

CHAPTER 154: ZONING

Section

General Provisions

- 154.001 Enactment and authority
- 154.002 Short title
- 154.003 Purpose
- 154.004 Scope
- 154.005 Conflicts with other laws; inconsistencies
- 154.006 Definitions - words and terms defined
- 154.007 Interpretation of chapter
- 154.008 Severability

Zoning Districts and Conditions

- 154.020 Establishment of districts
- 154.021 Zoning map
- 154.022 Purposes and objectives of districts

Rogue River (RR) Zoning District

- 154.035 Establishment
- 154.036 Uses permitted by right
- 154.037 Height regulations
- 154.038 Area regulations
- 154.039 Accessory uses
- 154.040 Specifically prohibited actions and uses

Airport Overlay (AO) Zone

- 154.055 Intent and purpose
- 154.056 Boundaries
- 154.057 Hazardous height limitation standards for airport approaches
- 154.058 Unlawful land uses

Open Space Planned Unit Development (OS-PUD) District

- 154.070 Intent
- 154.071 Authorization and procedures
- 154.072 Qualifying conditions
- 154.073 Permitted uses
- 154.074 Development requirements
- 154.075 Open space requirements
- 154.076 Areas not counted as dedicated open space
- 154.077 Standards for open space
- 154.078 Methods to preserve open space
- 154.079 Density and number of dwelling units allowed
- 154.080 Density and setbacks table
- 154.081 Formula to determine number of dwellings
- 154.082 Procedures for review and preparation of preliminary site plan

Planned Unit Developments (PUDs)

- 154.095 Purpose and objectives
- 154.096 Authorization and procedures
- 154.097 Permitted uses
- 154.098 Qualifying conditions
- 154.099 Development regulations
- 154.100 Development requirements for residential uses
- 154.101 Minimum dedicated open space requirements
- 154.102 Standards for approval
- 154.103 PUD procedures
- 154.104 Additional requirements
- 154.105 Amendments to approved PUD
- 154.106 Performance guarantee
- 154.107 Time limitations on development
- 154.108 Existing PUDs

Flood Hazard Areas

- 154.120 Intent
- 154.121 Delineation of Flood Hazard Overlay Zone
- 154.122 Development permit
- 154.123 General standards for flood hazard reduction
- 154.124 Specific base flood elevation standards
- 154.125 Mobile home standards in flood areas
- 154.126 Standards for areas of shallow flooding
- 154.127 Floodway protection standards
- 154.128 Disclaimer of liability
- 154.129 Flood insurance rate map FIRM

Non-Conformities

- 154.140 Intent
- 154.141 General requirements
- 154.142 Non-conforming uses
- 154.143 Non-conforming buildings
- 154.144 Non-conforming lots
- 154.145 Non-conforming signs
- 154.146 Burden of proof

Site Plan Review

- 154.160 Review and approval
- 154.161 Applicability
- 154.162 Standards for review and approval
- 154.163 Application
- 154.164 Conditional approval; Planning Commission
- 154.165 Records and compliance
- 154.166 Compliance with performance standards
- 154.167 Conformity to approved site plan

- 154.168 Security
- 154.169 Preliminary site plan review; Planning Commission
- 154.170 Final site plan review
- 154.171 Minor modifications of approved site plans

Special Uses

- 154.185 Special use permits
- 154.186 Standards for consideration
- 154.187 Conditions
- 154.188 Compliance with performance standards; site plan review
- 154.189 Time limitation
- 154.190 Existing violations
- 154.191 Basis for decision in writing
- 154.192 Special use approval required
- 154.193 Non-agricultural development option for managing development and agricultural preservation
- 154.194 Application procedures for special use permits by Planning Commission

Supplementary Use Regulations

- 154.205 General
- 154.206 Managed growth, development and agricultural preservation; limitations on non- agricultural uses in the Ag-1 Zoning District
- 154.207 Maximum density requirements and depth-to-width ratio for non-agricultural dwellings in the Ag-1 Zoning District
- 154.208 Home occupations
- 154.209 Medical marijuana
- 154.210 Research and development facilities
- 154.211 Sanitary landfills
- 154.212 Animal kennels
- 154.213 Animal hospitals
- 154.214 Disposal sites for hazardous and liquid materials
- 154.215 Airfields or landing strips
- 154.216 Farm labor housing
- 154.217 Hotels, motels and motor courts
- 154.218 Bowling alleys, indoor commercial recreation and similar uses
- 154.219 Open-air businesses
- 154.220 Gasoline service stations (filling stations)
- 154.221 Car wash establishments
- 154.222 Convalescent or nursing homes for seven or more persons
- 154.223 Golf courses and country clubs
- 154.224 Campgrounds and recreational vehicle parks
- 154.225 Junkyards
- 154.226 Removal and storage of liquids
- 154.227 Office developments (two or more structures)
- 154.228 Shopping center and department store developments
- 154.229 Planned industrial parks

154.230 Industrial performance standards (restrictions on the creation of dangerous and objectionable elements)

154.231 Special events in Ag-1 and Ag-2 Zoning Districts

154.232 Mandatory planned unit developments

Miscellaneous Provisions

154.245 Effect of zoning

154.246 Application of regulations

154.247 Schedule of regulations; tables

154.248 Restoring unsafe buildings

154.249 Minimum floor area for dwelling units

154.250 Structures to have access

154.251 Erection of more than one principal structure prohibited

154.252 Accessory buildings and uses

154.253 Exceptions to height regulations

154.254 Exceptions to yard setback regulations

154.255 Underground homes

154.256 Mobile homes

154.257 Antennas

154.258 Lots

154.259 Utilities

154.260 Parking

154.261 Outdoor furnaces

154.262 Animals, livestock and fowl

154.263 Churches; day care and child centers

154.264 Transition zoning

154.265 Lighting and screening; fences

154.266 Amateur radio towers

154.267 Medical marijuana dispensaries and other facilities

154.268 Miscellaneous uses

154.269 Mining; natural resources

154.270 Bed and breakfast establishments

154.271 Exotic and dangerous animals

154.272 Communication towers

154.273 Schedule of bulk regulations

154.274 Certain prohibited land uses

154.275 Certain residential developments as planned unit developments

Wireless Internet Service Providers (WISP)

154.285 Purpose

154.286 Definition

154.287 Applicability

154.288 Application requirements; special use permits

154.289 WISP mounted on a tower; general requirements

154.290 WISP mounted on a building; general requirements

Wind Energy Systems (WES)

154.305 Purpose

154.306 Definitions

154.307 WES allowed as permitted use

154.308 WES that require special use approval

154.309 Operating standards for all wind energy systems

154.310 Decommissioning plan

154.311 Removal and site restoration

154.312 Removal cost guarantee

154.313 Abandoned, inoperable and unsafe WES and adverse impacts

154.314 Complaint resolution plan

154.315 Inspection

154.316 Certification of insurance

154.317 Noise monitoring and complaint investigation and resolution

154.318 Administrative costs; initial application and on-going

Solar Energy Systems (SES)

154.320 Purpose

154.321 Definitions

154.322 General requirements for solar energy systems

154.323 Requirements for rooftop and wall mounted SES

154.324 Level 1 Onsite Ground Mounted SES

154.325 Level 2 Onsite Ground Mounted SES

154.326 Solar farms

Private Roads

154.330 Definitions

154.331 General requirements; application to existing private roads

154.332 Minimum standards

154.333 Road maintenance

154.334 Procedure for review

154.335 Review committee

154.336 Final compliance requirements

154.337 Permit issuance

154.338 Permits for buildings

Adult-Oriented Businesses

154.350 Local and approval

154.351 Special land use process

154.352 Definitions

154.353 Compliance

Mobile Home Parks

154.365 Purpose

154.366 Eligibility; requirements

Signs

- 154.380 Design standards and conditions for certain uses
- 154.381 Purposes and intent

Zoning Agreements; Conditional Rezonings

- 154.395 General
- 154.396 Definitions
- 154.397 Eligibility
- 154.398 Zoning agreements
- 154.399 Rezoning offer
- 154.400 Application, review and approval
- 154.401 Approval
- 154.402 Continuation
- 154.403 Amendment

Administration and Enforcement

- 154.415 Zoning Administrator; duties
- 154.416 Floodplain management administrative duties
- 154.417 Application procedures for zoning permit
- 154.418 Flood hazard area application information
- 154.419 Application procedures for certificates of occupancy
- 154.420 General procedural steps
- 154.421 Performance bonding for compliance (performance guarantee)
- 154.422 Schedule of fees
- 154.423 Stop work order
- 154.424 Notice and hearings
- 154.425 Time limits
- 154.426 Proof of ownership
- 154.427 Surveys
- 154.428 Revocation or termination of zoning approvals
- 154.429 Amendments

Zoning Board of Appeals

- 154.440 Authorization
- 154.441 Membership
- 154.442 Powers and duties
- 154.443 Organization and conduct of business
- 154.444 Conditions of ZBA approval
- 154.445 Time limit on decision of ZBA
- 154.446 Final action on appeals
- 154.447 Effect of appeals proceedings (stay of proceedings)
- 154.448 Application procedure for appeals/variances; decision process
- 154.449 Variances; standards

- 154.999 Penalty

GENERAL PROVISIONS

§ 154.001 ENACTMENT AND AUTHORITY.

The Township Board, under the authority of the state's Zoning Enabling Act, also known as Public Act 110 of 2008, being M.C.L.A. §§ 125.3101 et seq., as amended (the "Zoning Act"), hereby ordains, enacts and publishes this chapter.

(Ord. passed 7-12-2012, § 1.1)

§ 154.002 SHORT TITLE.

This chapter shall be known as the "Sparta Township Zoning Ordinance".

(Ord. passed 7-12-2012, § 1.2)

§ 154.003 PURPOSE.

(A) This chapter is hereby established in accordance with the needs of the township. The text, map and schedules contained herein shall constitute this chapter.

(B) This chapter is adopted for the following purposes:

(1) To protect and promote the public health, safety and general welfare of the township and its residents and landowners;

(2) To guide and protect the future of the township in an orderly manner and in accordance with the growth and development goals of the township's land use plan. The following is a narrative summary of both the plan text and map:

(a) To promote the agricultural economic base of the township;

(b) To provide for growth in areas conducive for development by encouraging growth and development to occur in close proximity to the Village of Sparta and near the southeastern part of the township;

(c) To protect and preserve the scenic and environmental quality of the Rogue River by maintaining "natural river" restrictions pursuant to state law, and more specifically defined in the *Natural River Report: Rogue River*, revised August of 1973;

(d) To promote light industrial development in close proximity to the Village of Sparta;

(e) To discourage and restrain major commercial uses such as highway and strip commercial from locating in areas far removed from the Village of Sparta; and

(f) To discourage sprawl development and conflicts between incompatible land uses.

(3) To protect and preserve the value of land throughout the township and the value of buildings appropriate to the various districts established by this chapter;

(4) To assure that the residential housing environment of the township is safe, healthful and free of blighting appearances;

(5) To provide for a range of housing opportunities in a planned, orderly pattern and manner within the township and with residential densities of varying scales east of M-37;

(6) To protect the natural environment from the pollution of air, streams and ponds and to encourage the wise development and sound management of all natural resources throughout the township in order to preserve the stability, beauty and rural character of the community;

(7) To preserve farmland for agricultural uses, especially prime agricultural lands in accordance with the township's land use plan in agricultural zoning districts, it is the intent of the township to consider and acknowledge the use of land for agricultural purposes under the same values, priorities and terms in this chapter as other uses of land are considered in other zoning districts. By this statement, it is intended that non-agricultural uses are to be discouraged in prime agricultural or unique agricultural zoning districts; and further, to encourage development in other areas that are not suitable for agriculture by making these areas more attractive through zoning; and

(8) To effectuate those purposes and goals as specified in the township's land use plan.

(Ord. passed 7-12-2012, § 1.3)

§ 154.004 SCOPE.

(A) Zoning affects all structures, buildings, activities and land uses within the township.

(B) Township buildings, structures and uses are subject to this chapter.

(C) Uses, activities, buildings or structures not specifically authorized in this chapter are prohibited.

(Ord. passed 7-12-2012, § 1.4)

§ 154.005 CONFLICTS WITH OTHER LAWS; INCONSISTENCIES.

(A) The provisions of this chapter are the minimum requirements necessary for the protection of the health, safety, comfort, morals, convenience and general welfare of the people at large.

(B) If there are found to be differences between the meaning or implication of any drawing, table, figure, title or section heading in this chapter, the text of this chapter shall apply.

(C) This chapter shall not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, except those repealed herein by specific reference, or with private restrictions placed upon property by covenant, deed or other private agreement, or with restrictive covenants running with the land to which the township is a party.

(D) (1) *Internal.* Unless otherwise specifically stated within this chapter, if two or more provisions are in conflict or are inconsistent with one another, then the most restrictive provision shall apply.

(2) *Local regulations.* Where this chapter imposes greater restrictions, limitations or requirements upon the use of buildings, structures, activities or land; the height of buildings or structures; lot coverage; lot areas; yards or other open spaces; or any other use or utilization of land than are imposed or required by other existing laws, ordinances, regulations, private restrictions or restrictive covenants, the provisions of this chapter shall control.

(3) *Federal and state regulations.* Whenever a provision of this chapter imposes a greater restriction or a higher standard than is required by any state or federal code or regulation, county or township ordinance or regulation, the provision of this chapter shall apply. Whenever a provision of any state or federal code or regulation, county or township ordinance or regulation imposes a greater restriction or a higher standard than is required by this chapter, the provision of the state or federal code or regulation, or other county or township ordinance or regulation shall apply.

(4) *Private restrictions.* Whenever a private covenant, contract, commitment, agreement or other similar private land use regulation imposes a greater restriction or a higher standard than is required by a provision of this chapter, the township is not obligated to enforce the provisions of such private covenants, contracts, commitments, agreements or other similar regulations to which the township is not a party. Unless the township has an ownership interest in the property, a deed restriction is enforced by the parties to the agreement, not by the township.

(5) *State law amendments.* Whenever codes or statutes cited in this chapter refer to state law that has been amended or superseded, this chapter shall be deemed automatically amended in reference to the new or revised code.

(E) Maps, appendices and tables referenced in this chapter are incorporated by reference and are part of this chapter.

(Ord. passed 7-12-2012, § 1.5)

§ 154.006 DEFINITIONS - WORDS AND TERMS DEFINED.

(A) *Usage.* For the purposes of this chapter, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this section.

(1) 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 chapter; the word **REGULATION** means the regulations of this chapter; and the words **THIS CHAPTER** shall mean **THE ORDINANCE TEXT, TABLES AND MAPS INCLUDED HEREIN, AS ENACTED OR SUBSEQUENTLY AMENDED.**

(2) A **PERSON** includes a corporation, firm, entity, limited liability company, trust, partnership, as well as an individual, or an unincorporated association of persons such as a club or any other entity; **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.**

(3) The **TOWNSHIP** is Sparta Township in Kent County, Michigan; **THE TOWNSHIP BOARD**, "Board of Appeals" (or **ZONING BOARD OF APPEALS** or **ZBA**), and **PLANNING COMMISSION** are, respectively, the Township Board, the Board of Appeals and the Planning Commission of Sparta Township.

(B) *Words and terms defined.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING. A building or structure located on the same lot with the principal or main building and which is subordinate to the principal or main building. An **ACCESSORY BUILDING** is detached from the main building. Where a structure is integrally attached to a main building in a manner by a wall or roof, it shall be considered a part of the main building.

ACCESSORY USE. A use customarily and normally incidental and subordinate to the principal use or structure and located in the same lot with such principal use or structure.

ADULT CABARET. A cabaret that features go-go dances, erotic dancers, strippers, male or female impersonators, or similar entertainers who exhibit specified anatomical areas or who exhibit specified sexual activities for observation of patrons therein.

ADULT MERCHANDISE STORE. An establishment having, as a substantial or significant portion of its stock-in-trade, merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, or an establishment with a segment or section devoted to the sale, rental or display of such merchandise.

ADULT MOTION PICTURE THEATERS. Any establishment, or part thereof, 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.

ADULT-ORIENTED BUSINESS. See §§ 154.350 through 154.353 of this chapter.

AGRICULTURE. Raising and storing of crops, animals and animal products, forestry, the preparation and marketing of certain agricultural products, and other commonly accepted agricultural operations for commercial purposes.

AIRPORT. The Sparta Airport and all appurtenances used or acquired for airport buildings or other airport facilities and all other appurtenant rights-of-way or other interests either heretofore or hereafter established.

AIRPORT HAZARD. Any structure or tree within the airport overlay zone that exceeds the height limitations established by this chapter, or any use of land or of appurtenances thereto within the Airport Overlay Zone that interferes with the safe use of the airport by aircraft.

AIRPORT (OVERLAY ZONE). The area within one mile of the Sparta Airport measured from the airport property line, wherein certain types of land uses are regulated due to land use conflicts such as noise, vibrations, fumes, dust, fuel particles and other effects that can be caused by the operation of aircraft landing or taking off or operating at the airport.

ALTERATIONS. Any change, addition or modification in construction or type of occupancy; and any change in the roof or supporting members of the building or structure, such as bearing walls, partitions, columns, beams, posts, girders or any change that may be referred to herein as "altered" or "reconstructed". Structural changes are also **ALTERATIONS**.

ANIMAL. In accordance with Ch. 90 of this code of ordinances, **ANIMAL** shall mean any dog, cat, bird, reptile, mammal, fish or similar animal.

