2) Specifications of screening fence is submitted.
- (3) All vehicles, parts, material and equipment must be stored within enclosed buildings or within an area completely enclosed by a screening fence at least 8 feet in height.
- (4) The screening fence must be of such design as to completely obstruct one's vision.
- (5) The area enclosed by the screening fence may not be larger in area than the first floor area of the building(s) on the same premises and may not take up any of the area of the premises required for minimum yards.

G. **Junk or Salvage Yards.** A junk or salvage yard may be permitted as a special use in a I District by the Planning Commission provided the following documents are submitted and the following conditions are met:

- (1) Architectural elevation drawings of proposed building and screen fencing are submitted.
- (2) Specifications of screening fence is submitted.

- (3) All vehicles, parts, material and equipment must be stored within enclosed buildings or within an area completely enclosed by a screening fence at least eight feet in height. If applicable, the screening fence shall meet the requirements of P.A. 219 of 1966, as amended - Control of Junkyards Adjacent to Highways.
- (4) The screening fence must be of such design as to completely obstruct ones vision of the junk or salvage from the property line. Also, the screening fence shall be consistent in appearance and properly maintained.
- (5) The area enclosed by the screening fence may not take up any of the area of the premises required for minimum yards.
- (6) Meet all other requirements pertaining to the I District.
- (7) The elevation of the area enclosed by the screening fence must be such that from ground level at any point within 300 feet of the premises one cannot see the area within such screening fence.
- (8) No such use shall be permitted within 500 feet of a residential district or street or road.
- (9) No items placed within the enclosed area shall exceed the height of the screening fence.
- (10) A permit for such a use shall be reviewed for renewal by the Planning Commission annually.

H. **Reserved.**

I. **Migrant Housing.** Seasonal dwellings for the housing of migrant farm workers and migrant employees of permitted food processing uses may be permitted by the Planning Commission in an AG District as an accessory use. No existing structure and no new structure may be used for such purposes in the Township of Nelson unless the Planning Commission finds all of the following conditions and requirements are met:

- (1) Seasonal dwellings shall be located upon the same parcel of land as the principal structure to which they are accessory and said parcel shall be at least ten acres in area.
- (2) Seasonal dwellings may be occupied only between the period of April 15th through November 15th and shall be locked so as to prevent entry by any person but the owner during the remaining part of each year.
- (3) Seasonal dwellings may not be used for the housing of persons not directly employed by the owner of the dwelling.

- (4) The rules, regulations and standards of the State of Michigan governing the licensing and operation of migrant housing shall apply to Nelson Township where any dwelling is used to house one or more migrant workers. It is the purpose and intent of this provision to incorporate by reference such rules, regulations and standards and further to apply the same to the housing of one or more such migrant workers notwithstanding that such act provides that it applies to five or more such workers.
- (5) Seasonal dwellings shall be located at least 300 feet from any public street and at least 100 feet from any other property line.
- (6) No seasonal dwelling shall have more than one story nor contain more than six dwelling units. No seasonal dwelling shall be closer than 30 feet to another structure, and any premises within 30 feet of any seasonal dwelling shall be devoted exclusively to the use of the occupants of said dwelling.
- (7) No seasonal dwelling shall be located between the front entry wall of another seasonal dwelling and a driveway or private roadway serving said other dwelling, and no seasonal dwelling shall be closer than 30 feet to any such drive or roadway.
- (8) All construction shall conform to Township Building Codes and other ordinances where such impose greater standards than state and federal regulations.
- (9) Any other special conditions imposed by the Planning Commission to insure a desirable living environment for the migrant workers and to protect the values and desirability of adjacent properties.
- (10) The applicant shall submit a site development plan for approval which shall signify the applicant's agreement to comply with said plan and all the above conditions and requirements at all times and shall further agree to the following:
 - (a) The premises and all seasonal dwellings shall be available for the inspection of the Zoning Administrator.
 - (b) All premises and structures shall be regularly maintained.
 - (c) Any deficiencies arising from time to time shall be corrected by the owner within 15 days notification by any Township, county, state or federal agent.
 - (d) Any seasonal dwelling which is not occupied by migrant workers during two consecutive seasons shall be removed by the owner within six months of the close of the second season.

- (11) **Permits.** If the Planning Commission approves the application for migrant housing, it shall authorize the Zoning Administrator to issue a building permit and a temporary occupancy permit for the seasonal period above described. The temporary occupancy permit shall be valid for one specific year only and shall state any special conditions of use imposed by the Planning Commission.
- (12) **Permit Renewal.** A new application must be filed each year to continue the occupancy of the approved migrant housing. No temporary occupancy permit shall be renewed unless the migrant housing conforms to all of the above conditions as well as to any new conditions or regulations imposed by amendments to Township, county, state or federal laws. The Planning Commission may deny an application to renew a temporary occupancy permit if the operation of the migrant housing during the previous year resulted in a revocation of the temporary occupancy permit or in frequent violations of required conditions or regulations or if the rectifying of violations ordered by the Zoning Administrator were consistently delayed without due cause. The Planning Commission may also impose additional requirements or conditions for a request to renew the temporary occupancy permit above those imposed with the original application in order to correct any adverse effects upon adjacent properties or upon the living environment of the migrant workers which may have arisen from the actual operation and occupancy of the migrant housing during the previous year.
- (13) **Inspections.** The Zoning Administrator may make thorough interior and exterior inspections of all migrant housing each year as follows:
- (a) Following the completion of construction prior to issuing an authorized temporary occupancy permit.
 - (b) Upon application of the owner for the renewal of a temporary occupancy permit. A report shall be made to the Planning Commission.
 - (c) Annually between the period of March 1st and April 14th.
 - (d) Upon complaint of an alleged violation.
- (14) **Revocation of Permit.** If a violation of any of the above conditions, regulations or special conditions is found to exist following inspection, the Zoning Administrator shall notify the owner of migrant housing and the Planning Commission that such violation exists and that the temporary occupancy permit will be revoked within 15 days of such notification. If said violation is not corrected within said 15 days, the Zoning Administrator shall revoke said permit. All migrant housing shall be vacated within 15 days of the date of revocation.

- J. **Correctional Institutions.** Private establishments for the care, confinement or rehabilitation of delinquent, socially maladjusted, emotionally disturbed, alcoholic or other drug addicted persons are not permitted in the Township of Nelson under the regulations and requirements for public or institutional uses. Such establishments are only permitted as special uses in an AG District and then only under the following conditions:
- (1) **Mandatory Lot Size.** No parcel of property so to be used shall be less than 40 acres in lot area, nor less than 1,000 feet in lot width.
 - (2) **Application.** The application shall be accompanied by the following documents where applicable:
 - (a) An attached description of the security system to be used to control persons entering or leaving the premises or persons allowed off the premises, including the number and type of security personnel to be employed.
 - (b) A certificate describing the hours of operation, hours of visitation, or hours within which the above persons are permitted off the premises.
 - (c) A certificate evidencing the issuance of all required county and/or state licenses for employed personnel.
 - (d) An agreement with the Board of Education where such use involves the education of such persons by the public school system.
 - (3) **Yards.** No structure or housing frequented by persons being served or treated by such correctional institutional facility shall be located closer than 300 feet to any lot line. No other structure, other than paved areas, shall be closer than 100 feet to any lot line. No planting over three feet in height, other than deciduous trees trimmed to hang no closer than seven feet to the ground, shall be permitted within 100 feet of any property line. Said 100 feet next to any public street or next to any adjacent developed property shall be planted and maintained as a lawn.
 - (4) **Improvements.** The following improvements and standards shall be met:
 - (a) Five-foot concrete sidewalks shall connect all buildings, and one sidewalk shall be placed along every private drive.
 - (b) All electrical and phone wiring shall be underground.
 - (c) Fences of a type specified by the Planning Commission shall be provided wherever deemed necessary for security purposes, for screening of loading or storage areas to prevent litter, or to control access to the property.