AREA OF SHALLOW FLOODING. A designated AO Zone on a community's Flood Insurance Rate Map ("FIRM") with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year.

AUTOMOBILE REPAIR - MAJOR. Any activity involving the general repair, rebuilding or reconditioning of motor vehicles, engines or trailers; collision services, such as body, frame or fender straightening and repair, overall painting and vehicle rust-proofing.

AUTOMOBILE REPAIR - MINOR. Any activity involving minor repairs to motor vehicles and the incidental replacement of parts of such vehicles. A place where either gasoline or any other fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and applied directly into motor vehicles, including sale of accessories, greasing, oiling and minor automotive repair on the premises.

AUTOMOBILE WASH ESTABLISHMENT. A building, or portion thereof, the primary purpose of which is that of washing motor vehicles.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASEMENT or **CELLAR.** A portion of a building having more than one-half of its height or mass below grade.

BED AND BREAKFAST ESTABLISHMENT. A private residence that offers overnight accommodations to lodgers in the innkeeper's (owner or operator) principal residence and serves breakfast at no extra cost to its lodgers. For the purpose of this definition, a **LODGER** means a person who rents a room in a bed and breakfast establishment.

BLUFF. The top of a steep bank rising sharply from the river's edge (Public Act 346 of 1972, being M.C.L.A. §§ 324.30101 et seq., as amended.)

BOARDING, LODGING OR ROOMING HOUSE. A dwelling primarily used for the purpose of providing long-term lodging or both meals and lodging for compensation. Such house is to be distinguished from a hotel, motel or an institutional use such as a convalescent or nursing home.

BOTTOM LAND. The land area of an inland lake or stream that lies below the ordinary high water mark and that may or may not be covered by water (Public Act 346 of 1972, as amended.)

BUILDING. A structure, either temporary or permanent, having a roof.

BUILDING HEIGHT. The vertical distance measured from the established grade to the highest point of the roof surface if

a flat roof; to the deck of mansard roofs; and to the mean height level between eaves and ridge, hip and gambrel roofs.

BUILDING LINE. A line parallel to the front lot line, and that marks the location of the building.

BUILDING, MAIN OR PRINCIPAL. A building in which is conducted the principal use of the lot on which it is situated.

CABARET. A café, restaurant, bar or any establishment where patrons are entertained by performers who dance, sing or play musical instruments.

CEMETERY. Any public cemetery owned, managed or controlled by the township and any other cemetery located within the township.

CHILD CARE/DAY CARE CENTER. A facility, other than a private residence, receiving one or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. **CHILD CARE CENTER** or **DAY CARE CENTER** includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a **CHILD CARE CENTER, DAY CARE CENTER, DAY NURSERY, NURSERY SCHOOL, PARENT COOPERATIVE PRESCHOOL, PLAY GROUP** or **DROP-IN CENTER**. **CHILD CARE CENTER** or **DAY CARE CENTER** does not include any of the following:

(a) A Sunday school, a vacation bible school or a religious instructional class that is conducted by a religious organization where children are in attendance for not more than three hours per day for an indefinite period or not more than eight hours per day for a period not to exceed four weeks during a 12-month period; and

(b) A facility operated by a religious organization where children are cared for not more than three hours while persons responsible for the children are attending religious services.

CONSTRUCTION. The building, erection, alteration, repair, renovation (or demolition or removal), or installation of any building, structure or structural foundation; or the physical excavation, filling and grading of any lot other than normal maintenance shall constitute **CONSTRUCTION**. This does not include agricultural operations other than the erection of buildings.

CONVALESCENT OR NURSING HOME. A home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, wherein seven or more persons are cared for. Said home shall conform and qualify for license under state law.

DEVELOPMENT. Any human-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DISH ANTENNA. A parabolic or similar designed structure intended to receive or transmit radio, television, microwave or satellite communications or the like.

DWELLING or **APARTMENT.** A building or a portion thereof designated or used exclusively as a residence or sleeping place for one or more persons, including one-family, two-family and multiple dwellings, apartment hotels with cooking facilities, boarding and lodging houses and mobile homes used for such purposes, but not including motels, motor hotel, tourist rooms, travel trailers, motor homes, trailers or truck campers. Every **DWELLING** shall have a minimum width of at least 22 feet for its entire length and a minimum of a double pitched roof of not less than two and one-half feet of rise for each 12 feet of run, shall have a roof overhang of not less than six inches on all sides and shall have either a basement or a crawl space below the entire bottom of the building of four feet with a vapor barrier consisting of Visqueen or a minimum of two inches of concrete on the floor of the crawl space provided with adequate drains to drain away accumulated water in the crawl space.

DWELLING, AGRICULTURAL (FARM). A dwelling or accessory dwellings used to house persons primarily engaged in agriculture on the parcel or adjacent parcels, and which dwelling or accessory dwellings are incidental and subordinate to the principal agricultural use of the parcel or adjacent parcels.

DWELLING, MULTIPLE-FAMILY. A building or portion thereof, used or designed for occupancy by more than two families living independently of each other. This definition does not include single-family attached dwellings or two-family dwellings.

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 site.

DWELLING, SINGLE-FAMILY (DETACHED). A unit exclusively for use by one family that is entirely surrounded by open space or yards on the same lot. In no case shall a mobile home be considered a **SINGLE-FAMILY DETACHED DWELLING** in terms of this chapter, nor as a low density use.

DWELLING, TWO-FAMILY. A detached building used or designed for use exclusively by two families living in separate dwelling units and each doing their own cooking in said building. It may also be termed **DUPLEX**.

DWELLING, UNDERGROUND. See **UNDERGROUND HOME**.

EFFICIENCY UNIT (STUDIO). A dwelling unit for one individual or small family consisting of one room, exclusive of bathroom, hallway, closets and the like.

ESSENTIAL PUBLIC SERVICES. The erection, construction, alteration or maintenance of public utilities by public utilities or municipal departments or commissions of underground or overhead gas, electrical, steam or water transmission, or distribution systems, collection, 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 exchanges and or repeater buildings, electric substations, gas regulators, stations and other similar equipment and accessories in connection therewith (but not including communication towers regulated under §§ 154.266 and 154.285 through 154.290 of this chapter) 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 does not include sanitary landfills and sewage treatment facilities.

FAMILY. Either of the following:

(a) A domestic family, which is one or more persons living together and related by the bonds of blood, marriage or adoption, together with servants of the principal occupants and not more than one additional unrelated person, with all of the individuals being domiciled together as a single, domestic, housekeeping unit in a dwelling; or

(b) The functional equivalent of the domestic family, which is persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family with a demonstrable and recognizable bond which constitutes the functional equivalent of the bonds which render the domestic family a cohesive unit. All persons of the functional equivalent of the domestic family must operate as a single housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group where the common living arrangement and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration.

FARM LABOR HOUSING. Sometimes also commonly referred to as an **AGRICULTURAL LABOR CAMP** or **HOUSING FOR MIGRANT WORKERS OR MIGRATORY LABORERS.** Living quarters, including housing accommodations, rooming houses, dormitories, and mobile homes maintained directly or indirectly in connection with any work of or place where work is being performed by seasonal or permanent farm or agricultural workers, whether or not rent is paid or reserved for use or occupancy. Farm labor housing is also subject to state and federal requirements.

FLOOD or **FLOODING.** A general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters; and

(b) The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD HAZARD AREA. Land that on the basis of available floodplain information is subject to a 1% or greater chance of flooding in any given year.

FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by the Federal Insurance Administration, where the boundaries of the areas of special flood hazards have been designated as Zone A.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. The official report provided by the Federal Insurance Administration. The report contains flood profiles, flood boundaries, flood insurance rate zones and the water surface elevation of the base flood.

FLOODPLAIN. Any land area susceptible to being inundated by water from any source. (See definition of **FLOOD**.)

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood.

FLOOR AREA. The sum of the gross horizontal areas of the several floors of the building measured from the interior faces of the exterior walls from the centerline of walls separating two buildings. **FLOOR AREA** shall not include elevator shafts and stairwells at each floor, floor space used for mechanical equipment (except equipment open or enclosed, located on the roof), attic space having headroom of seven feet or less, or interior balconies or mezzanines. Any space devoted to off-street parking or loading shall not be included in **FLOOR AREA**. Areas of basements, utility rooms, breezeways, porches or attached garages are not included; except, however, that, the **FLOOR AREA** of a building shall include the basement floor area when more than one-half of the basement height is above the established curb level, or finished lot grade, whichever is higher.

GARAGE, AUTOMOTIVE COMMERCIAL. Any premises available to the public, and used solely for the storage of automobile or motor-driven vehicles, for remuneration, hire or sale, and where any such vehicles or engine may also be serviced for operation, or repaired, rebuilt or reconstructed. This does not include private garages that are accessory to a principal use without fee.

GARAGE, PRIVATE. A detached accessory building or portion of a main building used primarily for the storage or parking of passenger vehicles or household items that are owned and used by the residents thereof.

GRADE. The established grade of the street or sidewalk shall be the elevation of the curb at the mid-point of the front of the lot. The elevation is established by the Township Engineer or Building Inspector.

GREENBELT or BUFFER STRIP. The strip of land not less than ten feet in width that is planted and maintained with trees acceptable to the Zoning Administrator from five to six feet in height spaced not more than ten feet apart; or a hedge row of suitable shrubs not less than four feet in height; not more than three feet apart.

HARMFUL INCREASE. An unnaturally high stage on a river, stream or lake that causes or may cause damage to property, threat to life, personal injury or damage to land or water resources.

HAZARDOUS MATERIALS. Any materials that have been declared to be hazardous to any agency of the state or of the United States, including, but not limited to, toxic materials and metal hydroxides.

HOME OCCUPATION. A profession or other occupation not otherwise permitted in the zoning district involved, that is conducted as an accessory use within a single-family dwelling by one or more members of the family residing in the dwelling, and that conforms to the provisions of § 154.208 of this chapter.

INSTITUTIONAL USES. Churches, schools, hospitals and other similar public or semi-public uses. This excludes nursing homes, convalescent homes and adult foster care facilities.

JUNKYARD. Any lot used for the collecting, storage, processing, parting, dismantling, salvaging and/or abandonment of wastepaper, rags, scrap metal, machinery, vehicles or other personal property or parts thereof whether or not such use is conducted inside, outside or partially inside and outside of a building or structure.

KENNEL. Any lot or premises on which four or more dogs, six months old or older, are kept for the purpose of breeding, permanent or temporary boarding, sale or any other reason.

LABORATORY. A place devoted to experimental, routine study or basic study such as testing and analytical operations, and which manufacturing of product or products, except prototypes for test marketing, is not performed.

LAND USE PLAN. (Also called the **MASTER PLAN**.) The land use plan for the township duly adopted by the Township Planning Commission on 4-16-1980, as amended.

LIQUID MATERIALS. Any materials, substance or compound in a liquid, semi-liquid or solid state.

LOADING SPACE. An off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. **OFF-STREET LOADING SPACE** is not to be included as off-street parking space in computation of required off-street parking. A **LOADING SPACE** is 500 square feet in area.

LOT. A platted lot, plot or parcel of land including such open spaces as are arranged and designed to be used in connection with such buildings. A **LOT** may or may not be the land shown on a duly recorded plat. If more than one lot of record is held in common ownership and said lots are contiguous, undeveloped and substandard in size to the minimum lot size in the zoning districts, they shall, for the purpose of this chapter, be held as one **LOT** or as many lots as shall leave no lot substandard. Also, a unit in a site condominium.

LOT AREA. The area of a lot bounded by lot lines.

LOT, CORNER. A lot in which 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) intersection 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 lathe roofs, or fully roofed, but shall not be deemed to include fences, walls or hedges used as fences or swimming pools.

LOT LINES. A boundary line of a lot.

LOT LINE, FRONT. The lot line separating a lot from a public street, private road or other thoroughfare.

LOT LINE, REAR. Any lot line, other than a front lot line, that 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 lot that actually exists in a subdivision plat as shown on the records of the county's Registrar of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

LOT WIDTH. The minimum distance between side lot lines measured at all points and measured at right angles to the side lot lines.

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.

MASSAGE ESTABLISHMENT. Any establishment, or part thereof, 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, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the

shoulders. 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 or 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.

MEDICAL MARIJUANA DISPENSARY.

(a) Except as set forth below, any business, facility, structure, association, club, collective, cooperative, location or operation, whether fixed or mobile, whether for profit or non-profit, where medical marijuana is made available to, sold, used, grown, consumed, cultivated, processed, stored, dispensed, given, delivered or distributed by or to any of the following:

1. A registered primary caregiver (as defined by Michigan Initiated Law 1 of 2008, being M.C.L.A. § 333.26421 et seq., as amended);
2. A registered qualifying patient (as defined by Michigan Initiated Law 1 of 2008, being M.C.L.A. § 333.26421 et seq., as amended); and
3. Members of the public.

(b) A **MEDICAL MARIJUANA DISPENSARY** shall also include any business, facility, club, association, collective, cooperative or operation, whether fixed or mobile, whether for profit or non-profit, where medical marijuana is smoked, consumed or used by three or more persons simultaneously.

(c) A **MEDICAL MARIJUANA DISPENSARY** shall not include the dispensation of medical marijuana by a primary caregiver personally dispensing to not more than five qualified patients in strict accordance with the state's Medical Marijuana Act, Michigan Initiated Law 1 of 2008, as amended, and the requirements of this chapter so long as the lawful amount of medical marijuana is delivered to the qualifying patient and paid for where the qualifying patient resides and it is done in full compliance with this chapter as well as all other applicable township ordinances and all applicable state laws, rules and regulations.

(d) A **MEDICAL MARIJUANA DISPENSARY** shall also not include smoking, consuming or use of medical marijuana by a primary qualifying patient in strict accordance with the state's Medical Marijuana Act, Michigan Initiated Law 1 of 2008, as amended, and the requirements of this chapter and all other applicable township ordinances and all applicable state laws, rules and regulations.

(e) A **MEDICAL MARIJUANA DISPENSARY** shall also not include uses occurring in compliance with this chapter and all laws and rules of the state at the following locations: a state-licensed health care facility; a state-licensed residential care facility for the elderly or infirmed; or a residential hospice care facility.

MINING or **MINERAL EXTRACTION.** The excavation, digging, mining, removal and/or processing of peat, earth, gravel, sand, clay, top soil, stone or other soils or materials, including overburden, or the storage or transporting of such items on, to or from a mining site, or the reclamation of the site after removal or excavation of such items. For the purposes of this chapter, the following excavation or other activities are not included within the definition of **MINERAL EXTRACTION** or **MINING**:

(a) Excavation approved and conducted by a governmental body of competent jurisdiction in conjunction with the installation or maintenance of publicly-owned or publicly-operated utilities, drainage facilities, roads or other publicly owned or operated improvements, where the excavation is limited solely to the public utility or improvement. Notwithstanding the preceding, any excavating, removal and/or processing of minerals which occurs in conjunction with the creation of a new public road or modification of an existing public road where the existing grade is modified or disturbed to more than three feet from its present elevation or where such mining in excess of 500 cubic yards will occur beyond the boundaries of the road right-of-way, shall be considered **MINERAL EXTRACTION** or **MINING**;

(b) Excavation which by its nature is of limited scope and duration and which is undertaken primarily for the immediate use and development of the land excavated, such as for purposes of constructing or installing buildings, septic tanks, swimming pools, graves and the like, so long as no more than 5,000 cubic yards of material are mined or excavated in total;

(c) Excavation in conjunction with bona fide farming operations conducted in accordance with generally accepted agricultural practices, including agricultural drainage work incidental to farming operations and irrigation or stock watering ponds, if no material is removed from the property;

(d) Other excavations not exceeding 5,000 cubic yards in total where the Zoning Administrator determines, in his or her sole discretion, that the proposed excavation is unlikely to unreasonably interfere with the enjoyment of life or property and will not expose any person or property to the types of dangers inherent in mineral extraction or mining sought to be prevented by this chapter. The Zoning Administrator's determination may be based on a review of the purpose, location, extent or duration of the proposed excavation and other factors which may bear on the potential of any excavation activity to adversely affect the public health, safety or general welfare of the community;

(e) Where the **MINING** occurs more than 500 feet from any street or property line, occupies not more than two acres in total area, does not constitute an average intensity of use of more than five yards of material per day and creates no area that fills with water other than a watering pond for farms;

(f) Any **MINING** associated with the control and regulation of oil or gas; and

(g) The transport or storage of mined materials (or materials frequently associated with mining operations) shall not be deemed **MINING** or part of a **MINERAL EXTRACTION** if the materials transported or stored are not combined with minerals mined from the site to which the materials are transported or on which the transported materials are stored. The activity of transporting or storing mined materials that are not combined with other materials mined from the site to which the transporting occurs (or on which the transported materials are stored) shall constitute an industrial use and will not be considered **MINING** or **MINERAL EXTRACTION**.

MINI WAREHOUSE OR STORAGE FACILITY. The storage or warehousing of personal property by a number of individuals or entities within separate compartments or rooms within one or more completely enclosed buildings with the facility operated as a single use.

MOBILE HOME. A structure, transportable in one or more sections, that is built on a chassis and designed to be used with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained in the structure. **MOBILE HOME** does not include a recreational vehicle per state law. All **MOBILE HOMES** must conform to the U.S. Department of Housing and Urban Development's *Code for Mobile Homes*. **MOBILE HOME** includes a double-wide unit. **MOBILE HOMES** in the township are deemed to be appropriate only for medium to high density residential uses and are provided for in districts that are so zoned. This definition shall apply when used as a dwelling or any other use.