- (d) Parking and loading areas shall be provided as regulated by this Ordinance.
- (e) Site lighting shall be provided for security purposes or for the well-being of the intended occupants or visitors.
- (f) All buildings housing or frequented by human beings shall be connected to either a public sanitary sewer system or to a lagoon treatment facility approved by the county and the state. The use of septic systems, drainfields, commercial package sewage systems, or any other method of sewage disposal not a public sewer or a lagoon is prohibited unless the density of development is such that the minimum lot area for a one family dwelling in the applicable zone is met for each three persons to be accommodated upon the site, excluding nonresident employees. In such case, plans for any such sanitary sewage disposal system shall be approved by the county and the state prior to approval of the special use being granted by the Planning Commission.
- (g) No building shall accommodate more than 24 persons, other than nonresident employees unless it is of fireproof masonry and steel construction.
- (h) All buildings housing or frequented by human beings shall be provided with emergency fire-fighting equipment approved by the State Fire Marshal.
- (i) A water system with pressure adequate for fighting fires or an outdoor water impoundment of a quantity, and at a location, deemed adequate to provide additional water for fighting fires with Township fire equipment shall be provided.
- (j) Storm drainage as approved by the County Drain Commissioner shall be provided.
- (k) Any other improvement deemed necessary by the Planning Commission to meet the intent of this chapter.

K. **Outdoor Motion Picture Theaters.** Outdoor motion picture theaters may be permitted in the C Commercial District providing the Planning Commission find that:

- (1) All requirements of the commercial district are met.
- (2) All of the following special conditions have been met:
 - (a) That the premises are in the commercial district.

- (b) That the premises has an area of not less than five acres and a minimum width of 500 feet.
- (c) Yards not less than 35 feet wide shall surround those portions of the theater proper which do not face the street from which patrons gain entrance. Such yards shall be landscaped and maintained in good condition, provided that a paved perimeter drive may be permitted to occupy the interior 20 feet thereof. Required landscaping for such yard shall include a tight screen planting which shall be at least eight feet high and three feet wide within five years after installation, effective during all seasons, to block the view from adjacent uses.
- (d) Areas not used by automobiles shall be landscaped. Areas used by automobiles or pedestrians shall be maintained in a dust and mud free condition.
- (e) A landscaped front yard and yards facing streets from which patrons gain entrance of 120 feet shall be provided for the adequate handling of automobile traffic entering and leaving the theater.
- (f) A corrosion-resistant chain-link metal fence not less than eight feet in height shall completely encircle the perimeter of the theater proper. Where determined to be necessary, solid shielding may be required which shall effectively shield the screen from the view of all residents within a distance of one-half mile thereof.
- (g) Adequate toilet and water facilities are provided. Connection to public sewer and water, if available, shall be required.
- (h) Approval of the State Fire Marshal, Sheriff's Department, Road Commission, Drain Commissioner, and Health Department have been obtained.

L. **Farm Implement Sales, Service and Rentals.** The sale, service and rental of farm equipment, tractors and implements is permitted on land located in the AG, C and I Districts only. Only new and operable equipment, tractors and implements may be displayed out of doors. All inoperable farm equipment, tractors and implements shall be stored inside a completely enclosed building or behind a screen fence in such a way as not to be visible from a public street or adjoining property.

M. **Adult Care Facilities.** Homes or facilities which provide room and board, supervision, assistance, protection, or personal care to more than six adults, may be permitted by the Planning Commission in an AG, SFR-L, or R-M District. Homes or facilities such as nursing homes, convalescent homes, or homes for the aged, exclusive of hospitals, may be permitted by the Planning Commission in an AG, SFR-L, or R-M District only. In each case, the provisions of the district and the following minimum requirements must be met. Where the following requirements

impose greater restrictions upon the height of buildings, require greater lot areas, yards, floor areas, lot widths or parking ratios than are required in a district, the provisions of this section shall prevail.

- (1) **Height.** No building shall exceed a maximum of two and one-half stories or 35 feet in height, whichever is less.
- (2) **Front Yards.** No building shall be located closer than 35 feet to any street right-of-way.
- (3) **Side Yard.** No building shall be closer to any side lot line than 25 feet.
- (4) **Rear Yard.** There shall be a rear yard of at least 40 feet.
- (5) **Floor Area.** There shall be a minimum usable floor area of at least 250 square feet per occupant.
- (6) **Lot Area.** There shall be a minimum lot area of 2,000 square feet for each occupant, provided, however, that no lot shall contain less than 10,000 square feet.
- (7) **Lot Width.** No lot shall be less than 130 feet in width. All lots shall meet the provisions of this Ordinance regarding lot widths on major streets.
- (8) **Parking.** Off-street paved parking areas shall be provided at a ratio of one space per two beds plus one space for each owner or operator, each space to include a minimum of 250 square feet, excluding access areas. All parking areas shall be sufficiently lighted and shall meet the provisions of Chapter 14.
- (9) Each adult care facility shall be adequately screened from adjacent properties by a fence or planted strip so as not to be a detrimental influence upon the surrounding area.
- (10) All adult care facilities shall contain a basement sufficient in size to accommodate all residents and employees during periods of high winds or tornadoes.
- (11) No resident of any adult care facility shall be housed in a basement.
- (12) Facilities shall be inspected by the fire chief who shall furnish a report concerning his findings.
- (13) The Township Board of Health shall inspect facilities and furnish a report concerning compliance with health requirements.

N. **Adult Uses.** In the development and execution of this section, it is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly when several of them are concentrated in near

proximity to a residential zone, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. These controls are for the purpose of preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential neighborhood. These controls do not legitimize activities which are prohibited in other sections of this Ordinance.

Uses subject to these controls are as follows:

- * Adult book stores.
- * Adult cabarets.
- * Adult motion picture theaters.
- * Massage establishments.
- * Nude artist and photography studios.

(1) **Definitions.** As used in this section, the following terms shall have the indicated meanings:

- (a) **Adult Motion Picture Theaters.** Any establishment used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as defined herein for observation by patrons therein.
- (b) **Adult Book Store.** An establishment having as a substantial or significant portion of its stock in trade, books, magazines, or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as defined herein, or an establishment with a segment or section devoted to the sale or display of such material.
- (c) **Specified Sexual Activities.** Specified sexual activities are defined as:
 - (i) Human genitals in a state of sexual stimulation or arousal.
 - (ii) Acts of human masturbation, sexual intercourse or sodomy.
 - (iii) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

- (d) **Specified Anatomical Areas.** Specified anatomical areas are defined as:
- (i) Less than completely and opaquely covered:
 - (I) Human genitals, pubic region.
 - (II) Buttock.
 - (III) Female breast below a point immediately above the top of the areola.
 - (IV) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
 - (e) **Adult Cabaret.** A cabaret which features go-go dancers, erotic dancers, strippers, male or female impersonators, or similar entertainers.
 - (f) **Massage Establishment.** Any establishment having a fixed place of business where massages are administered solely or in combination with any other service or activity for pay, including but not limited to massage parlors, health clubs, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder. This definition shall not be construed to include a non-profit organization operating a community center, swimming pool, tennis court or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area. This definition shall not be construed to include exercise clubs exclusively for members without massages in any form.
 - (g) **Massage.** A method of treating the external parts of the human body by rubbing, stroking, kneading, tapping or vibrating with the hand or any instrument.
 - (h) **Nude Artist and Photography Studios.** Any building, structure, premises or part thereof used solely or primarily as a place which offers as its principal activity the providing of models to display “specified anatomical areas” as defined herein for artists and photographers for a fee or charge.

All of the above uses and activities are included in the adult uses regulated by terms of this subsection N.

- (2) **Approval.** Any of the regulated uses listed in this section shall be permitted only after a finding has been made by the Planning Commission at a public hearing that the following conditions exist:
- (a) The use shall be located only in the C Commercial District.
 - (b) The use is located outside a 500 foot distance of a residentially-zoned lands or residentially-used lands.
 - (c) The use is not located within a 1,000 foot radius of one other such use except that such restriction may be waived by the Planning Commission if the following findings are made:
 - (i) That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this section will be observed.
 - (ii) That the proposed use will not enlarge or encourage the development of a blighted or deteriorating area in its immediate surroundings.
 - (iii) That the establishment of a regulated use, or an additional regulated use, in the area will not be contrary to any program of neighborhood conservation, nor will it interfere with any program of urban renewal.
 - (iv) That all applicable state laws and local ordinances will be observed.
- (3) **Limit on Reapplication.** No application for a regulated use which has been denied wholly or in part shall be resubmitted for a period of one year from the date of said order of denial, except on the grounds of new evidence not previously available or proof of changed conditions.