MOBILE HOME PARK. A parcel or tract of land, under the control of a person upon which three or more mobile homes are located on a continual, non-recreational basis, and that 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 or used incidental to the occupancy of a mobile home, and that is not intended for use as recreation vehicle trailer park (Public Act 419 of 1976, as amended). Mobile homes used only for seasonal migrant housing in an agricultural zone shall not be construed to be **MOBILE HOME PARKS**, but must conform to state laws governing agricultural farm labor camps and to local zoning rules.

MODULAR. A structure that meets the requirements of the B.O.C.A. Building and Construction Code, and that is transported in one or more sections on a removable chassis, and is designed to be used on a permanent foundation, and when connected to the required utilities, such as plumbing, heating and electrical systems. Pursuant to B.O.C.A. the characteristics of a **MODULAR** are:

- (a) A pitched roof of heavy truss construction able to support a "deadweight" of at least 40 pounds and having roof shingling of five-inch exposure;
- (b) A heavy deck flooring of wood on two-by-eight floor joists;
- (c) A drain ventilation size of three inches in diameter extending 12 inches above the roof; and
- (d) Establishment on a poured wall or cement block and mortar foundation.

MOTEL, HOTEL or MOTOR HOTEL. A building or a series of attached, semi-detached or detached rental units providing long term or transient lodging with motor vehicle parking in an area contiguous to the building. No kitchen or cooking facilities are to be provided in units for use by the manager and/or caretaker.

MYOMASSAOLOGIST. A person who offers their services for hire in the practice of massage.

NET BUILDING AREA. Contiguous land excluding land subject to flooding six months of the year, poor drainage, steep slopes, rock outcrops and land encumbered by easements.

NEW CONSTRUCTION. Structures for which the "start of construction" commenced on or after the effective date of this chapter.

NON-CONFORMING LOT OF RECORD. (Also called a **LAWFUL NON-CONFORMING LOT OR SUBSTANDARD LOT**.) A lot lawfully existing at the effective date of this chapter, or affecting amendment, and that fails to meet the minimum area or other dimensional requirements of the zoning district in which it is located.

NON-CONFORMING STRUCTURE. (Also called a **LAWFUL NON-CONFORMING STRUCTURE**.) A structure, or portion thereof, lawfully existing at the effective date of this chapter, or affecting amendment, and that fails to meet the minimum setback, area or other dimensional requirements of the zoning district in which it is located.

NON-CONFORMING USE. (Also called a **LAWFUL NON-CONFORMING USE**.) A use lawfully existing in a building or on land at the effective date of this chapter, or affecting amendment, and that fails to conform to the use regulations of this chapter or the zoning district in which it is located.

NUDE ARTIST AND PHOTOGRAPHY STUDIOS. Any building, structure, premises or part thereof used solely or primarily as a place that 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.

OUTDOOR ASSEMBLY. In accordance with Ch. 96 of this code of ordinances, **OUTDOOR ASSEMBLY**, hereinafter referred to as **ASSEMBLY**, means any event, attended by more than 500 attendants, all or any part of which includes a theatrical exhibition, public show, display, entertainment, amusement or other exhibition, including, but not limited to, musical festivals, rock festivals, peace festivals or similar gatherings, but does not mean:

- (a) An event that is conducted or sponsored by a governmental unit or agency or political subdivision of the state on

publicly-owned land or property; or

(b) Any event held entirely within the confines of a permanently enclosed and covered structure.

PLANNING COMMISSION. The Sparta Township Planning Commission.

PRINCIPAL USE. The main use to which a lot is devoted and the principal purpose for which the building or premises exists.

QUARRY, QUARRYING OPERATION. Any place where stone, 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 VEHICLES. A vehicle primarily designed as temporary living quarters for recreational, camping or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle, per state law.

RESEARCH AND DEVELOPMENT FACILITY. Any facility that is involved in the inquiry, examination, investigation or experimentation aimed at the discovery and/or interpretation of facts, revision of accepted theories or laws in the light of new facts, or practical application of such new or revised theories of laws and the development thereof. Development may include a limited number of test units of a given product resulting from such research and shall include limited production while a product is being test marketed that is the interim step between full research and development and ultimate full scale production.

RIVER'S EDGE (ORDINARY HIGH WATER MARK). The line between upland and bottomland that persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface soil and the vegetation.

ROAD FRONTAGE. The length of the lot line that borders a public street or private road.

ROAD or STREET. A public or private road or street right-of-way or easement.

ROAD or STREET, PRIVATE. Any non-public path, trail, or road that provides or is intended to provide the primary means of ingress and egress to two or more parcels or lots or two or more principal buildings, dwelling units, structures or combination thereof, whether created by a private right-of-way agreement, a joint ownership, a license, a lease or an easement. Any and all extensions, additions or branches of or to a private road shall be considered part of the private road that abuts the public road. A **PRIVATE ROAD** shall also include the following:

(a) An access serving one parcel or lot if that parcel or lot does not have the requisite amount of frontage on a public road as required by this chapter; and

(b) Where two or more parcels or lots or dwellings share or utilize a common access drive, even if each parcel or lot has the required frontage on a public road.

ROAD OR STREET, PUBLIC. Any public road or street right-of-way or easement that provides vehicular access to adjacent properties.

SANITARY LANDFILL. Any operation that is required to be licensed by the state or its agencies as a sanitary landfill and/or is subject to the requirement of having such a license.

SEPTIC SYSTEM, SEPTIC TANK. An individual system or tank used for domestic wastes when a sewer line is not available to carry them to a sewage treatment facility. Wastes are piped to underground tanks directly from the home or homes. Bacteria in the wastes decompose the organic waste and the sludge settles on the bottom of the tank. The effluent flows out of the tank into the ground through drains. Periodically, sludge is pumped out of the tanks.

SETBACK. The horizontal distance from a lot line inward toward the part of the building nearest to that lot line. It is an area within which no buildings or structures can be located.

SEWAGE TREATMENT FACILITY. (Also known as **WASTE TREATMENT PLANT.**) A series of tanks, screens, filters and other processes by which pollutants are removed from water.

SIGN. Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or other representation, or combination thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, commodity or product, and that is located outdoors or is visible outdoors upon any land or on or in any building. Also, a device, painting, fixture or placard using color, graphics, symbols and/or written copy designed and/or utilized for the purpose of advertising or identifying any event, establishment, product, good, service or displaying or depicting other information.

SITE PLAN REVIEW. The submission of plans to the township for review, as part of the process of securing zoning approval.

SPECIAL USE APPROVAL. Approval for a use that would not be appropriate generally or without restriction throughout the zoning district; but which, if controlled as to the number, area, location or relation to the township, would not adversely affect the public health, safety, order, comfort, convenience, appearance, prosperity and general welfare. Such uses shall be allowed when the specific review criteria provided in this chapter for them are met.

SPECIFIED ANATOMICAL AREAS.

- (a) Less than completely and opaquely covered:
 - 1. Human genitals, pubic region;
 - 2. Buttock; and
 - 3. Female breast below a point immediately above the top of the areola.
- (b) Human male genitals in a discernibly turgid state, even if completely or opaquely covered.

SPECIFIED SEXUAL ACTIVITIES.

- (a) Human genitals in a state of sexual stimulation or arousal;
- (b) Acts of human masturbation, sexual intercourse or sodomy; and
- (c) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

STRUCTURAL CHANGES OR ALTERATIONS. Any change in the supporting member of a building, such as bearing walls, columns, beams, posts or girders or any substantial change in the roof.

STRUCTURE.

- (a) With regard to flooding, a walled and roofed building that is principally above ground, gas or liquid storage facility, as well as a mobile home; and
- (b) A **STRUCTURE** is anything constructed, erected or placed that is an item or material or combination of materials or items in, on or upon the ground having a fixed location, including, but not limited to, (temporary or permanent) buildings, sheds, towers, signs, swimming pools, animal enclosures, garages, accessory buildings, temporary or portable garage or vehicle enclosure, decks, patios, platforms, satellite dishes, gazebos, and storage bins, but excluding lawful fences, lawful docks, sidewalks and paving on streets, driveways or parking areas. The definition of structure also excludes retention walls, seawalls, decks or patios, no portion of which is located more than 12 inches above the natural grade, nor closer than five feet to any lot line. **STRUCTURES** shall meet all setback requirements.

SUBSTANTIAL IMPROVEMENT.

- (a) Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:
 - 1. Before the improvement or repair is started; or
 - 2. If the structure has been damaged and is being restored, before the damage occurred.
- (b) For the purposes of this definition, **SUBSTANTIAL IMPROVEMENT** is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
- (c) The term does not, however, include either:
 - 1. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications that are solely necessary to assure safe living conditions; or
 - 2. Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

TEMPORARY BUILDING OR USE. A structure or use permitted by the Zoning Administrator to exist during periods of construction of the main use or for special events, as may be permitted herein, not to exceed six months.

TOWNSHIP BOARD. The Township Board for Sparta Township.

UNDERGROUND HOME. A residence, the roof of which is covered with earth, and that on at least three sides does not extend upward more than the surrounding grade levels within 50 feet.

VARIANCE. A varying or relaxation of any of the requirements of this chapter by the Zoning Board of Appeals.

WASTE HAULING BUSINESS. Property used in whole or in part for the business of or in connection with the collection, removal or transport of hazardous waste, solid waste, recyclable materials, septage waste, liquid industrial waste or medical waste, including ancillary offices and overnight or temporary storage of waste hauling vehicles. The terms "hazardous waste", "solid waste", "recyclable materials", "septage waste" and "liquid industrial waste" shall have the meaning as defined in Parts 111, 115, 117 and 121 of the Natural Resources Protection Act (NIREPA), as amended (being M.C.L.A. §§ 324.101 et seq.) and the term "medical waste" shall have the meaning as defined in Part 138 of the Public Health Code, as amended, being M.C.L.A. §§ 333.3801 et seq. A **WASTE HAULING BUSINESS** shall not be construed to be a contractors yard or an open air business under this chapter.

WINERY. An establishment for the processing, bottling and selling of wine or other fermented fruit beverage.

YARD. An open space on a lot, unoccupied and unobstructed from the ground upward, except as otherwise permitted in

this chapter.

YARD, REQUIRED FRONT. The minimum required yard measured from the front lot line into the interior lot area.

YARD, REQUIRED REAR. The minimum required yard measured from the rear lot line into the interior lot area.

YARD, REQUIRED SIDE. The minimum required yard measured from the side lot line into the interior lot area.

ZONING ACT. The Michigan Zoning Enabling Act, being Public Act 110 of 2006, as amended, being M.C.L.A. §§ 125.3101 et seq.

ZONING BOARD OF APPEALS. The Sparta Township Zoning Board of Appeals (**ZBA** or **BOARD OF APPEALS**), the members of which have been duly appointed by the Township Board, and that is authorized as a body to interpret, hear appeals and grant variances only in accordance with the provisions of this chapter.

ZONING PERMIT. A permit signifying compliance with the provisions of this chapter as to use, activity, bulk and density, and with the requirements of all other development codes and ordinances currently in effect in the township.

(Ord. passed 7-12-2012, § 2; Ord. 15-03, passed 2-12-2015; Ord. 2020-01, passed - - 2020; Ord. 2021-1, passed 7-8-2021)

§ 154.007 INTERPRETATION OF CHAPTER.

(A) In their interpretation and application, the provisions of this chapter 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 chapter 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 chapter shall not abridge the provisions of a validly adopted Building Code, mobile home ordinance, subdivision regulation or other regulation.

(Ord. passed 7-12-2012, § 17.1)

§ 154.008 SEVERABILITY.

(A) Should any section or provision of this chapter be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this chapter as a whole, nor other parts, section, division or clauses thereof.

(B) Upon the invalidation of any clause, division, section or part of this chapter, any and all prior existing ordinances or ordinance provisions that have application to the subject or issue at hand, but that had been set aside or repealed by this chapter, shall immediately be made effective again.

(Ord. passed 7-12-2012, § 17.2)

ZONING DISTRICTS AND CONDITIONS

§ 154.020 ESTABLISHMENT OF DISTRICTS.

The township is hereby divided into the following zoning districts:

Ag-1	Prime Agricultural Preservation
Ag-2	Agricultural
Ap	Airport (Overlay Zone)
C-1	General Commercial
C-2	Highway Commercial
I-1	Light Industrial
I-2	Heavy Industrial
OS-PUD	Open Space PUD
PUD	Planned Unit Development
R-1	Low Density-Single-Family
R-2	Medium Density Single-Family
R-3	Medium/High Density: Multiple-Family
R-4	Medium/High Density: Mobile Home Parks
RR	Rogue River

(Ord. passed 7-12-2012, § 3.1)

§ 154.021 ZONING MAP.

(A) The areas and boundaries of such zoning districts are hereby established to scale as shown on the map entitled "Zoning Map of Sparta 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 an integral part of this chapter. Regardless of the existence of copies of the zoning map that may be made or published, the official zoning map shall be located at the township office and shall be the final authority as to the current zoning district status in the township.

(B) When uncertainty exists as to the boundaries of zoning districts as shown on the zoning map, the following rules shall apply.

(1) Boundaries indicated as approximately following the centerline of rivers, waterways, roads, streets, highways or alleys shall be construed to follow such centerlines.

(2) Boundaries indicated as approximately following platted or unplatted lot lines shall be construed to follow such lot lines.

(3) Boundaries indicated as approximately following township boundaries shall be construed to follow township boundaries.

(4) Boundaries indicated as following shorelines, stream beds or the perimeter of a waterbody or watercourse shall be construed to follow the general established seasonal high water limit of such shoreline or stream bed, and in the event of a more than temporary or seasonal change in shoreline or stream bed shall be construed as moving with the newly formed/established seasonal high water limit.

(5) The zoning boundary or limit of the Rogue River Zoning District shall be defined as a line at least 300 feet from the ordinary high watermark of the river and which said line runs parallel to it.

(6) Distances not specifically indicated on the official zoning map shall be determined by the scale of the official zoning map.

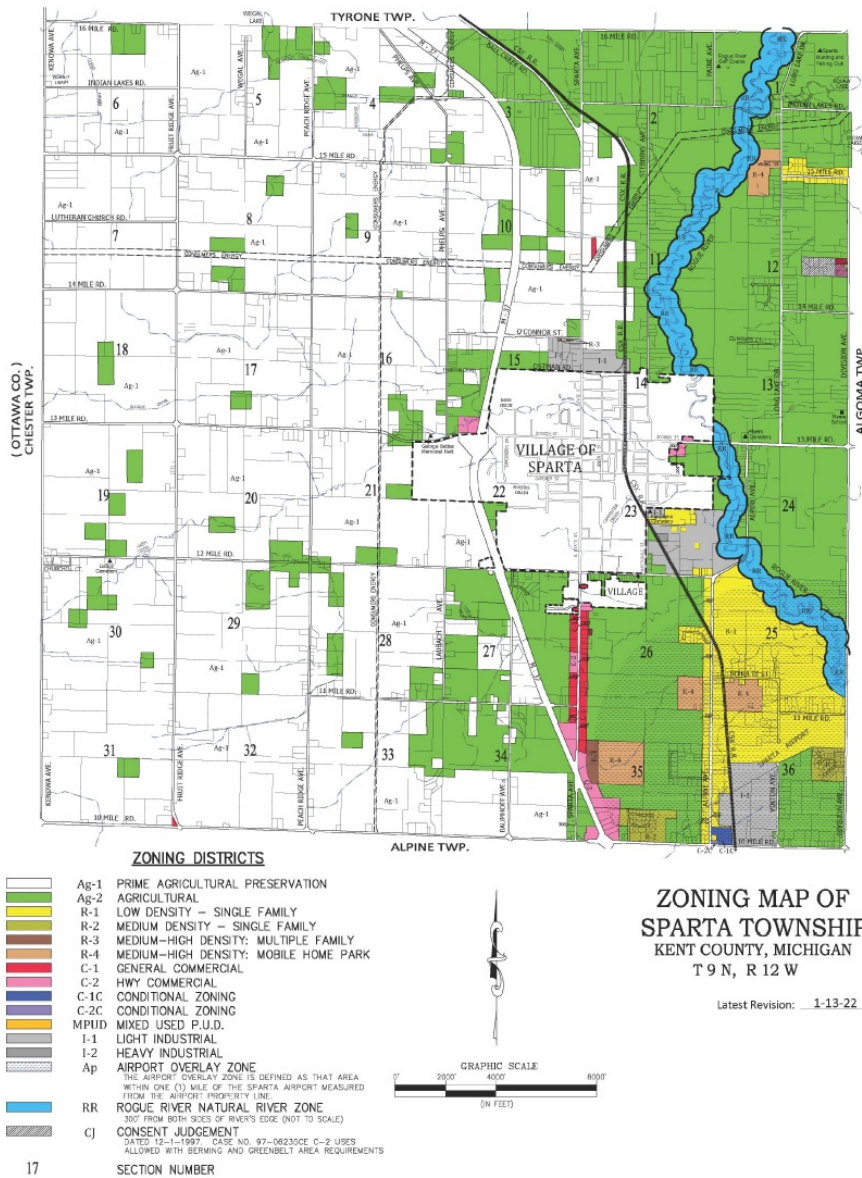
(7) Where physical or cultural features existing on the ground are at variance with those shown on the zoning map, the Zoning Administrator shall interpret the zoning district boundaries. Upon appeal, the Zoning Board of Appeals has the authority to review and uphold or override the interpretation of the Zoning Administrator.