O. **Animal Hospitals and Veterinary Clinics.** Animal hospitals or veterinary clinics may be permitted as a special use within the AG or C District when the following requirements are met:

- (1) Said use may have less than four acres but not less than the minimum required in the commercial district, whichever is applicable, provided the operation and housing of animals is contained in one completely enclosed building.

P. **Gasoline Service Stations (Filling Stations).**

(1) **General Conditions.**

- (a) All permanent storage of material, merchandise, and equipment other than liquid fuel shall be within the building.
- (b) All lubrication, repair, and servicing equipment shall be within the building.
- (c) All repair work shall be done within the building.
- (d) The storage of automobiles for a period in excess of 24 hours, unless the vehicle is enclosed within the building, is prohibited.
- (e) No operator shall use the premises for the sale of new or used vehicles.

(2) **Design Requirements.**

- (a) **Relation to Residential Areas.** No service station shall be erected within 100 feet of any residential area.
- (b) **Curb Cuts.** Curb cuts shall be approved by the Kent County Road Commission.
- (c) **Lighting.** Exterior lighting shall be so arranged as to reflect away from adjacent property. There shall be no flashing or revolving lights.
- (d) **Minimum Frontage and Area.** The minimum acceptable frontage shall be 140 feet and the minimum lot area shall be 15,000 square feet.
- (e) **Minimum Setback.** The building shall be set back a minimum of 40 feet from the property line and not less than 100 feet from side or rear lot line adjoining a residentially zoned district.
- (f) **Driveway Location.** Driveways shall be a minimum of 20 feet from the street intersections; said distance to be measured from the point of intersection of intersecting street right-of-ways. No driveway shall be located nearer than 50 feet to any residential property and shall be a minimum of ten feet from any abutting properties.
- (g) Driveways, service areas, and parking areas shall be provided with pavement having an asphalt or cement binder so as to provide a permanent, durable, and dustless surface and shall be so graded and drained as to dispose of all surface water accumulated within the area.

Q. Car Wash Establishments.

- (1) All washing activities must be carried on within a building.
- (2) Vacuuming activities may be carried out only in the rear yard and at least 100 feet from any adjoining residential use.
- (3) The entrances and exits of the facility shall be from within the lot and not directly to or from an adjoining street or alley. An alley shall not be used as maneuvering or parking space for vehicles being serviced by the subject facility.

R. Convalescent or Nursing Homes. In each case, the provisions of the district in which the use is proposed and the following minimum requirements must be met. However, where the following specific requirements impose greater restrictions upon the height of buildings, require greater lot areas, yards, floor areas, lot widths or parking ratios than are generally required in the respective zoning district, the provisions of this section shall control.

- (1) **Height.** No building shall exceed a maximum of two and one-half stories or 35 feet in height, whichever is less.
- (2) **Front Yards.** No building shall be located closer than 50 feet to any street right-of-way.
- (3) **Side Yard.** No building shall be closer to any side lot line than 25 feet.
- (4) **Rear Yard.** There shall be a rear yard of at least 40 feet.
- (5) **Floor Area.** There shall be a minimum usable floor area of at least 250 square feet per patient.
- (6) **Lot Area.** There shall be a minimum lot area of 2,000 square feet for each patient and employee, provided, no lot shall contain less than 10,000 square feet.
- (7) **Lot Width.** No lot shall be less than 150 feet in width.
- (8) Each care facility shall be adequately screened from adjacent properties by a fence or planted strip so as not to be a detrimental influence upon the surrounding area.
- (9) All care facilities shall contain a basement sufficient in size to accommodate all residents and employees during periods of high winds or tornadoes.
- (10) No resident of any care facility shall be housed in a basement.

- (11) Facilities shall be inspected by the fire chief who shall furnish a report concerning his findings.
- (12) The County Board of Health shall inspect facilities and furnish a report concerning compliance with health requirements.

S. **Kennels (Commercial).** The purpose of regulating kennels is to maintain adequate health standards, and to protect the general public.

- (1) A minimum lot area shall be provided of not less than ten acres, with a minimum lot width of not less than 500 feet.
- (2) A kennel where dogs are kept shall provide an area of not less than one-quarter acre for each dog boarded and cared for as part of such kennel facilities, but the total lot area and lot width of the kennel shall not be less than (1) above.
- (3) All buildings, pens and runways, for housing or keeping of such animals, shall not be less than 150 feet from any adjacent property line.
- (4) Pens and runways shall be screened from view from the road, either by the building or a greenbelt of plantings as determined by the Planning Commission.
- (5) All yard space used for pen areas shall be fenced with woven wire or other approved fence material except barbed wire, which shall not be acceptable as sole fence material, and said fence shall not be less than five feet in height. Such fence shall be maintained in good condition.
- (6) Adequate sanitary facilities shall be provided for the cleaning of the kennels, and the burning of any waste or refuse shall be prohibited.
- (7) Any permit, after being issued by the Planning Commission for such use, shall terminate immediately when the lot area requirements herein set forth are decreased in any manner.

T. **Kennels (Private).**

- (1) A private kennel housing four to ten animals shall be subject to the following requirements:
 - (a) A minimum lot area of not less than five acres.
 - (b) All buildings, pens and runways for the housing or keeping of animals shall be located not less than 150 feet from any dwelling not on the same parcel and 20 feet from any side or rear lot line.

- (c) Adequate sanitary facilities shall be provided for the cleaning of the kennels in accordance with Kent County standards. The burning of any waste or refuse is prohibited.
 - (d) Any permit, after being issued by the Planning Commission for a private kennel, shall terminate immediately if the minimum lot area requirements herein set forth are decreased in any manner.
- (2) A private kennel housing more than ten animals at any time shall be required to comply with the same regulations that are applicable to a commercial kennel, as set forth in Section 19.5.S of this Ordinance.

U. **Other Industrial Uses Which are Not Permitted by Right in the I District.** The Planning Commission shall authorize such use if it finds the use similar to other permitted uses and reasonable; and in determining its similarity and reasonableness, the Planning Commission shall consider the following:

- (1) The size and nature of the proposed use.
- (2) Any traffic congestion or hazard which may be created by the proposed use.
- (3) How well the proposed use harmonizes, blends with, and enhances adjoining property and surrounding neighborhood.
- (4) The need or necessity of the proposed use to serve the needs of the Township and surrounding area.
- (5) The probable effect of the proposed use on adjoining properties and the surrounding area.
- (6) The performance standards contained in Section 10.4.
- (7) The nature of the proposed use and the availability and proximity of public sewer and water service, storm drainage facilities, and major streets.
- (8) The general compatibility of the proposed use to adjacent property and the surrounding area.

V. **Campgrounds.**

- (1) For purposes of this section, a campground shall refer to an area established for camping, and shall include the use of tents, recreational vehicles and buildings.
- (2) The campground use shall have direct access to a public street.
- (3) All sanitary facilities shall be designed and constructed in full compliance with applicable county health department regulations.

- (4) The number of sites for camping use and the distance between camp sites shall be subject to the approval of the Planning Commission.
- (5) Adequate off-street parking area shall be provided. The Planning Commission may impose requirements with regard to generalized parking area, for campers and visitors, and also for a parking space or spaces within each individual campsite.
- (6) There shall be a recreation area, or other common use area within the campground. The Planning Commission may impose requirements on the area, location, landscaping and use of such common use area.
- (7) There shall be adequate provision for the proper handling of storm water drainage, and the Planning Commission may impose requirements relating thereto.
- (8) No business or commercial uses shall take place within a campground, except for such convenience goods store or location that may be approved by the Planning Commission, and subject to limitations and minimum requirements imposed thereon.
- (9) Where required, all state permits for the campground shall be obtained and shall be kept fully in force.
- (10) Existing campgrounds in the Township, if previously approved as a special land use, shall be subject to subsequent approval under this section, upon the expiration of any current special land use, except that in granting any such further special land use of an existing campground, the Planning Commission may waive any of the above minimum requirements, and determine that the campground may be lawfully nonconforming, with regard to any such waived requirements.
- (11) In all other respects, campgrounds shall comply with Public Act 368 of 1978. Where the requirements of this Ordinance are in conflict with Public Act 368 of 1978, the more stringent standard shall apply.

W. **Bed and Breakfast Establishment.** Bed and breakfast establishments may be permitted by the Planning Commission as a home occupation special land use in accordance with Section 3.11.D, provided the following conditions and requirements are met:

- (1) The bed and breakfast use shall be established only within a single family dwelling and not within any accessory building.
- (2) The single family dwelling unit in which the bed and breakfast takes place shall be the principal residence of the operator, and the operator shall live on premises when the bed and breakfast operation is active.

- (3) The use shall not adversely affect nearby properties by reason of noise, odor, dust, fumes, smoke, glare or comparable nuisances.
- (4) The bed and breakfast shall have not more than six sleeping rooms available for rent to tenants.
- (5) The maximum stay for any occupants of bed and breakfast operations shall be 30 days.
- (6) Breakfast may be served, but only to overnight guests and to the operator's family and employees. The establishment shall not be used for public restaurant purposes.
- (7) One sign identifying the bed and breakfast, which is not larger than 16 square feet and identifies the establishment, shall be permitted. Signs are subject to the permitting requirements and other requirements of Chapter 15.
- (8) Two parking spaces, plus one additional space per sleeping room to be rented, shall be provided.
- (9) Off-street parking areas shall be paved with asphalt or concrete or constructed with gravel or other aggregate which provides drainage, and shall be laid out so as to permit safe and convenient circulation of vehicle traffic on the property and entering and exiting the property.
- (10) A site plan and a floor plan drawn to scale of the entire building showing dimensions, shall be submitted to the Planning Commission and shall be subject to the Commission's approval.

X. Large Wind Energy Conversion Systems. A Large Wind Energy Conversion System ("L-WECS"), including all necessary substations, accessory buildings and operation and maintenance offices, shall comply with all of the terms and conditions of this section.

A. Definitions. For the purposes of this section, the following terms and phrases shall be defined as provided below:

- (1) **Wind Energy Conversion System ("WECS").** A wind turbine generator or other device or devices designed to extract energy from the wind and supply it in the form of electrical energy that is suitable for use by the local electrical transmission utility, or that is used to provide electricity on the site or property on which the WECS is located. A WECS may also include a meteorological tower (MET), which is a tower containing instrumentation such as anemometers that is used to assess wind resources.
- (2) **Large Wind Energy Conversion System ("L-WECS").** A WECS exceeding 110 feet in height.

- (3) **Vertical Axis Wind Turbine (VAWT).** A WECS designed with a rotor mounted on a vertical axis of rotation. The rotor sweeps in a horizontal plane.
 - (4) **Horizontal Axis Wind Turbine (“HAWT”).** A WECS designed with a rotor mounted on a horizontal axis of rotation. The rotor thus sweeps through a vertical plane perpendicular to the motion of the wind.
 - (5) **Rotor.** An element of a wind turbine which acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.
 - (6) **Nacelle.** The structure designed to “yaw” (turn) into the wind that is mounted on top of the tower and houses the rotor support shaft, mechanical and electrical components, and generator.
 - (7) **Tower.** The structure, above grade, that supports the nacelle, rotor assembly, and other components.
 - (8) **WECS Height.** The height from grade to the highest vertical point of the swept rotor arc. In the case of a WECS with a horizontal axis rotor, the total height includes the distance from grade to the rotor axis of rotation within the nacelle plus one-half the swept rotor diameter.
 - (9) **Substation.** An electrical construction designed to collect and modify electrical energy produced by the WECS for the purpose of supplying it to the local electrical utility.
- B. **Principal Use.** A L-WECS shall constitute a principal use. However, a preexisting principal use or structure on the same parcel does not preclude the installation of a L-WECS that meets the requirements of this section, nor shall the existence of an approved L-WECS prevent a second principal use.
- C. **Application.** Applications for a L-WECS shall include the following:
- (1) A site plan, which, in addition to the site plan requirements of Chapter 17, shall include the following:
 - (a) The proposed location, size, height and type of all WECS(s), including MET towers, and the setback distance between the proposed towers and the nearest residential units and residentially-zoned properties.
 - (b) The location of all existing structures and buildings within 300 feet of the parcel subject to the special land use request.
 - (c) The proposed location of all access roads, underground and overhead cabling and utilities.

- (d) The physical size of the proposed L-WECS, including the total height and the swept rotor diameter.
 - (e) Proposed screening, buffering, and tower lighting, if required.
 - (f) A visual representation of the L-WECS including scale elevations or photographs.
- (2) A copy of the applicant's proof of ownership or control of the land, including any lease with the landowner(s) for the L-WECS.
 - (3) Specifications indicating:
 - (a) The rated nameplate output, in kilowatts or megawatts, of the wind turbines included in the L-WECS.
 - (b) Safety features.
 - (c) Type of material used in foundation, tower, blade, and rotor construction.
 - (d) Underwriters Laboratory listing number for the integrated L-WECS system.
 - (e) Sound levels.
 - (4) Structural drawings of tower and foundation with a seal from a licensed Michigan structural engineer.
 - (5) Proof that the applicant has obtained or applied for approval from all county, state or federal agencies having jurisdiction over the proposed use, or any aspect thereof.
 - (6) A maintenance plan, which shall be designed to ensure the long term continuous maintenance to a reasonably prudent standard.
 - (7) A decommissioning plan, which includes the anticipated life of the project, the estimated decommissioning costs net of salvage value in current dollars, the method for ensuring that funds will be available for decommissioning and restoration and the anticipated manner in which the project will be decommissioned and the site restored.
 - (8) A maintenance and decommissioning agreement, if applicable, which shall describe the agreement between owners with respect to the maintenance and decommissioning plans.
 - (9) Proof of liability insurance.

D. **Requirements.** A L-WECS, including MET towers, shall comply with the following requirements:

- (1) **Review and Approval Procedures.** A L-WECS must receive special land use approval from the Planning Commission in compliance with Chapter 19 of this Ordinance.
- (2) **Land Division.** If the property on which the L-WECS is located is divided or leased for more than one year, the applicable zoning conditions and the requirements of the Nelson Township Land Division Ordinance are applicable, except that the lot size, lot area, and road frontage requirements may be altered in the discretion of the Planning Commission.
- (3) **Setbacks.** L-WECS towers shall comply with the minimum required building setbacks for the district in which the L-WECS tower is located or a setback equal to one and one half (1.5) times the height of the highest L-WECS, whichever is greater. Notwithstanding the foregoing, a MET tower shall be set back no closer than a distance equal to the height of the MET tower.

For the purposes of determining whether a proposed L-WECS, or MET tower complies with the setback requirements of a district, the dimensions of the entire lot or parcel of land shall control, even though the L-WECS may be located on smaller leased parcels within such lot or parcel.

- (4) **Setback Modifications.** Setbacks may be reduced or increased from the minimum setback requirements of this section, in the discretion of the Planning Commission. Pursuant to this provision, the Planning Commission shall consider the technical needs of the applicant for a modification of setbacks, the feasibility of alternate locations, the proximity of existing dwellings, and the potential for adverse impacts that noise, shadows and other features may have on adjacent uses.
- (5) **Noise.** A L-WECS regulated under the terms of this section shall be designed, located and operated so as to cause no serious adverse effect on other lands or other land uses by reason of noise. A L-WECS shall not exceed 55 db (A) at the property line closest to the L-WECS. The sound pressure level may be exceeded during short-term events such as utility outages or severe wind storms.
- (6) **Lighting.** L-WECS towers shall not be illuminated by artificial means and shall not display strobe lights unless required by the Federal Aviation Administration or other state or federal authority having jurisdiction. The minimum FAA lighting standards shall not be exceeded and all lighting shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA.

Towers that are lighted shall be avoided unless no feasible alternative is available.