(C) (1) Where disputes arise as to the location of the flood hazard area boundary or the limits of flood risk Zones A1-30, the Zoning Board of Appeals shall resolve the dispute and establish the boundary location. In all cases, the decision of the Zoning Board of Appeals shall be based upon the most current floodplain studies issued by the Federal Insurance Administration. Where Federal Insurance Administration information is not available, the best available floodplain information shall be utilized.

(2) Where a dispute involves an allegation that the boundary is incorrect as mapped and Federal Insurance Administration floodplain studies are being questioned, the Zoning Board of Appeals shall modify the boundary of the flood hazard area or the zones defining the floodway only upon receipt of an official letter of map amendment issued by the Federal Insurance Administration.

(3) All parties to a map dispute may submit technical evidence to the Zoning Board of Appeals.

(Ord. passed 7-12-2012, § 3.2; Ord. passed 1-13-2022)



(Ord. passed 7-12-2012, § 3.2)

§ 154.022 PURPOSES AND OBJECTIVES OF DISTRICTS.

(A) Ag-1, Prime Agricultural Preservation.

(1) In accordance with the land use plan, this zoning district represents most of the land in the western, northern and southern portions of the township and all the existing orchard lands located therein. Although zoning district boundaries may or may not follow property lines, land ownership and the existing use are not determining factors. The zoning classification for the Ag-1 areas is based on physical soil qualities and capabilities. The Ag-1 areas consist of large expanses of land classified as prime agricultural soil according to U.S. Soil Conservation Service criteria.

(2) Active agricultural preservation is emphasized as the priority intent. To a small extent non-farm uses are permissible by special use approval, but only on land that has been specifically found not to be prime agricultural soil. The maximum density for non-agricultural dwellings, as provided in this chapter, shall control. Extensive residential development is therefore not permitted and shall be restricted. Agriculture in this district is largely construed to be the highest and best use of the land.

(3) In particular, it is also significant to highlight orchard lands as prime agriculture and worthy of community preservation because of the beneficial distinction orchards have given the area in terms of aesthetics, area-wide identity, rural character and economy. In accordance with the goals and policies of the land use plan, active orchard lands are henceforth protected and hereby regarded as a unique and desirable, locally significant form of prime agriculture.

(B) Ag-2, Agricultural. This zoning district represents land that may be farmed, but which is not comprised of prime agricultural soils nor occupied by orchards. The use of land here for agriculture is valued and respected, although such use is not as heavily emphasized as in the Ag-1 Zoning District. Some non-farm or related farm uses are regarded as compatible with the rural agricultural character of this zoning district and shall be located in this zoning classification. However, intensive

developments are prohibited since some areas partially encompass wetlands. Certain uses herein listed for this zoning district shall require special use approval.

(C) *R-1, Low Density - Single-Family.* Development shall be rural and single family in character with an approximate density of one dwelling unit per one-half to three-fourths acre. It is the intent that all residential patterns of low, medium and medium/high densities be contained to the areas east of M-37 and oriented toward the Village of Sparta as a logical transition from rural country to village urban.

(D) *R-2, Medium Density - Single-Family.* In this zoning district, soils are generally amenable to slightly higher densities of residential development without sewerage, than R-1 areas. The character shall be a mix of rural/suburban with densities ranging from about one dwelling per one-half to one acre, depending on soils. In some areas of R-2, alternative suburban housing developments with a slightly higher density such as in a planned unit development with on-site community sewer may be allowed upon a finding of compatibility with only minor adverse impacts.

(E) *R-3, Medium/High Density - Multiple-Family.*

(1) This zoning district applies to multiple family developments outside of the village limits. Residential sites having this zoning classification shall be required to have sufficient land area to accommodate a large number of people and automobiles, the necessary open space requirements and especially larger volumes of effluent (on-site sewage treatment). Care shall be taken that land in this zoning district does not conflict with any of the established goals and policies of the land use plan, nor shall this zoning district be located on lands west of M-37.

(2) It may develop over the next 15 to 30 years that public sewerage of this area may become necessary. While soil capabilities permit medium density residential uses at present, sewerage can become desirable as a cost effective and more efficient way of handling effluent should total growth occur as envisioned. Only at such times when prospects of community water or sewer become cost feasible to the public (or should some human-made degradation of the area environment occur) would area-wide utilities be recommended.

(F) *R-4, Medium/High Density: Mobile Home Parks.* This zoning district applies to mobile home park developments outside of the village limits. Lands having this zoning classification are required to have sufficient land area to accommodate an intensified land use such as a larger number of people and automobiles, the necessary open space requirements and especially larger volumes of effluent (on-site sewage treatment). Care shall be taken that land in this zoning district does not conflict with any of the established goals and policies of the land use plan, nor should this district be located on lands west of M-37. All mobile home parks must meet the requirements and conditions of this chapter, and the rules and regulations promulgated by the state's Mobile Home Commission and other appropriate state and federal agencies.

(G) *C-1, General Commercial.* The C-1 Zoning District is intended for general convenience type retail businesses and personal service uses, that are deemed desirable and appropriate to the surrounding residential areas of the township. Beyond this character of commercial development, new or additional uses that would create safety and health hazards, offensive and loud noises, vibration, smoke, glare, heavy truck traffic or late hours of operation, are hereby prohibited. By the inclusion of this zoning district, it is also the intent of the township to prevent against the fringe development of convenience businesses and the random scatteration of similar uses elsewhere in the unincorporated portions of the community.

(H) *C-2, Highway Commercial.*

(1) This zoning district is a strip of highway oriented commercial activity. Because some soils may play a constraining factor, the highway commercial character is construed as a "limited intensity commercial strip" on a large lot scale, supplementing the needs of both the village residents as well as those in the township. Uses now located here are deemed to be highway oriented.

(2) Henceforth, new and/or additional uses shall be required to undertake careful site planning in order to ameliorate potentially adverse impacts on "through" traffic (such as turning movements, access/egress) and on area topography (such as created from off-street parking, storm water runoff, natural drainage, erosion and the like).

(3) The character of this zoning district is distinctly highway commercial with respect to space, orientation (road side) and intensity. This type of commercial is to remain clearly in contrast to the C-1 District, as well as, the commercial uses in the Village of Sparta wherein its commercial character is distinctly village urban, smaller lot sizes with a pedestrian orientation (sidewalks and store front window shopping).

(I) *Light Industrial.*

(1) This zoning district denotes an area for industrial growth in the township. Utilities and services are critical requirements for sizable industrial growth.

(2) Available for use in this zoning district would be the "industrial park" concept. The overall character may be a combination of light industrial uses supplemented by office complexes. Local, state and federal environmental regulations and constraints, however, would have to be observed.

(J) *I-2, Heavy Industrial.* The I-2 Zoning District is intended to provide for industrial uses that are primarily of a manufacturing, assembling, and fabricating character, including the processing of raw materials, junkyards and specialized industrial processing that may require special sites, facilities and services.

(K) *Ap, Airport (Overlay Zone).* The existing airport is hereby protected by an "overlay" zoning district. This overlay

means that amidst a primary zoning district such as agriculture, the alternative use of land for airport development in the area shown is regarded as acceptable and compatible with the character and use of the surrounding lands. However, all land development (both airport and non-airport) within the airport environs shall be regulated, in part, by the township in order to guard against land use conflicts and airport hazards. The airport overlay zone is established as that area within one mile of the Sparta Airport measured from the airport's property line.

(L) *RR, Rogue River.*

(1) Pursuant to Public Act 231 of 1970, as amended, lands within this zoning district include the Rogue River, its state designated areas as described in the Rogue River Management Plan, and its associated wetlands. These natural features are hereby deemed to be environmentally sensitive and in need of protection.

(2) Uses of the land as described in §154.247 of this chapter are to be encouraged, but shall be in accordance with safe conservation practices and adherence of the regulations of the Rogue River Management Plan, as contained in this chapter.

(3) The purpose for environmental protection are to preserve and enhance the value of the Rogue River in terms of ecology, water conservation, floodplain preservation, its free flowing condition and its fish and wildlife habitat, as well as its value for boating, scenic enjoyment, aesthetics, history and recreational uses. In the township, the Rogue River Zone shall include a strip of land on each side of and parallel to the banks of the Rogue River and measured at 300 feet from the river's edge or ordinary high watermark.

(4) The Rogue River Management Plan is contained in the Natural River Report: Rogue River, prepared by the state's Department of Natural Resources and adopted by the state's Natural Resources Commission, August of 1973.

(M) *PUD - Planned Unit Development.* See §§ 154.095 through 154.108 of this chapter.

(N) *OS-PUD - Open Space PUD.* See §§ 154.070 through 154.082 of this chapter.

(Ord. passed 7-12-2012, § 3.3)

ROGUE RIVER (RR) ZONING DISTRICT

§ 154.035 ESTABLISHMENT.

(A) The Rogue River (RR) Zoning District is established as a preservation district.

(B) Applicants for zoning permits and special use approvals in this zoning district must meet specific provisions, requirements and restrictions, as herein provided.

(C) Where there is conflict between other more restrictive provisions of this chapter and those specifically applied to the Rogue River Zoning District, the latter shall control.

(Ord. passed 7-12-2012, § 8.28)

§ 154.036 USES PERMITTED BY RIGHT.

Land and/or buildings in the RR District may be used for the following purposes only:

(A) Single-family dwelling and appurtenances;

(B) Camping and other recreational activities that do not require the construction of permanent facilities and situated not less than 150 feet from the river's edge of the Rogue River;

(C) Operating of non-motorized watercraft;

(D) Fishing and hunting in compliance with current laws and regulations;

(E) Reforestation;

(F) Cutting of trees six inches or less in diameter at breast height is permitted within 50 feet of each side of the river's edge of the Rogue River without prior approval of the Building Inspector;

(G) Underground gas and utility lines (see § 154.040 of this chapter);

(H) Agricultural pursuits, unless the Bureau of Water Management determines that such pursuit will contribute to degradation, in which event such use shall not be closer than 50 feet from the river's edge of the Rogue River;

(I) Except as permitted in § 154.040 of this chapter, licensed motor vehicles are permitted only outside an area measured 300 feet from the edge of the Rogue River. Such use is permitted on existing public and private roads and designated trails on land owned by the federal government, state or any subdivision thereof; and

(J) Other uses determined by the Planning Commission to be similar in nature.

(Ord. passed 7-12-2012, § 8.28)

§ 154.037 HEIGHT REGULATIONS.

(A) No building shall be erected to exceed two and one-half stories or 35 feet in height, whichever is lesser.

(B) Necessary appurtenances to a permitted structure may exceed such height.

(Ord. passed 7-12-2012, § 8.28)

§ 154.038 AREA REGULATIONS.

No building or structure or appurtenance thereto including septic systems shall be hereafter erected or constructed unless all of the following yard and building coverage requirements are met and maintained:

(A) *Setbacks:* 150 feet measured horizontally from the Rogue River's edge except that a building or structure may be erected or constructed five feet closer to the river's edge for each foot of vertical bank height exceeding ten feet until a minimum of 100 feet is reached; provided, however, that, no such structure or building shall be erected closer to the river than 20 feet landward from the break of the river bank within said 150-foot setback;

(B) Lot width: 200 feet; and

(C) No building shall be placed on lands within 300 feet of the river's edge where the highest ground water table is within six feet of the ground surface.

(Ord. passed 7-12-2012, § 8.28)

§ 154.039 ACCESSORY USES.

Such uses that are accessory or incidental to the principal use permitted in this chapter shall be allowed as restricted as follows.

(A) *Docks.* Docks may be constructed not to exceed six feet in width nor more than 20 feet in length. No dock shall extend toward the center of the river more than four feet.

(B) *Signs.* Only those signs necessary for identification, direction, resource information and regulations of use are permitted along public use areas of the Rogue River. Signs advertising the sale of products or services are prohibited on private property in this zone.

(Ord. passed 7-12-2012, § 8.28)

§ 154.040 SPECIFICALLY PROHIBITED ACTIONS AND USES.

(A) Cutting, filling or building in a floodplain;

(B) Stream alteration (damming, dredging, filling, channelization, enlarging or diminishing a stream or stream improvement) without the express written consent of the state's Department of Natural Resources as required by the Inland Lakes and Streams Act of 1972, being Public Act 346 of 1972, being M.C.L.A. §§ 324.30101 et seq.;

(C) Utilities:

(1) No gas, oil pipelines or electric transmission lines shall be permitted in the Rogue River District or to cross the Rogue River, except on existing rights-of-way, without prior written consent of the Natural Resources Commission;

(2) New distribution lines shall not cross the Rogue River or housing setback zones unless they are placed underground; and

(3) The utilities specified herein to private dwellings shall originate from the landward side of the dwelling.

(D) Access:

(1) No vehicular access to the river not existing at the date of adoption of the amendment shall be provided;

(2) No public roads not in existence at the date of adoption of this amendment shall be permitted in the RR Zone;

(3) No public road in the RR Zone shall be relocated or improved until plans therefor have been approved by the Natural Resources Commission;

(4) No road access to private property shall be permitted without prior approval of the Zoning Administrator;

(5) Private road access shall not be permitted within 150 feet of the Rogue River, except as provided in §154.038 of this chapter; and

(6) Cutting of trees of more than six inches in diameter at breast height is prohibited within 50 feet of each side of the river's edge of the Rogue River without the prior approval of the Zoning Administrator.

(Ord. passed 7-12-2012, § 8.28)

AIRPORT OVERLAY (AO) ZONE

§ 154.055 INTENT AND PURPOSE.

The intent and purpose of the provisions herein is to require additional public safety standards for the protections of both airport users and people who live and work in the vicinity from airport hazards.

(Ord. passed 7-12-2012, § 8.29)

§ 154.056 BOUNDARIES.

The **AIRPORT OVERLAY ZONE** is defined as that area within one mile of the Sparta Airport measured from the airport property line. Within this overlay zone, land directly in the path of all airport approaches (to the runway) shall be specifically regulated, as provided herein.

(Ord. passed 7-12-2012, § 8.29)

§ 154.057 HAZARDOUS HEIGHT LIMITATION STANDARDS FOR AIRPORT APPROACHES.

This section establishes the following standards.

(A) The height of all structures to be located within the airport approach path and within the horizontal distance of 200 feet from the airport property line, as shown in the town's airport approach plan, shall not exceed 35 feet above the established elevation of the airport.

(B) Any building or structure beyond the horizontal distance of 200 feet from the airport property line that exceeds the height of 35 feet shall be permitted only as a special use. In addition to the other requirements for a special use (as stated in this chapter and that must be met), the applicant must show that the proposed height of said building or structure will not create unsafe conditions that hazardously affect flight patterns of existing runways; or that will impede or create unsafe conditions for any proposed expansion of existing runways or the construction of new runways.

(Ord. passed 7-12-2012, § 8.29)

§ 154.058 UNLAWFUL LAND USES.

Notwithstanding any other provisions of this chapter, it shall be unlawful to put any lands within the airport overlay zone to any use that would:

(A) Create electrical interference with radio communication between the airport and aircraft or create interference with navigational aids employed by aircraft;

(B) Make it difficult for flyers to distinguish between airport lights and other lights or result in glare in the eyes of flyers using the airport;

(C) Create air pollution in such amounts as to impair the visibility of flyers in the use of the airport; or

(D) Would otherwise endanger the landing, taking off or maneuvering of aircraft.

(Ord. passed 7-12-2012, § 8.29) Penalty, see § 154.999

OPEN SPACE PLANNED UNIT DEVELOPMENT (OS-PUD) DISTRICT

§ 154.070 INTENT.

(A) This subchapter provides enabling authority and standards for the review and approval of applications for open space planned unit developments (OS-PUDs). The intent of this subchapter is to offer an alternative to traditional subdivision design by encouraging innovation and offering flexibility in the design of residential developments, which may incorporate the permanent preservation of open space, agricultural lands and other valuable natural and cultural resources.

(B) The OS-PUD District is intended to achieve the following objectives:

(1) To require a process for designing residential communities in which the first and most important step is identifying the land that is to be preserved as open space;

(2) It allows residential developments to have varied lot sizes and to allow buildings and roads to be placed to preserve natural features;

(3) It preserves wildlife habitat; and

(4) It encourages the provision of village greens and the development of recreational and other support facilities in a generally central location within reasonable distance of all units.

(Ord. passed 7-12-2012, § 12.1)

§ 154.071 AUTHORIZATION AND PROCEDURES.

(A) An OS-PUD may be approved by the Township Board following a recommendation from the Planning Commission in any location master planned as RA, Rural Agricultural, LDR, Low Density Residential or zoned Ag-2, R-1 or R-2, in accordance with the procedures of §§ 154.095 through 154.108 of this chapter. Areas that are master planned for MHDR, Medium High Density Residential, or zoned R-3 may also be approved for an OS-PUD zoning, but only if public or community sewer and water are provided.

(B) The granting of an OS-PUD rezoning application shall require an amendment of this chapter and zoning map. An approval granted under this subchapter shall constitute part of this chapter.

(C) If this subchapter does not address a particular matter or procedure for an OS-PUD, then §§154.095 through 154.108 of this chapter shall apply to that matter or procedure.

(Ord. passed 7-12-2012, § 12.2)

§ 154.072 QUALIFYING CONDITIONS.

Any application for rezoning to an OS-PUD Zoning District shall meet all of the following minimum requirements.

(A) In order to be eligible for rezoning to OS-PUD, the parcel shall consist of at least five contiguous acres.