- (7) **Shadow Flicker.** Any L-WECS shall be designed, located and installed so that shadow flicker does not have a significant adverse effect upon adjacent property, upon any occupied building or residence and shall be designed, located and operated so as to cause no serious effect on other lands or land uses by reason of the impact of its shadow.
- (8) **Rural View, Towers in Front Yard.** Towers shall only be placed, to the extent possible, at locations that do not dominate the view from existing streets or detract from the rural view. Locations in front yards are to be avoided. A tower shall not be located in any front yard unless it is set back at least 200 feet from the front lot line.
- (9) **L-WECS Height.** Any L-WECS, including the foundation, the tower, the rotor and all other components shall have a total height not exceeding 199 feet, as measured from the ground at the base of the tower to the tip of the blade of the rotor, when the blade is in a vertical position; provided, however, the Planning Commission may modify the total height to permit a lighted tower that exceeds 199 feet upon a showing that the tower will be harmonious with adjacent, neighboring land uses and will not have a substantial adverse effect on such adjacent or nearby lands or land uses.
- (10) **Compliance with Law.** All L-WECS and the construction, installation, operation, maintenance and repair thereof shall comply with all federal, state and local laws, ordinances and regulations, including the Michigan Tall Structures Act and all airport zoning requirements.
- (11) **FAA Standards.** All structures shall comply with applicable standards and regulations of the Federal Aviation Administration and any other state or federal agency having jurisdiction.
- (12) **Building Codes and Maintenance.** All structures constructed shall comply with the standards contained in applicable state and local building codes and shall be regularly maintained in good, safe working order. The applicant shall maintain a maintenance log that the Township can review upon request.
- (13) **Tower Foundation.** All towers shall be permanently secured to a stable foundation, below grade, that supports the weight of the L-WECS tower.
- (14) **Tower Grounding.** All towers shall be grounded to protect against damage from lightning.
- (15) **Tower Appearance.** All wind turbines and towers shall be finished in a single, non-reflective matte finished color which minimizes the visual impact of the L-WECS.

- (16) **Ground to Blade Clearance.** The minimum vertical blade tip clearance from grade shall be 20 feet for a wind turbine employing a horizontal axis rotor (HAWT). Blade tip clearance is the distance from grade to the lowest point of the rotor's swept arc.
 - (17) **Tower Construction.** A freestanding tubular monopole tower shall be required for any tower that is more than 50 feet in height. An anti-climbing device or design shall be used on all towers, regardless of their height.
 - (18) **Tower Graphics.** No portion of any tower or blades shall display any name, symbol, words, letters, advertising message, graphic representation or other written or pictorial matter. Nacelles may have lettering that exhibits the manufacturer's and/or owner's identification.
 - (19) **Power Lines.** All power lines from a L-WECS and connecting to a substation or grid, shall be underground, unless otherwise permitted by the Planning Commission.
 - (20) **Safety.** All electrical and mechanical components of the system shall be securely locked. Spent lubricants and cooling fluids shall be promptly and safely removed from the premises. Signage on the access roads shall warn visitors of the danger of falling ice.
 - (21) **Electromagnetic Interference.** No L-WECS shall be installed in any location where its proximity with existing fixed broadcast, re-transmission or reception antenna for radio, television or wireless phone or personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected parties that will restore reception to the level present before operation of the L-WECS. No L-WECS shall be installed in any location within the line of site of an existing microwave communication link where its operation is likely to produce electromagnetic interference in the link operation unless the interference is insignificant.
 - (22) **Signage.** Each L-WECS shall have one sign, not to exceed two square feet in area, posted at the base of the tower. The sign shall contain at least the following:
 - Warning High Voltage
 - Manufacturer's and owner's name
 - Emergency contact numbers (must provide for 24-hour contact)
- E. **Discretionary Conditions.** The Planning Commission, in its reasonable discretion, may impose other terms and conditions regulating the construction, installation, use, maintenance, repair and removal of any L- WECS regulated by the terms of this

section. Such other terms and conditions may include, though are not limited to, the following:

- (1) The screening or buffering of structures (other than towers) with landscaping, berms, walls or any combination thereof. Fencing may be required by the Planning Commission to secure the site and tower.
- (2) The prohibition on the construction or occupancy of dwellings on the lands where the L-WECS is located, within the separation distances specified by this section.
- (3) The reasonable replacement of trees or other vegetation removed or destroyed during the construction or installation of a L-WECS tower or accessory buildings or structures.
- (4) The providing of a performance bond or letter of credit, in favor of the Township, and conditioned upon the timely and faithful performance of all required conditions of the special land use or site plan approval, including but not limited to the timely and complete removal of a L-WECS, or any individual tower, wind turbine generator, or other device or equipment regulated under the terms of the section, upon the failure of the same to be removed when required. Such performance bond or letter of credit shall remain in effect during and after the operation of a L-WECS, until the cessation of operations and the removal of the same.
- (5) A sound or environmental impact study.

F. Removal.

- (1) A L-WECS or other individual device, structure or equipment regulated under the terms of this section shall be removed not later than when the device or equipment is no longer in operation or when it has been abandoned.
- (2) For purposes of this section, a L-WECS shall be deemed abandoned when it has not produced electrical energy for 12 consecutive months. Operation of the L-WECS for less than 168 hours shall not be considered production for purposes of this subsection.
- (3) The failure to timely remove a L-WECS or any device, structure or equipment regulated by the terms of this section shall be a violation of this Ordinance.

In the event that the owner or operator of a L-WECS fails to remove the same after the ceasing of operations or after abandonment thereof, the Township may proceed with all appropriate enforcement and remedial action, including but not limited to the obtaining of funds pursuant to the applicable performance bond or letter of credit, and the use of such funds to accomplish the removal of all non-operating or abandoned towers, wind turbine

generators, accessory structures and other devices and equipment regulated hereunder.

- G. **Inspections.** Upon the provision of reasonable prior notice to the site operator, the Township Zoning Administrator and/or his or her designated representative may inspect any property for which special land use or site plan approval has been granted pursuant to this section to determine whether the site complies with the applicable requirements of law and the terms of the special land use approval.
- H. **Prohibited Structures.** The following structures are prohibited as a part of any L-WECS regulated under the terms of this section:
- (1) Home built or similar L-WECS that are not designed or manufactured to professional codes such as the International Electrical Commission, specifically IEC 61400-1, "Wind Turbine Safety and Design" or IEC 61400-2, "Small Wind Turbine Safety," IEC 61400-22, "Wind Turbine Certification," and IEC 61400-23, "Blade Structural Testing," or any similar successor standards.
 - (2) L-WECS that do not comply with the standards of this section, the Township Zoning Ordinance or Building Code.
- Y. **Agritourism Event Business.**

An agritourism event business may be permitted by the Planning Commission in the AG District and SFR-L District as a special use. No parcel may be used for such purposes in the Township of Nelson unless the Planning Commission finds all of the following conditions and requirements are met:

- A. An application for an agritourism event business, in addition to the requirements of Section 19.2, shall include a complete description of the proposed use, services, events, programs, and activities to be provided, proposed hours of operations, and any other information necessary to properly convey the nature of the agritourism event business proposed.
- B. The agritourism event business shall be located on a parcel of no less than 40 acres, exclusive of off-street parking. The Planning Commission may waive the minimum acreage requirement for a particular use upon a finding that the use is compatible with adjacent or nearby properties and may be conducted in compliance with the other standards in the ordinance on less than 40 acres.
- C. The business shall not be incompatible with other allowed uses in the vicinity, as determined by the Planning Commission.
- D. The agritourism event business shall not alter the residential or agricultural character of the site, as determined by the Planning Commission.

- E. The Planning Commission shall establish a capacity for agritourism events held on the site which shall be appropriate to the site and facilities in terms of safe capacity in buildings, parking area, and sanitation limitations of the site.
- F. All buildings and structures on the site shall conform to the minimum setback requirements of the AG District or SFR-L District in which it is located. Existing legal nonconforming buildings and structures shall meet the minimum setbacks.
- G. Off-street parking and lighting shall be provided in accordance with Chapter 14, provided exterior lighting shall only be utilized during scheduled agritourism events. The Planning Commission may grant a parking variation with respect to the amount of parking area required to be paved, and allow parking on gravel, crushed concrete, grass, and similar areas, upon finding that paved parking would result in unnecessary amounts of paved parking area for the particular needs of the proposed use and that adequate parking for the agritourism event business on nonpaved areas is clearly designated on the site plan, is safe, and is compatible with adjacent or nearby properties.
- H. A business sign shall be permitted in accordance with the permitting requirements of Chapter 15.
- I. Accessory buildings shall comply with Section 3.02, and may include, but are not limited to: pavilions; gazebos; picnic facilities; and restroom facilities.
- J. Any permanent refuse containers on site shall be adequately secured and screened from the road and adjacent parcels. Temporary toilet facilities, such as Porta Johns, and trash receptacles shall be provided sufficient to service the number of persons at each event, program, and activity. The Planning Commission shall regulate the use of Porta Johns and trash removal as part of each individual special land use application and approval.
- K. An agritourism event business, and all uses, events, programs, or activities connected with the agritourism event business, shall not create, assist in creating, continue or permit the continuation of any excessive or unnecessarily loud disturbances.
- L. All required federal, state, county and local permits for each use, event, program or activity, shall be secured and maintained by the applicant, including but not limited to the following:
 - (1) All buildings, including but not limited to barns, used in the agritourism event business, shall be insured. In addition, buildings, including but not limited to barns, shall not be used in the agritourism event business until documentation is provided to the Township from an insurance company or certified engineer that the building so used is structurally sound and safe for the proposed activity. In addition, all buildings used in the agricultural event business shall be inspected by and shall pass inspection by the Township

electrical inspector for all proposed uses of the building for the agricultural event business.