(B) The proposed development shall be under unified ownership or control such that there is one person, group of persons or legal entity having responsibility for the completion and ongoing maintenance of the development in compliance with this chapter. This requirement for unified ownership or control shall not prohibit a transfer of ownership or control, so long as there is still unified ownership or control of and for the development as required by this chapter.

(Ord. passed 7-12-2012, § 12.3)

§ 154.073 PERMITTED USES.

Land and buildings in an OS-PUD may only be used for the following uses or combination of such uses:

(A) Single-family detached dwelling units;

(B) Two-family attached dwelling units (duplexes); provided that, such dwellings do not constitute more than 25% of the total dwelling units;

(C) Multi-family dwelling units but only if the land requested for rezoning to OS-PUD is recommended for medium high density residential land use in the township's Master Plan and public or community sanitary sewer and water is provided; and

(D) Accessory uses, structures and buildings that are customarily associated with the uses specified above, including the following.

(1) Limited farming activities are permitted if conducted within the PUD. For purposes of this section, farming activities shall be limited to the growing of crops, fruits and vegetables and the raising and keeping of farm animals. In permitting farming activities as part of the PUD, the project shall demonstrate that the farming activities will not pose a nuisance or a hazard to the residents of the PUD.

(2) Golf courses, tennis courts, ballfields, bike paths, walking paths, playground, community buildings, horse stables and similar recreational facilities as well as day care facilities; provided, such uses are accessory to the residential uses in the PUD. Such uses shall be designed to be used primarily by residents of the PUD, but this shall not prohibit non-PUD residents from utilizing these accessory uses provided the rules for such use are set forth in the open space agreement required by this subchapter.

(3) Accessory buildings in an OS-PUD shall comply with the requirements of §154.252 of this chapter.

(Ord. passed 7-12-2012, § 12.4)

§ 154.074 DEVELOPMENT REQUIREMENTS.

(A) *Modifications of existing regulations.* The lot area, lot width, building height, dimensional, setback, and yard requirements, general provisions, signs, and parking regulations contained in this section that would apply for the zoning district in which the uses or uses proposed are normally allowed and that would be the most restrictive regulations for the uses proposed shall be met except that the Township Board (following a recommendation from the Planning Commission) may increase, decrease or otherwise modify these regulations, as may be requested by the applicant, in order to achieve the goals and objectives of this chapter; however, all development shall comply with the density requirements and setback requirements detailed in § 154.080. Other criteria that shall be used in making these determinations shall include the following:

(1) Whether the modifications requested will result in a project that better satisfies the intent and objectives of this section;

(2) The modification shall be compatible with adjacent existing and future land uses and shall not significantly adversely affect the use and enjoyment of nearby property;

(3) The modification will result in the preservation of existing vegetation or other natural features on site;

(4) The modification is necessary due to topography, natural features or other unusual aspects of the site;

(5) The modification will improve or not impede emergency vehicle and personnel access;

(6) The modification will improve or not impede adequate pedestrian circulation; and

(7) The modification shall not result in traffic or other safety hazards; shall not result in visual blight, distraction or clutter, and shall not otherwise result in a detriment to the public health, safety or general welfare.

(B) The proposed development shall also comply with the requirements of this chapter.

(Ord. passed 7-12-2012, § 12.5; Ord. 2022-1, passed 1-13-2022)

§ 154.075 OPEN SPACE REQUIREMENTS.

An OS-PUD shall provide and permanently maintain the following minimum amount of dedicated open space in accordance with the standards of this subchapter. For purposes of this subchapter, **DEDICATED OPEN SPACE** shall mean that portion of an OS-PUD that is permanently preserved in an undeveloped state through an open space preservation agreement as required herein.

(A) For land master planned for rural agricultural or zoned Ag-2, 25% of the total area of the site shall be preserved as dedicated open space.

(B) For land master planned for low density residential or medium high density residential or zoned R-1, R-2 or R-3, 15% of the total area of the site shall be preserved as dedicated open space.

(C) Open space shall also comply with §§ 154.076, 154.077 and 154.078 of this chapter.

(Ord. passed 7-12-2012, § 12.6)

§ 154.076 AREAS NOT COUNTED AS DEDICATED OPEN SPACE.

The following shall not count as open space:

(A) The area within all public or private road rights-of-way;

(B) Golf course;

(C) Any easement for overhead utility lines;

(D) The area within a platted lot, site condominium unit or metes and bounds parcel occupied or to be occupied by a building or structure not permitted to be located in open space;

(E) Off-street parking area;

(F) Detention and retention ponds created to serve the project;

(G) Community drain fields;

(H) Fifty percent of the area of wetlands, creeks, streams, existing ponds or lakes or other bodies of water; and

(I) Fifty percent of the area of floodplains and 50% of areas of slopes of more than 20%.

(Ord. passed 7-12-2012, § 12.7)

§ 154.077 STANDARDS FOR OPEN SPACE.

The following standards shall apply in order for land to be deemed preserved open space required by this subchapter.

(A) *Features to be preserved.* In order to approve an OS-PUD project, the Planning Commission must determine that the parcel of land contains natural features which would be preserved through the use of cluster development. Such features must include at least two of the following:

(1) Natural stands of large trees;

(2) Significant or unusual natural habitat for wildlife within the developed portion of the property;

(3) Unusual topographic features;

(4) Annually productive farmland; or

(5) Water or wetland areas.

(B) A substantial portion of the open space shall be reasonably usable by the residents of the land for passive recreational uses such as hiking or picnicking.

(C) The open space may include a recreational trail, picnic area, children's play area, community building or other use that as determined by the Planning Commission, is substantially similar to these uses.

(D) A portion of the dedicated open space shall be located along the public road frontage abutting the site. The depth of this area shall be at least 50 feet not including public road right-of-way, and this area shall be left in its natural condition or landscaped to help reduce the view of houses on-site from the adjacent roadway and preserve the rural view.

(E) Open space areas are encouraged to be linked with any adjacent open spaces, public parks, bicycle paths, or pedestrian paths.

(F) The open space shall be available for all residents of the development, subject to reasonable rules and regulations and shall be reasonably accessible to the residents of the open space development. Safe and convenient pedestrian access points to the open space from the interior of the open space shall be provided.

(G) If the land contains a lake, stream, or other body of water, the Planning Commission may require that a portion of open space abut the body of water.

(H) Open space shall be located so as to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, and wetlands.

(I) All open space must be determined by the Planning Commission to be:

- (1) Quality and desirable land;
- (2) For preserved farmland, of a size, topography, soil type and location so as to be able to be productively and reasonably used for crops;
- (3) Not merely left over or undevelopable land; and
- (4) Involving features that will enhance the desirability and value of the lots/units.

(J) The overall design of the open space development should emphasize the rural character of the township, provide views to open spaces from as many areas of the development as possible, and avoid long, straight, street segments and rows of homes.

(Ord. passed 7-12-2012, § 12.8; Ord. 2022-1, passed 1-13-2022)

§ 154.078 METHODS TO PRESERVE OPEN SPACE.

(A) (1) 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.

(2) Documents shall be presented that bind all successors and future owners in title to commitments made as part of the proposal.

(3) 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 OS-PUD Plan, unless an amendment is approved by the Township Board.

(B) 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 state law.

(C) The legal instrument shall:

- (1) Indicate the proposed permitted use(s) of the open space;
- (2) List the parties who have an ownership interest in the open space. The residents of the PUD by virtue of an association or other similar entity shall at all times maintain an ownership interest in the dedicated open space;
- (3) Require that the open space be maintained and controlled by parties who have an ownership interest in the dedicated open space; and
- (4) Provide standards for scheduled maintenance of the open space, including periodic removal of underbrush to reduce fire hazard and the necessary pruning and harvesting of trees and new plantings.

(Ord. passed 7-12-2012, § 12.9)

§ 154.079 DENSITY AND NUMBER OF DWELLING UNITS ALLOWED.

(A) (1) An area that is requested for rezoning to OS-PUD shall only be developed in accordance with the density recommended by the township's Master Plan.

(2) The permitted number of dwellings for the proposed PUD area shall be based on the density recommendation of the Master Plan designation of the property as set forth in § 154.080 of this chapter.

(B) The Township Board, following a recommendation from the Planning Commission, may choose to allow fewer dwellings than permitted by the density table if, in the opinion of the Board, a reduction in the number of dwellings proposed would better achieve the intent and objectives of the PUD District.

(Ord. passed 7-12-2012, § 12.10)

§ 154.080 DENSITY AND SETBACKS TABLE.

<i>Master Plan Category</i>	<i>Zoning District</i>	<i>Minimum Lot Size</i>	<i>Minimum Yard Setbacks</i>	<i>Minimum Lot Width</i>
-----------------------------	------------------------	-------------------------	------------------------------	--------------------------

Low Density Residential (LDR)	R-1	27,500 square feet (0.63 acres) Maximum density: 0.63 units/acre (for developed lot area)	Front yard setback: 35 feet Rear yard setback: 35 feet Side yard setback: 10 feet	125 feet
Medium High Density Residential (MHDR)	R-3	Maximum density: 3.62 units/acre provided both public or community water and sewer is provided		
Rural Agricultural (RA)	Ag-2	30,000 square feet (0.69 acres) Maximum density: 0.69 units/acre (for the developed lot area)	Front yard setback: 35 feet Rear yard setback: 35 feet Side yard setback: 10 feet	125 feet

(Ord. passed 7-12-2012, § 12.11; Ord. 2022-1, passed 1-13-2022)

§ 154.081 FORMULA TO DETERMINE NUMBER OF DWELLINGS.

(A) The number of dwellings that may be constructed within an OS-PUD shall be determined as follows:

- (1) Determine gross site area. The gross site area may include road right-of-way if included in legal description;
- (2) Subtract half of the primary conservation areas. For purposes of this chapter, **PRIMARY CONSERVATION AREAS** shall be defined as existing wetlands, creeks, streams, ponds, lakes or other waterbodies, floodplains and slopes over 20%; and
- (3) Multiply this acreage by the maximum average density from the density table to determine the number of dwellings permitted.

(B) 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 state’s Department of Environmental Quality or by an analysis performed by a professional biologist, ecologist, environmental engineer or similar professional person deemed acceptable to the Planning Commission.

(1) Additional dwellings above what is allowed by this section may be permitted at the discretion of the Township Board following a recommendation by the Planning Commission if the development provides additional amenities or preserves additional open space that would result in a significant recognizable benefit to the township and residents of the PUD. Items that 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:

- (a) Provision of recreational facilities such as playground areas with play equipment, ballfields, bike path, human-made lake, and community building or similar recreation facility;
- (b) Additional landscaping to preserve or enhance the rural view along the roadway;
- (c) Enhancement of existing wetlands, subject to applicable regulations; and
- (d) Provision of a public or community water and/or sanitary sewer system.

(2) (a) If additional dwelling units are to be permitted, the maximum number of dwelling units shall be determined by multiplying the maximum average density permitted in the density table by the gross acreage of the site excluding only the acreage devoted to any non-residential uses.

(b) In no case shall the number of dwelling units exceed what is permitted by this section.

(Ord. passed 7-12-2012, § 12.12)

§ 154.082 PROCEDURES FOR REVIEW AND PREPARATION OF PRELIMINARY SITE PLAN.

(A) *Application.* An applicant for an OS-PUD rezoning shall comply with the PUD submittal and review requirements of §§ 154.095 through 154.108 of this chapter.

(B) *OS-PUD design process.*

- (1) A site plan for an OS-PUD shall be prepared according to the following process.
- (2) Approval of an OS-PUD site plan shall be based on how closely the site plan conforms to this design process as well as conformance to the standards for approval of an OS-PUD contained in §§ 154.095 through 154.108 of this chapter.

(C) *Two plans.* The applicant shall prepare two plans: a Natural Features and Development Area Map and a Preliminary

Site Plan using the design process described below.

(1) The Natural Features and Development Area Map shall illustrate the primary conservation areas and those other areas on the site that are to be preserved as dedicated open space on the site.

(a) Primary conservation areas, for purposes of this chapter, shall be defined as existing wetlands, creeks, streams, ponds, lakes or other waterbodies, floodplains and slopes over 20%.

(b) The dedicated open space illustrated on this map shall comply with the requirements for open space of this subchapter.

(c) Only one-half of the primary conservation areas shall be counted toward the required amount of dedicated open space.

(2) Label other natural site features such as woods, stands of trees, specimen trees, farm lands and fields, meadows and hedgerows, farm buildings and fences.

(3) The dedicated open space as required by this subchapter shall be clearly labeled on the map. The areas outside the dedicated open space shall be illustrated on the map as the development area, which is the only area where house sites may be located.

(4) Next, determine the number of houses permitted for the site by this subchapter.

(5) On the same natural features and development area map illustrate the tentative location of house sites. House sites shall only be located within the development area. A house site shall not be located within the primary conservation areas or other areas illustrated as dedicated open space. The location of house sites should be done according to the following design standards.

(a) Houses should be placed so that the predominant view from the house is of open space and not of dwellings on the opposite side of the street.

(b) Houses should be placed so that scenic views are left unblocked or uninterrupted, particularly as seen from the public road right-of-way.

(c) In order to maintain scenic views and rural character, dwellings placed directly on hilltops shall be discouraged if the dwelling is unscreened from the view of nearby properties and roads. Dwellings that are three stories as viewed from nearby public streets shall also be discouraged as such dwellings can detract from the rural view.

(6) On the Natural Features and Development Area Map illustrate the conceptual location of streets that shall be designed to serve the allowed house sites. Trails shall also be illustrated on this plan. The location of streets should be designed according to the following design standards:

(a) Avoid crossing wetlands and wildlife habitat areas with streets;

(b) Street systems should be designed to produce terminal vistas (views) of open spaces, village greens, water features, meadows or playing fields;

(c) Streets should have houses on only one side as this will allow residents a view of open spaces within the development;

(d) Every effort should be made to connect each street with another to minimize dead-ends, to provide safe and efficient access for emergency and public service vehicles, and to avoid conditions where certain residential streets become collectors that carry the majority of neighborhood traffic;

(e) Where cul-de-sacs are unavoidable, they should be provided with pedestrian and bike linkages to nearby streets or adjoining neighborhoods;

(f) Streets serving new developments should be designed to connect with adjoining properties; and

(g) OS-PUD developments shall, where feasible and appropriate, provide a trail system that provides pedestrian and bicycle linkage throughout the development, that take advantage of the open space areas. Linkage to future neighborhoods and developments that may occur adjacent to the development may be provided and are encouraged.

(7) (a) Next, prepare a separate plan to be known as the Preliminary Site Plan in accordance with the requirements of §§ 154.160 through 154.171 of this chapter. Draw lot lines for each house site and the road rights-of-way within the development area. Illustrate the boundaries of the development area on the Preliminary Site Plan.

(b) The lots should be designed according to the following design standards.

1. Lots shall be of a size and width necessary to obtain approval from the county's Health Department. If permitted by the Health Department, septic drain fields may be located within the dedicated open space areas outside the lot lines.

2. As part of the Preliminary Site Plan, the applicant shall provide documentation from the county's Health Department that the soil types in the buildable areas are acceptable for on-site well and septic systems.

(8) The natural features map plan and the Preliminary Site Plan shall be submitted to the Planning Commission for Preliminary Site Plan review according to the procedures of this chapter.

(D) *General procedures.* The general PUD review procedures of §§ 154.095 through 154.108 of this chapter regarding the site plans and rezoning shall be followed.

(Ord. passed 7-12-2012, § 12.13)

PLANNED UNIT DEVELOPMENTS (PUDS)

§ 154.095 PURPOSE AND OBJECTIVES.

(A) The purpose of the Planned Unit Development Zoning District (“PUD”) is to encourage and allow a variety of uses to be located within one zoning district on the same site as such developments would not be allowed under traditional zoning regulations whose purpose is to separate differing uses by zones. The Planned Unit Development Zoning District is not intended for single use residential developments but for projects with a mix of dwelling unit types, residential and non-residential uses or larger non-residential uses that are otherwise not specifically authorized by this chapter.

(1) A PUD is intended to allow substantial flexibility in planning and designing a project. This flexibility often accrues in the form of relief from compliance with conventional zoning ordinance site and design requirements. Ideally, this flexibility results in a development that is better planned, that contains more amenities and ultimately a development that is more desirable to live in than one produced in accordance with typical zoning ordinance and subdivision controls.

(2) Through proper planning and design, each planned unit development should include features that further, and are in compliance with, the following goals and objectives.

(B) (1) It will allow a mix of uses, structures, facilities, housing types and open space in a manner compatible with existing and planned uses on nearby properties.

(2) It will allow for the design of developments that achieves better utilization of land than is possible through strict application of standard zoning and subdivision controls.

(3) It encourages land development that, to the greatest extent possible, preserves natural vegetation, respects natural topographic conditions, and does not adversely affect wetlands, floodplains, the natural drainage pattern drainage and other natural site features.

(4) It promotes the efficient use of land resulting in networks of utilities, streets and other infrastructure features that maximize the allocation of fiscal and natural resources.

(5) It promotes further creativity in design and construction techniques.

(6) It will provide for the regulation of legal land uses not otherwise authorized within this chapter.

(7) It will provide for single non-residential or mixed use developments that respect the goals and objectives of the township’s Master Plan.

(Ord. passed 7-12-2012, § 11.1)

§ 154.096 AUTHORIZATION AND PROCEDURES.

Except for those lands recommended for Prime Agriculture use in the township’s Master Plan, a Planned Unit Development Zoning District may be approved by the Township Board in any location within the township in accordance with the procedures, regulations and standards of this subchapter.