- (2) Food provided for the agricultural event business shall be prepared offsite by a licensed caterer, unless the Planning Commission has also approved a catering business home occupation in accordance with Section 3.11 and the food preparation areas are licensed and approved by the Kent County Health Department, as applicable.
- (3) Alcoholic beverages shall not be provided unless the permit holder secures and maintains an appropriate license from the Michigan Liquor Control Commission.
- (4) Kent County driveway permits are necessary for ingress and egress from the site.

M. As part of the special land use approval process, the Planning Commission shall establish hours of operation for the agritourism event business uses, or specific elements thereof, consistent with the character of the land uses in the vicinity or the particular activity proposed for the agritourism event business.

N. Notification of transfer of property associated with an agritourism event business special land use shall be given to the Township Zoning Administrator 30 days prior to any land transfer.

Z. Commercial Greenhouses and Nurseries.

Commercial Greenhouses and nurseries may be permitted as a special use in the AG Agricultural District and SFR-L Single Family Residential – Low Density District and in the C-Commercial District if the Planning Commission finds that the following conditions are met, in addition to the general standards for all special uses:

- (1) Minimum lot size shall be ten acres.
- (2) All structures, operations, and storage areas shall be set back a minimum of 75 feet from all lot lines, 200 feet from an adjacent residential dwelling or district, and 300 feet from the shoreline of any lake or stream.
- (3) In the C-Commercial District retail and wholesale sales may be included with the greenhouse or nursery use consistent with other sales allowed in the commercial district if specifically approved as part of a special land use granted by the Planning Commission. In granting special land use approval for retail and wholesale sales in the commercial district the Planning Commission may include limitations and restrictions on various aspects of those sales, but may allow for more expanded sales in connection with the nursery or greenhouse use than as permitted in the AG or SFR-L Districts.

- (4) Retail sales, which also may include wholesale sales, if accessory to the principal nursery or greenhouse use, may be conducted in the AG and SFR-L Districts if conducted in accordance with the following requirements:
- (a) Retail sales shall be only an incidental and subordinate aspect of the greenhouse or nursery use, which shall primarily consist of the planting, cultivation and harvesting of plants, including flowers and other decorative plants, vegetables, herbs, shrubs, trees, and other useful or decorative plants and the products thereof.
 - (b) Retail sales may include plants and other agricultural products grown and harvested on the premises and, if specifically approved as a part of the special use, grown and harvested on other lands.
 - (c) Retail sales may include goods, items and products that are nonagricultural in nature, if specifically permitted as a part of the special land use approval, and in accordance with the following requirements:
 - (i) Retail sales of nonagricultural products shall consist only of those nonagricultural goods, items and products which are related to or which are useful in connection with the agricultural products or produce raised and harvested as a part of the greenhouse and nursery use.
 - (ii) The building floor area used for retail sales of nonagricultural products shall not exceed 25 percent of the total usable floor area of the building in which such retail sales are conducted. All such nonagricultural products available for sale shall be kept and displayed only within entirely enclosed buildings.
 - (iii) Such retail sales shall not include farm tractors or other motorized farm equipment; motorized lawn mowers; lumber, shingles or other building materials; goods, items, implements or products that are not associated with, related to or useful in connection with agriculture or farming, or yard, lawn or garden activities, products or interests.
 - (iv) In approving nonagricultural retail sales, the Planning Commission may include limitations and restrictions on various aspects thereof, including amount of space devoted to such use; quantity of inventory; percent of area devoted to such use and other limitations or requirements imposed for the purpose of assuring that such retail sales shall remain only an incidental and subordinate portion of the greenhouse and nursery use.

- (v) Onsite parking shall be provided on the premises of the greenhouse and nursery, of an area sufficient to accommodate the vehicles of retail sales customers and other patrons of the special use.
- (vi) Adequate and convenient means of ingress to and egress from retail sales areas shall be provided. Any outdoor sales areas shall be separated from areas used for the driving or parking of vehicles, so as to assure the safety of all persons on the premises.
- (vii) In approving retail sales as a part of the special use, the Planning Commission may impose requirements relating to signage; buffering from adjacent residential uses; hours of operation; limitations on the nature, quantity and location of outdoor sales; setback of all activities from adjacent streets and property lines; and other requirements imposed for the purpose of assuring the satisfactory operation of retail sales activities and to avoid adverse effects upon adjacent or nearby lands.

19.6 Final Approval, Denial, or Approval with Conditions to be in Writing.

When an application for a special use permit is finally approved, denied, or approved subject to conditions, the decision must be incorporated into an official written statement which contains the conclusions relative to the special use permit request. The decision shall specify the basis for the decision, and any conditions which may be imposed in the case of approvals.

19.7 Site Plan Approval Required.

Site plan approval by the Planning Commission is required for all special use permits. Site plans may be initially reviewed by the Zoning Administrator and/or appointed consultants for content.

19.8 Appeals.

Any and all appeals regarding a decision or condition imposed upon a special use application may be made to the courts.

19.9 Expiration.

An approved special use permit must be utilized within one year during which time construction of the approved special use must begin. A valid special use permit is eligible for one additional one-year extension granted by the Planning Commission as a reasonable length of time within which to begin construction.

19.10 Inspection.

At least two site inspections by the Zoning Administrator must be held: one during development, and one before the use or structure is occupied. If development is phased or in stages, then one inspection per phase of stage shall be made.

CHAPTER 20
ZONING BOARD OF APPEALS

20.1 Creation of Zoning Board of Appeals.

The Zoning Board of Appeals (the “Board of Appeals”) is hereby created. The Board of Appeals shall have the authority and responsibilities conferred by law and this Ordinance.

20.2 Membership, Appointment and Term of Office.

Membership to the Board of Appeals shall consist of three members. The first member shall be a member of the Planning Commission. The second member may be a member of the Township Board and appointed by the Township Board. The third member shall be appointed by the Township Board from among the electors of the Township, residing outside of any incorporated areas. Membership shall be representative of the local population, including various interests located in the Township.

- A. No elected official shall serve as chairperson.
- B. No employees or contractors to the Township Board may serve on or be hired by the Board of Appeals.
- C. Terms of office shall be three years, except for those serving as representatives from the Planning Commission or Township Board. For such representatives, terms shall be limited to the time they are members of their respective commission or board.

20.3 Officers.

The Board of Appeals shall elect from its members a chairperson, vice chairperson and secretary. An officer of the Board of Appeals shall have a term of one year and until the officer’s successor is elected and qualifies. An officer may be reelected. An alternate member of the Board of Appeals shall not be eligible for election as an officer of the Board, but an alternate member who is called upon to serve as a member of the Board in the absence of a regular member who is an officer of the Board may, while serving, carry out the duties of the officer in whose absence the alternate member is serving.

20.4 Powers and Duties of Zoning Board of Appeals.

The Board of Appeals shall have all of the powers and duties prescribed by law and by this chapter, as follows:

- A. Hear and decide all appeals from and review any order, decision or determination made by the Zoning Administrator or other person authorized to enforce the provisions of this Ordinance.
- B. Act upon all questions arising in the administration of the Zoning Ordinance, including interpretation of the Zoning Map and the text of the Zoning Ordinance.

- C. Hear and decide dimensional variances and all other matters assigned to it for decision under the terms of this Ordinance. The Board of Appeals shall have no authority to grant use variances.
- D. The Board of Appeals shall have no jurisdiction or authority over or with regard to an appeal from any aspect or part of a determination or decision made with regard to a special land use or planned unit development.

20.5 Dimensional Variances.

If an applicant seeks a dimensional variance from the provisions or requirements of this Ordinance because of dimensional characteristics of a lot or parcel of land, or because of exceptional topographic or similar conditions of the land, buildings or structures, the applicant shall demonstrate through competent, material and substantial evidence on the record that all of the following exist:

- A. That the enforcement of the literal requirements of this Ordinance would involve practical difficulties.
- B. That special conditions or circumstances exist which are peculiar to the land, structures or buildings involved and which are not applicable to other lands, structures or buildings in the same zoning district.
- C. That literal interpretation of the provisions of this Ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same zoning district.
- D. That the authorizing of such variance will not be of substantial detriment to other lands and uses and will not be contrary to the spirit and purpose of this Ordinance.

20.6 Conditions of Approval.

In approving a dimensional variance, the Board of Appeals may include such terms and conditions that the Board deems reasonably necessary to carry out the intent and purposes of this Ordinance and for the protection and advancement of the public interest.

20.7 Time Limitations on Variances.

Any decision of the Board of Appeals on an appeal or application for a variance which has resulted in granting a building permit or variance shall be valid for a period of one year with one additional one year extension granted by the Zoning Administrator. This is construed to be a reasonable period of time within which to begin construction.

20.8 Meetings and Procedure.

- A. The Board of Appeals shall adopt bylaws and rules of procedure as necessary to conduct its meetings and related purposes.

- B. The Board of Appeals shall conduct business only when a majority of its members is present, including any alternate member serving in the absence of a regular member in accordance with Section 20.9. Two members shall constitute a quorum.
- C. Meetings of the Board of Appeals shall be held at such times as the Board of Appeals may determine.
- D. An appeal from an order, decision or determination by the Zoning Administrator or other person authorized to enforce or administer this Ordinance may be taken by any person aggrieved by such order, decision or determination.
- E. An application for an appeal, a variance or other authorized relief shall be accompanied by payment of the required application fee and shall be filed not later than 30 days after the order, decision or determination as to which the application or appeal is taken.
- F. After an application for an appeal, a variance or other authorized relief is complete, has been filed in proper form, and the application fee has been paid, the Zoning Administrator shall forward to the Board of Appeals the application or notice of appeal and other materials comprising the record of the matter from which the application or appeal is taken. The Zoning Administrator shall also send copies of all materials to the official or body of officials from whom the appeal is taken. The application or appeal shall be scheduled by the Board of Appeals for a public hearing within a reasonable time and any required notice of hearing shall be given in accordance with Section 21.14 of this Ordinance.
- G. The Board of Appeals shall decide all applications and appeals within a reasonable time.
- H. The Board of Appeals may reverse or affirm, in whole or in part, or may modify, the order, decision, or determination that is being appealed. For such purpose, the Board shall be deemed to have all the powers of the Township officer or body from whom the appeal was taken. In its decision, the Board of Appeals may direct the issuance of all relevant Township permits.
- I. A decision of the Board of Appeals on an appeal from a Township officer or body shall be final; provided, however, that a party aggrieved by the Board of Appeals' decision may appeal to the circuit court, within the time, to the extent and in the manner permitted by law.
- J. Members of the Board of Appeals who are members of the Township Board or of the Planning Commission, respectively, shall not participate in or vote on matters that the members previously voted on in their respective capacities as Township Board member or Planning Commission member.
- K. The Board of Appeals shall keep minutes of its proceedings, recording the vote of each member upon each matter. The minutes shall also include the reasons and grounds for actions taken by the Board of Appeals, whether in favor of or in denial of

applications under consideration, and the final disposition of each case. The minutes shall be filed with the Township and shall be available to the general public.

20.9 Alternate Members.

The Township Board may appoint up to two alternate members of the Board of Appeals, in the same manner as regular members are appointed. An alternate member may serve as a member of the Board of Appeals in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also serve as a member of the Board for the purpose of reaching a decision in a case in which a regular member has abstained because of conflict of interest. An alternate member who is called to serve in a case before the Board shall serve in the case until a final decision is made, whether at one or more meetings. An alternate member of the Board of Appeals has the same voting rights as a regular member of the Board.

20.10 Removal of Members; Conflicts of Interest.

- A. A member of the Board of Appeals may be removed by the Township Board for misfeasance, malfeasance or nonfeasance in office, upon a written statement of the reasons or grounds for the proposed removal and after a public hearing by the Township Board. At the public hearing, the member who is proposed to be removed shall be given an opportunity to address the Township Board.
- B. A member of the Board of Appeals shall disqualify himself or herself from voting on a matter in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from voting in a matter in which the member has a conflict of interest constitutes malfeasance in office.

**CHAPTER 21
ADMINISTRATION AND ENFORCEMENT
MISCELLANEOUS MATTERS**

21.1 Enforcement by Zoning Administrator.

This Ordinance shall be administered and enforced by the Zoning Administrator being duly designated and appointed by the Nelson Township Board.

21.2 Duties of the Zoning Administrator.

It shall be the responsibility of the Zoning Administrator to enforce the provisions of this Ordinance and in so doing shall perform the following duties:

- A. **Record Applications.** The Zoning Administrator and/or Township Clerk shall maintain and keep in an orderly, accessible manner, files of all applications for all special use permits, and for variances; and shall keep records of all such permits and variances issued. These shall be filed at the Township administration office and shall be open to public inspection. Copies shall be furnished at cost upon the request of any person having a proprietary or tenancy interest in the property involved.
- B. **Inspections.** The Zoning Administrator shall be empowered to make inspections of buildings or premises in order to properly carry out the enforcement of this Ordinance.
- C. **Cancellation of Zoning Approvals, Special Use Permits and Variances.** With proper notice given, the Zoning Administrator shall have the power to revoke or cancel any permit in case of failure or neglect to comply with any of the provisions of this Ordinance, or in case of any false statement or misrepresentation made in the application. Upon such revocation, all further construction activities and usage shall cease upon the site, other than for the purpose of correcting the violation.
- D. **Compliance with Zoning Ordinance.** Under no circumstances is the Zoning Administrator permitted to make changes in this Ordinance, nor to vary the terms of this Ordinance while carrying out the duties prescribed herein. It shall be the responsibility of the Township Board to assure that the Zoning Administrator enforces the provisions of this Ordinance.

21.3 Application Procedure for Building Permits.

A building permit shall be obtained prior to: the excavation for building, construction, physical development or razing of a proposed new or expanded use, structure or building; or the restoration and structural improvement of any existing use or structure (other than normal repairs and minor improvements); or a change of one use to any other use. Requests for building permits must be made to Nelson Township office.

21.4 **Contents of Application.**

Among the information to be supplied by the applicant, and which shall constitute the application package, the following shall be included:

- A. Name and address of applicant or applicants; and a copy of the recorded deed of land contract in applicant's name, a copy of the septic tank/water permit from the Kent County Health Department is required for new construction of a manufactured housing and if applicant is not a licensed contractor he must live in the house for a minimum of six months commencing after the occupancy permit is granted.
- B. Location, shape, area and dimension of the lot, and of the proposed structure or improvement (shown on a site plan), parcel number, estimated cost of structure.
- C. Description of proposed use and of the building (dwelling, structure, barn, garage, etc., or improvement).
- D. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other users.
- E. The yard, open space and parking space dimensions (as shown on a site plan).
- F. A site plan, where required; and the scale shall not be more than 1"=100' although supplementary site plans at 1"=50' or larger scale are encouraged.
- G. In the case where the current use is commercial or industrial, not publicly sewered, and the application is to change, convert, add or expand such commercial or industrial use, a statement from the Kent County Health Department must be submitted certifying that the present on-site septic disposal system is adequate to meet the needs of the changed, converted, added or expanded use after development.

21.5 **General Procedural Steps.**

Upon submission of an application, the Zoning Administrator and/or appointed consultants:

- A. Reviews the application package:
 - (1) To make sure that it is the proper application for the building/zoning action requested.
 - (2) To see that all required information is submitted.
 - (3) To determine conformance with zoning/building regulations, unless waived by variance from the Zoning Board of Appeals.

- B. Takes one or more of the following preliminary actions:
- (1) Requests from the applicant that any omitted or pertinent and necessary information now be submitted.
 - (2) If necessary, requests the Board of Appeals to interpret an unclear ordinance provision.
 - (3) Where required, reviews site plan according to site plan review standards for approval as set forth in Chapter 17.
 - (4) If necessary, discusses the application and site plan with the Planning Commission for advisory comments.
 - (5) Makes a site inspection to verify accuracy of the application and to gather additional information.