(Ord. passed 7-12-2012, § 11.2)

§ 154.097 PERMITTED USES.

Land and buildings in a PUD may only be used for the following uses or combination of such uses:

(A) Single- and two-family dwellings, multi-family dwellings, and townhouses are permitted, but only if combined with a different dwelling unit type or a non-residential use as part of a unified PUD development. A PUD that proposes only a single type of dwelling (such as all single-family dwelling) shall not be permitted;

(B) Multi-family dwellings as a single use project;

(C) Any use permitted by right in the C-1, General Commercial, C-2, Highway Commercial, I-1, Light Industrial, or I-2, Heavy Industrial Zoning Districts;

(D) Any special use permitted in the C-1, C-2, I-1 or I-2 Zoning Districts when specifically authorized by the Township Board following a recommendation from the Planning Commission; and

(E) Any legal land use not specifically authorized by this chapter that the Township Board determines would satisfy the purpose and objectives of this subchapter.

(Ord. passed 7-12-2012, § 11.3)

§ 154.098 QUALIFYING CONDITIONS.

(A) *Minimum parcel size.* In order to be eligible for PUD rezoning, the area proposed for rezoning to PUD shall consist of

a minimum of two acres except, in the case of a multiple-family dwelling project whereby the minimum area requirement shall be one acre. In areas recommended in the township's Master Plan for Rural Agricultural and Low Density Residential, the minimum parcel size shall be five acres.

(B) *Unified control.* The proposed development shall be under unified ownership or control such that there is one person, group of persons or legal entity shall have responsibility for the completion and ongoing maintenance of the development in compliance with this chapter. This requirement for unified ownership or control shall not prohibit a transfer of ownership or control, so long as there is still unified ownership or control of and for the development as required by this chapter.

(Ord. passed 7-12-2012, § 11.4)

§ 154.099 DEVELOPMENT REGULATIONS.

(A) *Modifications of existing regulations.* The lot area, lot width, building height, dimensional, setback, and yard requirements, general provisions, and parking regulations contained in this chapter that would apply for the zoning district in which the uses or uses proposed are normally allowed shall be met except that the Township Board following a recommendation from the Planning Commission may increase, decrease or otherwise modify these regulations, as may be requested by the applicant, in order to achieve the goals and objectives of this subchapter; however, all development shall comply with the density requirements and setback requirements detailed in § 154.080. Other criteria that shall be used in making these determinations shall include the following:

(1) Whether the modifications requested will result in a project that better satisfies the intent and objectives of this subchapter;

(2) The modification shall be compatible with adjacent existing and future land uses and shall not significantly adversely affect the use and enjoyment of nearby property;

(3) The modification will result in the preservation of existing vegetation or other natural features on site;

(4) The modification is necessary due to topography, natural features or other unusual aspects of the site;

(5) The modification will improve or not impede emergency vehicle and personnel access;

(6) The modification will improve or not impede adequate pedestrian circulation; and

(7) The modification shall not result in traffic or other safety hazards; shall not result in visual blight, distraction or clutter; and shall not otherwise result in a detriment to the public health, safety or general welfare.

(B) The proposed development shall also comply with the requirements of §154.072.

(Ord. passed 7-12-2012, § 11.5; Ord. 2022-1, passed 1-13-2022)

§ 154.100 DEVELOPMENT REQUIREMENTS FOR RESIDENTIAL USES.

For planned unit developments that will devote all or a portion of the site to residential use, the following requirements shall apply in addition to the other applicable requirements of this subchapter.

(A) (1) The permitted number of dwellings for the proposed PUD area shall be as regulated by §154.079 of this chapter. If the area proposed for PUD zoning is not master planned for any specific residential density, the density and number of dwellings permitted shall be determined by the Township Board following a recommendation by the Planning Commission.

(2) In making this determination, the Planning Commission and Township Board shall take into consideration the density recommended for the surrounding lands, the nature of the existing land uses nearby, the type and number of dwellings proposed by the applicant and the intent and objectives of this subchapter.

(B) Dwelling units should be arranged so that they are compatible with non-residential uses on the site.

(Ord. passed 7-12-2012, § 11.6)

§ 154.101 MINIMUM DEDICATED OPEN SPACE REQUIREMENTS.

A PUD shall provide and maintain the minimum amount of dedicated open space in accordance with the requirements of § 154.075 of this chapter; except that, the open space requirements along the existing road abutting the site may be modified by the Planning Commission if non-residential uses abut the roadway. If the project does not contain any residential uses, then a minimum of 5% of the site shall be dedicated open space. This space may preserve or enhance a specific natural feature of the site or may consist of a central community square or squares that could be utilized for gatherings, civic functions, passive recreation such as picnicking or strolling or similar uses. This space shall be separate from and in addition to any landscaping requirements of this chapter.

(Ord. passed 7-12-2012, § 11.7)

§ 154.102 STANDARDS FOR APPROVAL.

In making a recommendation to approve a PUD, the Planning Commission must find that the proposed PUD meets the standards for final development plan approval as set forth in §§ 154.160 through 154.171 of this chapter and that all of the following standards will also be met.

(A) *General standards.*

(1) Granting the PUD rezoning will result in a recognizable and substantial benefit to ultimate users of the project and to the community and the benefit would otherwise be unfeasible or unlikely to be achieved.

(2) The PUD will not result in a significant increase in the need for public services and facilities and will not result in significant adverse effects upon nearby or adjacent lands or the natural environment, unless the resulting adverse effects are adequately provided for or mitigated by features of the PUD as approved.

(3) The PUD will be generally compatible with the Master Plan of the township and consistent with the intent and objectives of this section.

(4) The project can be adequately served by public utilities such as police and fire protection or public or on site community water or sanitary sewer.

(5) The project complies with the requirements of this subchapter.

(B) *Residential standards for a PUD with all residential or a mix of residential and non-residential uses.*

(1) Protects the rural roadside character by preserving or enhancing the view along the roadway and improves public safety and vehicular carrying capacity by avoiding development that fronts directly on to existing roadways.

(2) The project provides walkways so that pedestrians can walk safely and easily throughout the site.

(3) The individual lots, buildings, roadways and open space areas are designed to minimize the alteration of environmental site features.

(4) The project provides for a mix of residential housing types, non-residential uses, and useable open space or would allow for a use not specifically authorized in this chapter.

(5) The design is such that the impact of the differing uses upon each other is minimized.

(C) *Standards for a PUD with no residential uses.* The PUD will not result in hazardous traffic flow and will be designed to manage traffic in a safe and efficient manner.

(Ord. passed 7-12-2012, § 11.8)

§ 154.103 PUD PROCEDURES.

(A) *Purpose.* This section sets forth the procedures, regulations and approval standards to rezone land to the Planned Unit Development Zoning District and the Open Space Planned Unit Development Zoning District in the township. For purposes of this section, the terms **PUD** and **PLANNED UNIT DEVELOPMENT** shall mean both the Open Space Planned Unit Development Zoning District and the Planned Unit Development Zoning District.

(B) *Procedures.*

(1) *Preapplication conference.* Before submitting an application for a PUD, an applicant may meet with the Planning Commission or Township Zoning Administrator, Planner or Engineer to submit information regarding a proposed PUD and to confer with the Planning Commission, or staff, about the proposed application and the PUD.

(2) *Application for PUD approval.* An application for a PUD rezoning shall be in accordance with the application procedures for site plan review as required by §§ 154.160 through 154.171 of this chapter. In addition, the applicant shall submit any fee or escrow requirement as may be adopted by resolution of the Township Board.

(C) *Preliminary development plan.* An applicant for PUD rezoning shall submit a site plan in accordance with the requirements for preliminary site plan review as set forth in §§ 154.160 through 154.171 of this chapter and all of the requirements of this chapter if the applicant is requesting a rezoning to OS-PUD. The applicant shall also submit ten copies of a narrative describing:

(1) The proposed density, number and types of dwelling units;

(2) If the proposed project will be served by water or sanitary sewer systems, a statement from a registered professional engineer describing methods and capacities; and

(3) Calculations demonstrating compliance with the chapter requirements for open space and number of permitted dwellings.

(D) *Environmental impact assessment.* The Planning Commission may require an environmental impact assessment as part of the preliminary or final site plan. This assessment shall describe the effect and impact that the proposed PUD will or may have upon or with respect to the following matters:

(1) The lands involved and the adjacent and nearby lands; streams, rivers, wetlands and the quality and volume of surface and ground water; wildlife and trees and other significant vegetation;

(2) Population in the immediate area and the township; local school systems; traffic congestion;

(3) Additional costs to governmental units and school districts; police and fire protection; storm water drainage; water supply and sewage disposal;

- (4) Noise, vibration, dust and dirt, litter, smoke, odor, light and glare;
- (5) Traffic impact study;
- (6) An economic feasibility study for the principal uses of the proposed PUD; and
- (7) An analysis of the nature and effect of any private utility systems, including septic tanks and drain fields, storm water control and retention facilities and water supply and distribution systems.

(E) *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 changes or modifications thereof. Such review and other consideration of the preliminary plan shall take place at a public meeting or meetings of the Planning Commission, and at meetings of committees of the Planning Commission, where appropriate.

(F) *Final development plan.*

(1) After receiving the recommendations of the Planning Commission on the preliminary development plan, the applicant for PUD rezoning shall submit three copies of the final development plans to the township office in accordance with the requirements for final site plan review as contained in §§ 154.160 through 154.171 of this chapter. Copies of the plan shall be forwarded to the Planning Commission.

(2) The final development plan shall contain all of the information required for final site plan review unless the same is waived by the Planning Commission as not being reasonably necessary for the consideration of the PUD, plus the following:

(a) All of the drawings, narrative, studies, assessments and other information, and materials comprising the preliminary development plan, including all of the recommendations of the Planning Commission thereon;

(b) Projected time for completion of the entire PUD; proposed phasing, if any, of the PUD and the projected time for completion of each phase; and

(c) Any other information reasonably required by the Planning Commission in connection with its review of the PUD and consideration of the rezoning of the lands in accordance with the PUD plan.

(G) *Planning Commission public hearing on final development plan.* The Planning Commission shall hold a public hearing on the final development plan and the application for rezoning in accordance with the plan. See § 154.424 of this chapter.

(1) A notice concerning the public hearing on the PUD final development plan and application for rezoning shall be published in a newspaper that circulates in the township and sent by mail or personal delivery to the owners of property for which PUD approval and the rezoning is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet.

(2) Such notice must be given not less than 15 days before the date of the public hearing. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure; except that, if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations one occupant of each unit or spatial area shall receive notice.

(3) In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall:

(a) Describe the nature of the PUD and rezoning request;

(b) Identify the property that is the subject of the PUD and rezoning request;

(c) State when and where the PUD and rezoning request will be considered;

(d) Indicate when and where written comments will be received in advance of the public hearing on the request; and

(e) An affidavit of mailing shall be filed with the Planning Commission before the public hearing.

(H) *Consideration of final development plan by Planning Commission.* After the public hearing, the Planning Commission shall make recommendations concerning the final development plan and the modifications in the final development plan and the rezoning to the Township Board.

(I) *Standards for approval.* In making a recommendation to approve a PUD, the Planning Commission must find that the proposed PUD meets all of the standards for approval as contained in this subchapter.

(J) *Final consideration of the PUD by Township Board.* The Township Board shall review the final development plan and the recommendations submitted by the Planning Commission.

(1) The Township Board shall also hold a hearing pursuant to §154.424 of this chapter.

(2) The Township Board shall determine whether the final development plan complies with the standards, conditions and requirements of this chapter and, in addition, shall determine whether the proposed project promotes the intent and purpose of this chapter; ensures that the proposed project will be compatible with adjacent uses of land, the natural environment and the capacities of public services and facilities affected by the proposed project; and ensures that the proposed project will be consistent with the public health, safety and welfare needs of the township.

(3) Upon a determination that a proposed project meets all such standards, conditions and requirements, the Township Board may approve the final development plan and grant the rezoning request.

(K) *Conditions of approval.* The Township Board may impose reasonable conditions upon its approval. Such conditions may include conditions necessary to ensure that public services and facilities affected by a proposed project 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 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) They shall be designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the proposed project under consideration, residents and landowners immediately adjacent to the proposed project and the community as a whole.

(2) They shall be related to the valid exercise of the police power, and the purposes that are affected by the proposed project.

(3) They shall be necessary to meet the intent and purpose of this chapter, be related to the standards established in this chapter for the proposed PUD under consideration, and be necessary to ensure compliance with those standards.

(4) The conditions imposed with respect to the approval of a PUD shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the Township Board and the property owner. The Township Board shall maintain a record of conditions that are changed.

(L) *Rezoning.* If the Township Board approves the final development plan and the proposed application for rezoning, it may rezone the property in accordance with the Zoning Act, as amended. Publication of the rezoning ordinance or publication of a summary of the provisions thereof shall be accomplished in the manner provided by law. Following approval of the PUD rezoning, the official zoning map of the township shall be changed to reflect the PUD zoning for the parcel.

(M) *Conformance to final development plan.* A PUD shall be constructed, conducted, and used in strict conformance with the approved final development plan and any conditions of approval. Any changes shall only be allowed in accordance with the requirements of § 154.105 of this chapter.

(Ord. passed 7-12-2012, § 11.9)

§ 154.104 ADDITIONAL REQUIREMENTS.

A PUD approval under this subchapter shall comply with all of the following requirements.

(A) *Sidewalks.* For areas recommended for low or medium high density residential land use in the Master Plan, the Planning Commission may require sidewalks in accordance with Ch. 152 and 153 of this code of ordinances.

(B) *Grading.* To preserve the natural appearance and beauty of the property, all graded areas, cuts and fills will be kept to a minimum. In appropriate cases, retaining walls may be required. Grading within the PUD shall be planned and carried out so as to avoid erosion, pollution, flooding or other adverse effects upon the land, and to have a minimal effect upon the environmental characteristics of the land as reasonably feasible.

(C) *Private roads.* Private roads within a PUD shall conform to the private road requirements of this chapter.

(D) *Utilities.* The OS-PUD shall be served by either private or community owned well and septic system approved by the county's Health Department or by a public water and sanitary sewer system.

(E) *Storm water management.*

(1) A storm water management plan shall be submitted with both the preliminary development plan and the final development plan. This plan shall provide information on how storm water will be controlled during and after construction. This plan shall be subject to the review and approval of the Township Engineer.

(2) Storm water shall be substantially managed with green infrastructure such as vegetated swales, rain gardens, stone weirs or dikes, sediment basins and shallow storm water areas. Storm water shall be minimally managed with conventional storm water management structures such as gutters, catch basins, underground pipes, detention ponds and retention ponds. Underground detention facilities may be permitted.

(3) Storm water detention ponds may be allowed for the containment of storm water runoff if it is demonstrated that other storm water management measures as noted above are not feasible due to soil types, topography or other similar site features.

(F) *Outdoor lighting.* Outdoor lighting shall be designed and located to avoid casting any direct or reflected glare upon neighboring property or upon adjacent structures within the proposed project.

(G) *Signs.* Signs shall comply with §§ 154.380 and 154.381 of this chapter.

(H) *Minimum dwelling unit size.* The minimum size of a dwelling unit shall be as set forth in §154.273 of this chapter.

(Ord. passed 7-12-2012, § 11.10)

§ 154.105 AMENDMENTS TO APPROVED PUD.

(A) An approved final PUD development plan and any conditions imposed upon final PUD approval shall not be changed, except upon the mutual consent of the Township Board and the applicant, except as otherwise noted below.

(B) (1) A minor change may be approved by the Zoning Administrator who shall notify the Planning Commission and the applicant in writing of the minor change and that such change does not substantially change the basic design or alter the conditions required for the plan by the Commission. The following items shall be considered as minor changes:

- (a) Reduction of the size of any building and/or sign;
- (b) Movement of buildings and/or signs by no more than ten feet;
- (c) Plantings approved in the site plan landscape plan may be replaced by similar types of landscaping;
- (d) Internal rearrangement of a parking lot that does not affect the number of parking spaces or alter access locations or design;
- (e) Changes required or requested by the township for safety reasons;
- (f) Changes that will preserve the natural features of the site without changes the basic site layout; and
- (g) Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the site plan that are deemed by the Zoning Administrator to be not material or significant in relation to the entire site and which the Zoning Administrator determines would not have any significant adverse effect on adjacent or nearby lands or the public health, safety and welfare.

(2) The Zoning Administrator may refer any decision regarding any proposed change to an approved site plan to the Planning Commission for review and approval (regardless of whether the change may qualify as a minor change). In making a determination whether a change is a minor change, or whether to refer a change to the Planning Commission for approval, the Zoning Administrator may consult with the Chair of the Planning Commission.

(C) A proposed change, other than a minor change as determined by the Zoning Administrator, shall be submitted as a formal amendment to the PUD and shall be processed in the same manner as an original PUD application; except that, the PUD zoning shall remain in place.

(Ord. passed 7-12-2012, § 11.11)

§ 154.106 PERFORMANCE GUARANTEE.

(A) The Township Board, after recommendation by the Planning Commission, or in its own discretion, may require reasonable performance guarantees or assurances deemed satisfactory in the circumstances and as authorized by law. The amount of the performance guarantee shall be determined by the Township Board based on a recommendation from the Planning Commission.

(B) Such arrangements shall be conditioned upon faithful compliance with all of the provisions and requirements of the PUD and construction and placement of all of the improvements therein.

(C) In its discretion, the Township Board, upon recommendation by the Planning Commission, may rebate or refund a proportionate share of the amount specified in a performance bond, letter of credit or other written assurance, based upon the percent or other portion of improvements completed, as verified by the Planning Commission or appropriate township official.

(Ord. passed 7-12-2012, § 11.12)

§ 154.107 TIME LIMITATIONS ON DEVELOPMENT.

(A) Each PUD shall be under substantial construction within one year after the date of approval of the final development plan and adoption of a zoning ordinance amendment by the Township Board. If this requirement is not met, the Planning Commission may, in its discretion, grant an extension not exceeding one year; provided that, the PUD applicant submits reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in commencement of the PUD.

(B) If the PUD has not been commenced within the above-stated period of time, or within any authorized extension thereof, the final development plan shall be of no further effect, and the Planning Commission and Township Board may then, in their discretion, initiate proceedings for the rezoning of the lands to some other zoning district.

(C) If the property is not rezoned, then the subject property remains zoned as a PUD, but the preliminary or final PUD plans previously approved become null and void. In order to utilize the property as a PUD, an applicant shall submit plans for preliminary and final PUD site plan approval as required by this section, but a further PUD rezoning by the Township Board shall not be required.

(Ord. passed 7-12-2012, § 11.13)

§ 154.108 EXISTING PUDS.

(A) Planned unit development projects that were approved as a special use prior to the adoption of the ordinance requiring that all PUDs be established as a separate zoning district and that lawfully existed as of the effective date of this

chapter shall be considered to be conforming uses and shall continue to be regulated by the conditions and the site plan that were approved for each of these existing PUDs.

(B) A major or minor change to these existing PUDs shall be subject to the procedures and requirements for such changes as set forth in § 154.105 of this chapter; except that, for a major change the number of dwelling units and amount of open space shall remain as were approved for the final development plan.

(C) If a modification of an existing PUD would enlarge the boundaries of the existing PUD, then such enlargement shall be subject to the procedures of this subchapter applicable to a new PUD.

(Ord. passed 7-12-2012, § 11.14)

FLOOD HAZARD AREAS

§ 154.120 INTENT.

(A) It is the purpose of this subchapter to significantly reduce hazards to persons and damage to property as a result of flood conditions in the township, and to comply with the provisions and requirements of the National Flood Insurance Program, as amended, as constituted in accord with the National Flood Insurance Act of 1968, and subsequent enactments and the rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency, as published in the Federal Register, Vol. 41, No. 207, Thursday, 10-26-1976, and redesignated at 44 FR 31177, 5-31-1979.

(B) Further, the objectives of this subchapter include:

- (1) The protection of human life, health and property from the dangerous and damaging effects of flood conditions;
- (2) The minimization of public expenditures for flood control projects, rescue and relief efforts in the aftermath of flooding, repair of flood damaged public facilities and utilities and the redevelopment of flood damaged homes, neighborhoods, commercial and industrial areas;
- (3) The prevention of private and public economic loss and social disruption as a result of flood conditions;
- (4) The maintenance of stable development patterns not subject to the blighting influence of flood damage;
- (5) To ensure that the public has access to information indicating the location of land areas subject to periodic flooding; and
- (6) To preserve the ability of floodplains to carry and discharge a base flood.

(Ord. passed 7-12-2012, § 13.1)

§ 154.121 DELINEATION OF THE FLOOD HAZARD OVERLAY ZONE.

(A) The Flood Hazard Area Zone shall overlay existing zoning districts delineated on the official township zoning map. The boundaries of the Flood Hazard Area Zone shall coincide with the boundaries of the areas indicated as within the limits of the 100-year flood as shown on the Flood Insurance Rate Map. The term **FLOOD HAZARD AREA**, as used in this chapter, shall mean the Flood Hazard Area Zone.

(B) Where there are disputes as to the location of a Flood Hazard Area Zone boundary, the Zoning Board of Appeals shall resolve the dispute in accord with §§ 154.440 through 154.449 of this chapter.

(C) In addition to other requirements of this chapter applicable to development in the underlying zoning district, compliance with the requirements of this subchapter shall be necessary for all development occurring within the Flood Hazard Area Zone. Conflicts between the requirements of this subchapter and other requirements of this chapter or any other ordinance shall be resolved in favor of this subchapter, except where the conflicting requirement is more stringent and would further the objectives of this subchapter to a greater extent than the requirements of this subchapter. In such cases, the more stringent requirement shall be applied.

(Ord. passed 7-12-2012, § 13.2)

§ 154.122 DEVELOPMENT PERMIT.

Development, including the erection of structures and placement of mobile homes, within a flood hazard area shall not occur, except upon issuance of a zoning compliance permit in accord with the requirements of §§ 154.160 through 154.171 of this chapter and the following standards:

- (A) The requirements of this subchapter shall be met;
- (B) The requirements of the underlying zoning district and other applicable general provisions of this chapter must be met; and
- (C) All necessary development permits shall have been issued by appropriate local, state and federal authorities including a floodplain permit, approval or letter of no authority from the state's Department of Natural Resources under state law. Where a development permit cannot be issued prior to the issuance of a zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.

(Ord. passed 7-12-2012, § 13.3)

§ 154.123 GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION.

(A) All new construction and substantial improvements within a flood hazard area, including the placement of prefabricated buildings and mobile homes, shall:

- (1) Be designed and anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) Be constructed with materials and utility equipment resistant to flood damage; and
- (3) Be constructed by methods and practices that minimize flood damage.

(B) All new and replacement water supply systems shall minimize or eliminate infiltration of flood waters into the systems.

(C) All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of flood waters into the systems and discharges from systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.

(D) All public utilities and facilities shall be designed, constructed and located to minimize or eliminate flood damage.

(E) Adequate drainage shall be provided to reduce exposure to flood hazards.

(F) Compliance with the standards of this section shall be certified by a registered, professional engineer or architect.

(G) Land shall not be divided in a manner creating parcels or lots that cannot be used in conformance with the requirements of this subchapter.

(H) The flood carrying capacity of any altered or relocated watercourse not subject to state or federal regulations designed to ensure flood-carrying capacity shall be maintained.

(I) Available flood hazard data from federal, state or other sources shall be reasonably utilized in meeting the standards of this section. Data furnished by the Federal Insurance Administration shall take precedence over data from other sources.

(Ord. passed 7-12-2012, § 13.4)

§ 154.124 SPECIFIC BASE FLOOD ELEVATION STANDARDS.

(A) On the basis of the most recent available base flood elevation data, the following standards shall apply in the Flood Hazard Area Zone.

(1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the base flood level.

(2) All new construction and substantial improvements of non-residential structures shall have either:

(a) The lowest floor, including basement, elevated to or above the base flood level; or

(b) Be constructed such that below base flood level, together with attendant utility and sanitary facilities, the structure is water-tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy. A registered, professional engineer or architect shall certify that the standards of this division (A)(2) are satisfied, and that the flood-proofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood in the location of the structure. Such certification shall be submitted as provided in § 154.123 of this chapter and shall indicate the elevation to which the structure is flood-proofed.

(B) The most recent base flood elevation data received from the Federal Insurance Administration shall take precedence over data from other sources.

(Ord. passed 7-12-2012, § 13.5)

§ 154.125 MOBILE HOME STANDARDS IN FLOOD AREAS.

(A) All mobile homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties in accord with the following specifications.

(1) Over the-top ties shall be provided at each of the four corners of the mobile homes, with two additional ties per side at intermediate locations; except that, on mobile homes less than 50 feet in length one tie per side shall be required.

(2) Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points; except that, on mobile homes less than 50 feet in length four ties per side shall be required.

(3) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

(4) All additions to a mobile home shall be similarly anchored.

(B) An evacuation plan indicating alternative vehicular access and escape routes shall be filed with the County Sheriff's Department for mobile home parks and mobile home subdivisions.

(C) Mobile homes within Zones A1-30 on the Flood Insurance Rate Map shall be located in accord with the following standards.

(1) All mobile homes shall be placed on stands or lots that are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level.

(2) Adequate surface drainage away from all structures and access for a mobile home hauler shall be provided.

(3) In the instance of elevation on pilings, lots shall be large enough to permit steps; piling foundations shall be placed in stable soil no more than ten feet apart; and reinforcement shall be provided for piers more than six feet above ground level.

(4) In mobile home parks and mobile home subdivisions that exist at the time this section is adopted, where repair, reconstruction or improvement of streets, utilities and pads equals or exceeds 50% of the value of the streets, utilities and pads before the repair, the standards in this section shall be complied with.

(Ord. passed 7-12-2012, § 13.6)

§ 154.126 STANDARDS FOR AREAS OF SHALLOW FLOODING.

The following standards shall apply in areas of shallow flooding denoted as AO zones on the FIRM.

(A) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated above the crown of the nearest street to or above the depth number specified on the FIRM.

(B) All new construction and substantial improvements of non-residential structures shall either:

(1) Have the lowest floor, including basement, elevated above the crown of the nearest street to or above the depth number specified on the FIRM; or

(2) Be flood-proofed together with attendant utility and sanitary facilities to the level specified in this section in accord with the standards in § 154.124 of this chapter.

(Ord. passed 7-12-2012, § 13.7)

§ 154.127 FLOODWAY PROTECTION STANDARDS.

(A) New construction, substantial improvements and all other development, including fill, shall be prohibited within zones numbered A1-30 on the FIRM, except where it is demonstrated to the Zoning Administrator that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not harmfully increase the water surface elevation of a base flood. In determining whether a harmful increase will occur, compliance with state law, shall be required; provided that, the allowable increase shall not exceed one foot. Zones A1-30 on the FIRM shall be considered to be the floodway.

(B) The uses of land permitted in an underlying zoning district shall not be construed as being permitted within the floodway, except upon compliance with the provisions in this section.

(Ord. passed 7-12-2012, § 13.8)

§ 154.128 DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by human-made or natural causes, such as ice jams and bridge openings restricted by debris. Approval of the use of land under this subchapter shall not be considered a guarantee or warranty of safety from flood damage. This chapter does not imply that areas outside the flood hazard area will be free from flood damage. This chapter does not create liability on the part of the township or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. passed 7-12-2012, § 13.9)

§ 154.129 FLOOD INSURANCE RATE MAP FIRM.

See the township office for a map.

(Ord. passed 7-12-2012, § 13.10)

NON-CONFORMITIES

§ 154.140 INTENT.

(A) It is recognized that there exist certain buildings, structures, uses and lots that were lawful before this chapter (or an amendment to this chapter) was adopted, and which were legally established, but would be prohibited, regulated or restricted under the current regulations of this chapter. It is the intent of this chapter to allow non-conforming lots, buildings and structures and uses to continue until they are removed, but not to encourage their survival.

(B) Non-conforming lots, buildings, structures and uses are hereby declared by this chapter to be incompatible with this chapter and the zoning districts in which they are located. It is the intent of this chapter that, unless otherwise expressly permitted, non-conformities shall not be enlarged upon, intensified, expanded or extended without proper approvals, nor be used as grounds for adding other buildings, structures or uses prohibited elsewhere in the zoning district or this chapter.

(Ord. passed 7-12-2012, § 5.1)

§ 154.141 GENERAL REQUIREMENTS.

(A) No building, structure or part thereof shall be constructed, erected, moved, placed, maintained, reconstructed, used, extended, enlarged or altered, except in full conformity with the regulations herein specified for the zoning district in which it is located and this chapter.

(B) No use shall be established on any lot, land or premises, except in full conformity with the use regulations of the zoning district in which it is located and the requirements of this chapter.

(C) No building or structure shall be established, constructed or used on any lot, land, or premises except in full conformity with the regulations of the zoning district in which it is located and the requirements of this chapter.

(D) Nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building for which a building permit was issued or on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been diligently conducted. A building permit shall be valid only in the event that the construction that is the subject of the permit commences within 60 days after the date of issuance and shall be completed within one year of the issuance date.

(E) The township may acquire, through purchase or condemnation, non-conforming lots, uses, buildings and structures. The Township Board may take these actions in the manner as provided by law.

(F) Notwithstanding the above or anything in this subchapter, a building, structure or part thereof can be altered so as to bring it into greater conformity with this chapter.

(Ord. passed 7-12-2012, § 5.2) Penalty, see § 154.999

§ 154.142 NON-CONFORMING USES.

(A) If a non-conforming use is abandoned (A does not occur for any reason for a period of 12 consecutive months or longer, any subsequent use shall fully conform to the requirements of this chapter.

(B) A non-conforming use shall be considered abandoned if one or more of the following conditions exists, and shall be deemed to constitute an intent on the part of the property owner to abandon the non-conforming use:

- (1) Utilities, such as water, gas and electricity to the property, have been disconnected;
- (2) The property, buildings or grounds have fallen into disrepair;
- (3) Signs, structures or other indications of the existence of the non-conforming use have been removed;
- (4) Removal of equipment or fixtures that are necessary for the operation of the non-conforming use; or

(5) Other actions, which, in the opinion of the Zoning Administrator, constitute an intention on the part of the property owner, tenant or lessee to abandon the non-conforming use.

(C) Uses that are non-conforming solely because of height, area, parking or loading provisions may be expanded; provided that, the Zoning Administrator determines that all of the following are applicable:

- (1) For the purposes of this division (C), expansion shall include extension or enlargement of the use;
- (2) All zoning district requirements (and other ordinance requirements) are satisfied with respect to the expansion;
- (3) The expansion shall not substantially extend the life of any non-conforming use by reason of parking and loading provisions; and

(4) The non-conforming use is made more conforming or less non-conforming by the addition of parking and/or loading space. Thereafter, any subsequent expansion of the non-conforming use or change in use will not be allowed if it requires even greater parking and/or loading space.

(D) A non-conforming use not addressed in division (C) above may be enlarged when authorized by the Zoning Board of Appeals, subject to all of the following provisions.

(1) The enlargement, when allowed, shall not exceed 25% of the area devoted to a non-conforming use at the effective date of this chapter or relevant amendment thereto.

(2) Any building used for the non-conforming use shall not be non-conforming or require a variance to effectuate the enlargement of the non-conforming use.

(3) The expansion does not create, or make worse, any adverse effect on surrounding properties or the neighborhood.

(4) The expansion does not intensify the use or unreasonably extend its probable duration.

(E) An existing non-conforming use may be changed to another non-conforming use; provided that, all of the following determinations are made by the Zoning Board of Appeals.

(1) The proposed use shall be as compatible as or more compatible with the surrounding neighborhood than the previous non-conforming use.

(2) The proposed non-conforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than the previous non-conforming use, except as may otherwise be allowed by this section.

(3) That appropriate conditions and safeguards are provided that will ensure compliance with the intent and purpose of this chapter.

(4) Once returned to a conforming use, the previous non-conforming use shall be considered abandoned and may not be reestablished. Subsequent uses shall all conform to the requirements of the zoning district.

(Ord. passed 7-12-2012, § 5.3)

§ 154.143 NON-CONFORMING BUILDINGS.

(A) Any building or structure existing and lawful at the time of enactment of this chapter, or amendments thereto, may be continued although the structure does not conform to the current provisions of this chapter.

(B) Repairs and maintenance work may be made as are required to keep a non-conforming building or structure in a sound condition.

(C) In the event fire, wind or an act of God or the public enemy damages any non-conforming building(s) or structure(s), it may be rebuilt or restored provided that the total costs of repair or restoration shall not exceed 50% of the cost of replacing the entire building or structure before the building or structure was damaged. The Building Inspector shall determine the cost of reconstruction.

(D) A non-conforming building shall not be expanded in any manner that increases its non-conforming condition. However, it may be expanded in other dimensions; provided that, it is in full conformance with this chapter.

(Ord. passed 7-12-2012, § 5.4) Penalty, see § 154.999

§ 154.144 NON-CONFORMING LOTS.

(A) If a non-conforming lot has less than the minimum required area, frontage or width required for the zoning district in which it is located, the area, frontage or width may be maintained, unless regulated by division (C) below, but shall not be made more non-conforming.

(B) Where a non-conforming commercial or industrial lot can provide the side and front yard requirements of its zone, the permitted uses of the zoning district shall be allowed.

(C) Where a residential lot of record in lawful existence at the time of the adoption or amendment of this chapter does not meet the minimum requirements for lot width, dimension or lot area, such lot of record may be used for any purposes permitted by the district in which the lot is located; provided that, the lot meets at least 80% of the required lot area, lot width, dimension and side yard required by that district; and, further provided that, any building or structure constructed on the lot complies with all other yard setback requirements.

(D) If two or more adjoining lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this chapter, or an amendment thereto, with continuous frontage and under single ownership do not meet the requirements established for lot width, dimension or lot area, the lands involved shall be considered to be an undivided single lot for the purposes of this chapter, and no portion of such lot shall be used or divided in a manner which diminishes compliance with lot width, dimension and area requirements established by this chapter.

(E) Where two or more non-conforming adjacent lots are in the same or similar ownership and each contain less than minimum required area, dimension or width of the zoning district in which it is located, the lots shall be considered a single lot for zoning purposes. These lots may not be used individually, but shall be deemed automatically combined to create a lot that conforms as closely as possible to the zoning district regulations.

(F) A non-conforming lot may only be expanded if it is brought into closer conformity with the regulations specified for the zoning district in which it is located.

(Ord. passed 7-12-2012, § 5.5)

§ 154.145 NON-CONFORMING SIGNS.

(A) Every permanent sign in lawful existence at the time of adoption of this chapter which does not conform to the height, size, area, location or other requirements of this chapter is deemed non-conforming.