21.6 Approval of Building Permit.

Upon satisfaction of the standards for site plan review/approval, and of any additional requirements or conditions that may be needed to meet those standards, the Building Inspector and/or Zoning Administrator shall approve site plan and a performance bond may be required to ensure compliance with any imposed or proposed public improvements, requirements, specifications and conditions.

21.7 Denial of Building Permit.

If the application for building permit is denied by the Building Inspector, and/or the Zoning Administrator the reason or cause for denial shall be stated in writing.

21.8 Expiration.

Building permits shall be valid for one year, and shall be eligible for one additional one-year extension granted by the Building Inspector and/or Zoning Administrator, upon written request as a reasonable length of time.

21.9 Application Procedures for Certificates of Occupancy.

Prior to occupying a new structure, using land in a different intensity than before, or occupying an existing structure or parcel or property with a new type of use other than what previously existed, a certificate of occupancy must be obtained from the Township. The certificate of occupancy is granted after an inspection and is intended to ensure building/zoning compliance. The certificate of occupancy is intended to make sure that:

- A. After construction, the newly developed structure is the one which has been approved.
- B. Before occupancy, a new use is the same as the use which was approved.

- C. Both structure and use comply with all building/zoning requirements and any conditions previously imposed.

21.10 **General Procedural Steps.**

- A. Upon notification by the applicant to the Building Inspector that the structure and/or use is ready for inspection the Building Inspector:
 - (1) Shall contact applicant to establish a mutually agreed upon date and time for inspection.
 - (2) Researches and reviews any known records relating to the site in question.
 - (3) Inspects for compliance with zoning requirements and with any previously imposed conditions.
- B. Upon inspection, the Building Inspector takes one of the following actions:
 - (1) Issues the certificate of occupancy.
 - (2) Delays issuance subject to completion of alterations necessary to achieve full compliance and follow-up inspection.
 - (3) Denies the certificate of occupancy in writing, based on inspection findings of noncompliance with the ordinance or building codes and initiates enforcement action pursuant to ordinance requirements.

21.11 **Schedule of Fees.**

Upon the filing of an application for a zoning permit, special use permit, Board of Appeals review, variance or rezoning, and other proceedings authorized under this Ordinance, an administrative fee shall accompany said application. The Township Board shall determine and set a schedule of fees to be charged. Fees shall be collected prior to processing of any requested permit, variance, appeal, rezoning, etc.

21.12 **Penalty for Violation.**

Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or changed in violation of any provision of this Ordinance, or any condition of an occupancy permit, site plan, special use permit, decision of the Zoning Board of Appeals, or variance, or other zoning approval, is hereby declared to be a nuisance per se. Any such violation is also a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$500 for the first offense and not less than \$500 nor more than \$1,000 for subsequent offenses, in the discretion of the court, and in addition to all other costs, damages, and expenses 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 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. Each day during which any violation continues shall be deemed a separate offense.

Civil infraction penalties shall be in addition to all other remedies available to the Township by law, including but not limited to, injunctive relief.

21.13 Interpretation of Ordinance.

- A. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, morals, safety and the general welfare.
- B. Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive, or higher standard, shall control.
- C. This Ordinance shall not abridge the provision of a validly adopted building code, subdivision or other regulation.

21.14 Publication and Delivery of Notice of Public Hearing.

Except as stated otherwise in this Ordinance, whenever a public hearing on a zoning application is required by this Ordinance or by the Michigan Zoning Enabling Act, as amended, 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 before to the date of the public hearing, in a newspaper of general circulation in the Township.
- B. For applications involving the rezoning of ten or fewer adjacent properties; for applications to the Zoning Board of Appeals involving a specific parcel of land; for all planned unit development and special land use applications; and for other zoning applications as to which a public hearing is required, a notice of public hearing shall be personally delivered or shall be mailed by first-class U.S. mail to the following persons, at least 15 days before the date of the public hearing:
 - (1) The applicant; the owner of the subject property, if different from the applicant.
 - (2) All persons to whom real property is assessed for property taxes within 300 feet of the property that is the subject of the application;
 - (3) One occupant of each dwelling unit in each building that contains four or fewer dwelling units and is located within 300 feet of the subject property; and
 - (4) The owner or manager of a building containing more than four dwelling units, who shall be requested in writing to post the notice at the primary

entrance of the building, but failure of such posting shall not constitute lack of notice to the owners or occupants of such dwelling units.

If the above-described 300-foot radius extends outside the Township's boundaries, the notice shall nevertheless be provided outside of the Township's boundaries, within the 300-foot radius, to all persons stated above in this subsection.

- C. The notice of public hearing shall include the following information:
- (1) A description of the application or request.
 - (2) An identification of the property that is the subject of the application or request. The notice shall 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 or more adjacent properties are being proposed for rezoning.
 - (3) The date and time when the application or request will be considered; the location of the public hearing.
 - (4) The location or address where written comments concerning the application or request will be received; the period of time within which such written comments may be submitted.

21.15 Severability.

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, nor other parts, sections, subsections or clauses thereof.

21.16 Repeal of Conflicting Ordinance.

All ordinances or parts of ordinances which are in conflict with this Zoning Ordinance, or inconsistent with the provisions of this Ordinance, are hereafter repealed to the extent of its inconsistency.

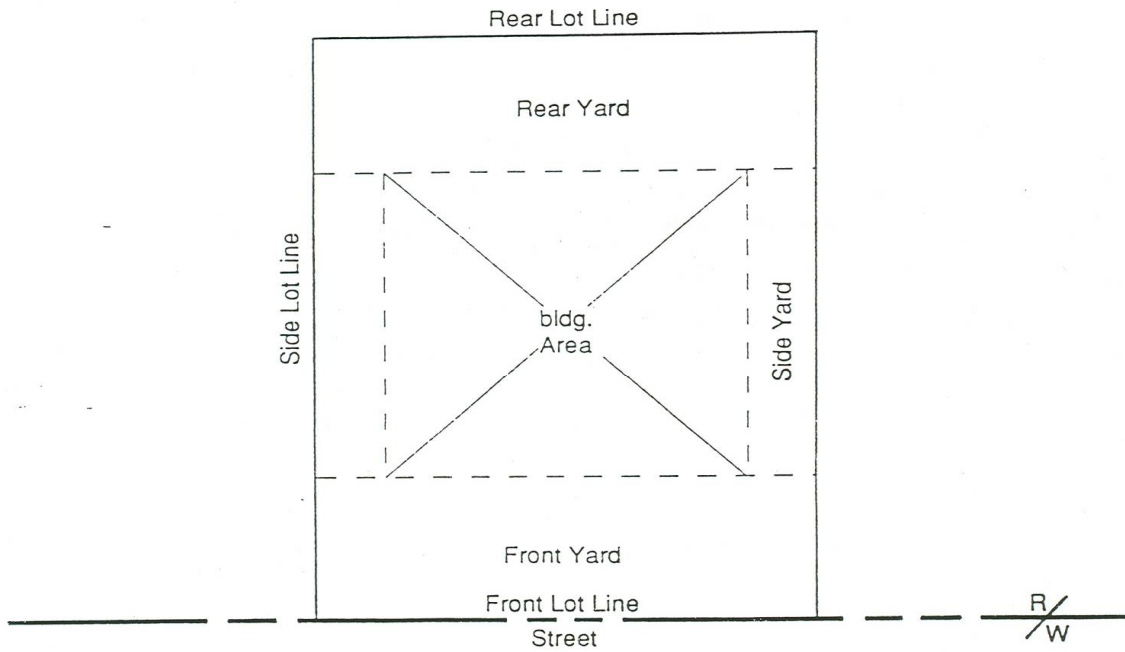
The 1976 Zoning Ordinance of Nelson Township adopted and all amendments thereto are hereby repealed; provided, however, that the adoption of this Ordinance shall not prevent or bar the continuation or institution of any proceedings for offenses heretofore committed in violation of any existing ordinance.

21.17 Effective Date.

This Ordinance shall be effective 30 days after its publication or 30 days after the publication of a summary of its provisions in a local newspaper of general circulation.

Appendix A

TYPICAL YARDS



Refer to Specific Zone for Min. Yards.
Refer to General Provisions for Placement of Accessory Buildings.