(B) Non-conforming signs may not be expanded, enlarged or extended, but they may be maintained and repaired as allowed by this chapter so as to continue their useful life.

(C) A non-conforming sign may be diminished in size or dimension, or the copy on the sign may be amended or changed, without adversely affecting the status of the sign as a non-conforming sign. However, no non-conforming or other

sign may be converted into a digital, tri-vision, LED or similar sign.

(D) (1) If a sign loses its legal non-conforming designation or status, the sign (and all portions thereof) shall be removed immediately and shall not be repaired, replaced or rebuilt unless it fully complies with all requirements of this chapter. A non-conforming sign shall lose its lawful non-conforming designation and status if the Zoning Administrator determines that any of the following is applicable:

- (a) The sign is relocated, moved, rebuilt or replaced; and/or
- (b) The sign is destroyed. A sign shall be deemed destroyed if any of the following occurs:
 1. The sign is torn down or demolished;
 2. The sign is wrecked or ruined;
 3. Such damage has been done to the sign that it cannot be returned to its prior state by routine repair, but only by replacement or material rebuilding; or
 4. More than 50% of the face of the sign has been shattered, or a portion of the sign face touches the ground.
- (2) If a sign is destroyed, division (E) below (which applies only to repairs and maintenance) shall not be applicable;
- (3) Even if a sign has not been destroyed, but damage or deterioration has occurred to the point of 50% or more, as defined in division (E) below, the sign shall be deemed to have lost its legal non-conforming status;
- (4) The structure or size of the sign is altered in any material way other than a change of copy or normal maintenance which does not physically alter the sign;
- (5) There is a material change in the use of the premises where the sign is located;
- (6) A building permit is issued for any construction on the premises where the sign is located which increases the total building square footage by more than 5% or 5,000 square feet, whichever is less; or
- (7) The sign is abandoned.

(E) (1) This division (E) shall not apply if a legal non-conforming sign has been destroyed, since a destroyed sign automatically loses its legal non-conforming designation and status. If a legal non-conforming sign suffers 50% or more damage, destruction or deterioration, it must be brought into full compliance with this chapter or be removed.

(2) In order to determine whether or not a sign has been damaged or has deteriorated by 50% or more, the costs of physically repairing the sign shall be compared to the costs of physically replacing the sign.

(3) If less than 50% damage or deterioration has occurred pursuant to such comparison, the sign may be repaired to its exact original state.

(Ord. passed 7-12-2012, § 5.6)

§ 154.146 BURDEN OF PROOF.

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

(Ord. passed 7-12-2012, § 5.7)

SITE PLAN REVIEW

§ 154.160 REVIEW AND APPROVAL.

It is recognized that land uses and their location may possess distinct characteristics that may affect the community, its residents and its thoroughfares. It is, therefore, necessary to require submission of a site plan to the township for review and approval in accordance with guidelines and criteria set forth herein in order to ensure safe development and to avoid adverse impacts to the township and its citizens.

(Ord. passed 7-12-2012, § 6.1)

§ 154.161 APPLICABILITY.

(A) In accordance with the provisions of this subchapter, the Zoning Administrator or the Planning Commission (where applicable) shall review and approve, deny or approve with conditions a site plan for the proposed development, activity, or use prior to the issuance of any permits for the creation of a use or the erection or expansion of a building in the zoning districts and as specified in this subchapter.

(B) No use, activity, building or structure that requires site plan approval shall be commenced, conducted, expanded or constructed until and unless site plan approval has occurred.

(C) The Zoning Administrator shall review and approve, approve with conditions or deny a site plan for all of the following uses:

- (1) Any multi-family residential development (not involving a special use, plat, PUD, OS-PUD or conditional rezoning);
- (2) Any use in the C-1 General Commercial Zoning District;
- (3) Any use in the C-2 Highway Commercial Zoning District;
- (4) Any use in the I-1 Light Industrial Zoning District;
- (5) Any use in the I-2 Heavy Industrial Zoning District;
- (6) Any use within the Ap Airport Zoning District (unless provided otherwise in this chapter);
- (7) Private streets (except as otherwise provided in §§154.330 through 154.338 of this chapter);
- (8) Essential services;
- (9) Any commercial, industrial, business or office use (unless a special use, PUD, OS-PUD or conditional rezoning is involved);
- (10) Home occupations;
- (11) State licensed residential family care facilities and family day care homes; and
- (12) Any expansion, enlargement or change to any of the preceding.

(D) The Planning Commission shall approve, deny or approve with conditions a site plan regarding any of the following uses:

- (1) Any mobile home park;
- (2) Any site plan associated with a special use in any zoning district;
- (3) Any plat;
- (4) Condominiums, site condominiums and subdivisions in any zoning district;
- (5) Any site plan associated with a PUD;
- (6) Any site plan associated with an OS-PUD; and
- (7) Any expansion, enlargement or change to any of the preceding.

(E) The Zoning Administrator shall have the discretion to forward a site plan to the Planning Commission for any site plan normally within the jurisdiction of the Zoning Administrator if the Zoning Administrator determines that the site plan and proposed use involve matters of significant public interest and that the Planning Commission may be better equipped to deal with the particular site plan involved. Should such referral occur with regard to a particular site plan, all the provisions in this subchapter applicable to Planning Commission review of a site plan (including the standards for review and approval by the Planning Commission) shall apply.

(Ord. passed 7-12-2012, § 6.2)

§ 154.162 STANDARDS FOR REVIEW AND APPROVAL.

(A) Where the Zoning Administrator performs a site plan review process as specified in this subchapter, the Zoning Administrator shall not approve a site plan unless all of the uses, activities, structures, building, parking areas, drainage and other site conditions and improvements meet all applicable requirements of this chapter.

(B) Where the Planning Commission performs a site plan review process as specified in this subchapter, the Planning Commission shall not approve a site plan unless all of the uses, activities, structures, building, parking areas, drainage and other site conditions and improvements meet all other requirements of this chapter. The Planning Commission shall not approve a site plan unless all of the following additional standards are also met:

(1) The proposed use conforms to the uses permitted either by right or by special use permit in the respective zoning district;

(2) The dimensional arrangement of buildings and structures conforms to the required yards, setbacks and height restrictions of the ordinance, unless waived by variance granted by the Zoning Board of Appeals (ZBA);

(3) The proposed use conforms to all use and design provisions and requirements (if any) as found in this chapter for certain specific uses, unless waived by variance granted by ZBA;

(4) There is a proper relationship between the existing and proposed streets and highways within the vicinity in order to assure the safety and convenience of pedestrian and vehicular traffic;

(5) The proposed on-site buildings, structures and entryways are situated and designed to minimize adverse effects (upon owners and occupants of adjacent and surrounding properties) by providing for adequate design of access/egress, interior/exterior circulation, storm drainage, erosion, grading, lighting and parking, as specified by this chapter or any county or state law;

(6) As many natural features of the landscape shall be retained as possible where they can be useful to the development on the site or where they furnish a barrier or buffer between the project and adjoining properties (used for dissimilar purposes) or where they assist in preserving the general safety, health and appearance of the neighborhood (such as, controlling erosion or the discharge of storm waters and the like);

(7) Any adverse effects of the proposed developments and activities emanating therefrom upon adjoining residents or owners shall be minimized by appropriate screening, fencing or landscaping (as provided or required in this chapter);

(8) 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 county's 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;

(9) All buildings and structures are accessible to emergency vehicles; and

(10) The site plan as approved is consistent with the intent and purpose of zoning, which is to promote the public health, safety and general welfare to encourage the use of lands in accordance with their character and adaptability; to avoid the overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards of life and property; and to facilitate the land use plan.

(Ord. passed 7-12-2012, § 6.3)

§ 154.163 APPLICATION.

(A) An application for site plan review (along with sufficient copies of the site plan) shall be submitted to the Zoning Administrator along with any fee or escrow requirements as set by resolution of the Township Board.

(B) The application shall, at a minimum, contain all of the following information:

(1) The applicant's name, address and phone number;

(2) Proof that the applicant is the owner of the property or has a legal or financial interest in the property, such as a purchase agreement;

(3) The name, address and phone number of the owner(s) of record if different than the applicant;

(4) The address of the property;

(5) Legal description of the property;

(6) Current zoning;

(7) Project description;

(8) Size of the parcel in acres; and

(9) Signature of the applicant and owner of the property.

(Ord. passed 7-12-2012, § 6.4)

§ 154.164 CONDITIONAL APPROVAL; PLANNING COMMISSION.

(A) Reasonable conditions may be attached to any site plan approved by the Planning Commission. The conditions may 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, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land and to promote the use of land in a socially and economically desirable manner. 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 that are affected by the proposed use or activity; and

(3) Be necessary to meet the intent and purpose of this chapter, 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 site 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. A record of conditions that are changed shall be maintained by the respective approval body.

(Ord. passed 7-12-2012, § 6.5)

§ 154.165 RECORDS AND COMPLIANCE.

Upon approval of the site plan, the Zoning Administrator or the Chair of the Planning Commission (whichever is applicable) shall sign three copies thereof. Two copies shall be kept by the township, and the third shall be returned to the applicant. All subsequent actions relating to the activity authorized by the approved site plan shall be consistent with the plan unless a change conforming with this chapter receives mutual agreement with the land owner and the Zoning Administrator or the Planning Commission (whichever is applicable).

(Ord. passed 7-12-2012, § 6.6)

§ 154.166 COMPLIANCE WITH PERFORMANCE STANDARDS.

Compliance with applicable performance standards for certain uses enumerated elsewhere in this chapter is also required.

(Ord. passed 7-12-2012, § 6.7)

§ 154.167 CONFORMITY TO APPROVED SITE PLAN.

Property that is the subject of site plan approval must be developed and used in strict compliance with the approved site plan, and with any revisions, amendments or modifications made thereto. If construction, development and use does not conform with such approved plan, the approval thereof shall be revoked by the Zoning Administrator by written notice of such revocation posted upon the premises involved and mailed to the developer at his or her last known address. Upon revocation of such approval, all further construction activities shall cease upon the site, other than for the purpose of correcting the violation.

(Ord. passed 7-12-2012, § 6.8)

§ 154.168 SECURITY.

The Planning Commission or Zoning Administrator (whichever is applicable) is also empowered to require a performance bond, letter of credit or, in its, his or her discretion, a certified check, to be posted by the applicant in order to ensure that all zoning requirements and conditions of approval will be completed in accordance with the approved site development plan.

(Ord. passed 7-12-2012, § 6.9)

§ 154.169 PRELIMINARY SITE PLAN REVIEW; PLANNING COMMISSION.

(A) If desired by the applicant, a preliminary site plan may be submitted to the Planning Commission, where the Planning Commission has jurisdiction over the site plan process. The purpose of this procedure is to allow discussion between the applicant and the Planning Commission, to better inform the applicant of the acceptability of the project before significant engineering efforts are incurred that might be necessary for final site plan approval.

(B) Applications for preliminary site plan review shall be made in accordance with the application procedures of this section.

(C) Upon receipt of the preliminary site plan and application, the Zoning Administrator may forward copies to the Township Fire Chief, Planner, Engineer and others as necessary for review and subsequent report to the Planning Commission. The Zoning Administrator shall send the application and site plan to members of the Planning Commission prior to the meeting at which it will be considered.

(D) The preliminary site plan shall be drawn at a scale of not more than one inch equals 100 feet and shall contain the following information unless specifically waived by the Planning Commission:

- (1) Existing adjacent streets and proposed streets, public or private, as well as development within 100 feet of the site;
- (2) Parking lots and access points;
- (3) Proposed buffer strips or screening;
- (4) Significant natural features and other natural characteristics, including, but not limited to, open space, stands of trees, brooks, ponds, floodplains, hills and similar natural features;
- (5) Existing and proposed buildings;
- (6) General topographical features including existing contour intervals not greater than ten feet;
- (7) Proposed method of providing public or private utilities including storm water drainage; and
- (8) Small scale sketch of properties, streets and zoned uses of land within one-half mile of the site.

(E) The Planning Commission shall review the preliminary site plan and may make recommendations to assist the applicant in preparing a final site plan that will conform to the standards of this chapter.

(Ord. passed 7-12-2012, § 6.10)

§ 154.170 FINAL SITE PLAN REVIEW.

(A) If desired by the applicant, a final site plan may be submitted for review without first receiving preliminary site plan approval. Application for final site plan review shall be made in accordance with the application procedures of this

subchapter, and shall be reviewed in accordance with the same procedures for preliminary site plans.

(B) Final site plans whether submitted to the Planning Commission or Zoning Administrator (as may be required by this subchapter) shall be drawn at a scale of not more than one inch to 100 feet and shall contain the following information unless specifically waived by the Planning Commission or Zoning Administrator (as the case may be):

- (1) The date on which the site plan was prepared;
- (2) The name, address and professional seal of the architect, landscape architect, engineer or professional surveyor who prepared the plan;
- (3) A north arrow and legal description based upon the most current survey;
- (4) Property lines, dimensions and building setback distances and all structures, lot lines and wetlands within 100 feet of the site;
- (5) Existing and proposed topographic elevations at two-foot intervals on the site and to a distance of 50 feet outside the boundary lines of the site;
- (6) Direction of storm water drainage and how storm water runoff will be handled, as well as a statement describing where storm water will be ultimately discharged such as a creek, stream, lake or wetland;
- (7) Location of existing and proposed buildings, their intended use, the length, width and height of each building, and the square footage and finished floor elevation of each building;
- (8) Location of abutting streets, rights-of-way, service drives, curb cuts and access easements serving the site, as well as driveways opposite the site and driveways within 100 feet on either side of the site. Also driveway width, curb radii and design of proposed deceleration lanes;
- (9) Location and size of all water and sanitary sewer lines and storm drainage lines as well as fire hydrants and catch basins, and location of septic tanks and drain fields, and utility easements;
- (10) Location and type of all sidewalks, bike paths and other walkways;
- (11) Location, type and size of any walls, fences or other screening devices;
- (12) Location of all proposed landscape materials, including size and type of plantings;
- (13) Location, size and height of all proposed accessory structures, flagpoles, storage sheds, transformers, dumpsters or trash removal areas or devices, and methods of screening, and existing and proposed utility poles. Rooftop or outdoor equipment shall also be indicated, including proposed methods of screening where appropriate;
- (14) Proposed parking areas and access drives showing the number and dimensions of spaces and aisles, loading areas, handicapped access ramps and the method of surfacing such areas;
- (15) Exterior lighting showing areas of illumination and type of fixtures as well as the method of shielding lights from adjacent properties and roadways;
- (16) Location and type of significant existing vegetation, watercourses and waterbodies including county drains and human-made surface drainage ways, floodplains and wetlands. Vegetation that is to be retained on the site must be illustrated;
- (17) Location of existing and proposed slopes that are 20% or greater;
- (18) Zoning and land use on adjacent properties;
- (19) Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials or hazardous materials as well as any containment structures or clear zones required by this chapter or by state or federal agencies;
- (20) The Planning Commission or Zoning Administrator may request architectural elevation drawings of a building and cross-section drawings of the site; and
- (21) Small-scale sketch of properties, streets and zoned uses of land within one-half mile of the site.

(C) The final site plan for developments that have been proposed in phases shall generally conform to the approved preliminary plan.

(D) (1) The Planning Commission or Zoning Administrator (as applicable) may require written statements relative to the effects of the proposed use on the traffic capacity and safety of existing streets, and the proposed development's impact on schools, existing utilities, the environment and natural features.

(2) In addition, the Planning Commission or Zoning Administrator (as applicable) may require additional studies, graphics or other written materials from the applicant in order to assist in determining the appropriateness of the site plan.

(Ord. passed 7-12-2012, § 6.11)

§ 154.171 MINOR MODIFICATIONS OF APPROVED SITE PLANS.

Minor modifications may be made to a site plan approved by the Planning Commission as provided by this section without the need to obtain formal approval for the change from the Planning Commission.

(A) *Review and approval by Zoning Administrator.* An application for a proposed minor modification to final site plan initially approved in connection with a zoning permit by the Zoning Administrator may be reviewed, and approved, approved with conditions or denied, by the Zoning Administrator alone. The Zoning Administrator's decision to approve, approve with conditions or deny a minor modification shall be made in writing.

(B) *Review and approval by Zoning Administrator and Planning Commission Chair; special use.* An application for a proposed minor modification to a final site plan initially approved in connection with a special use approval by the Planning Commission may be reviewed, and approved, approved with conditions or denied, by the joint, concurring approval of the Zoning Administrator and the Chair of the Planning Commission. The decision by the Zoning Administrator and the Planning Commission Chair to approve, approve with conditions or deny a minor modification shall be made in writing. The Planning Commission Chair shall provide a copy of the written decision to the Planning Commission for its information at the Planning Commission's next regularly scheduled meeting.

(C) *Referral to Planning Commission.* The Zoning Administrator and/or the Planning Commission Chair (as applicable) may, in their discretion, refer any application for a minor modification to the Planning Commission for review and approval by the Planning Commission. The Planning Commission shall also review applications for minor modifications in any case where the Zoning Administrator and the Planning Commission Chair do not concur in its decision under division (B) above. The Planning Commission's decision to approve, approve with conditions or deny a minor modification shall be made in writing at a regularly scheduled or special meeting of the Planning Commission. A public hearing shall not be required.

(D) *Requirements applicable to all minor modifications.* In deciding whether or not to approve a minor modification, the official or body authorized to review and approve the requested modification may consult with other city staff, officials and departments, as appropriate. However, a modification to an approved plan shall not be approved unless the modification conforms to the standards and requirements applicable to the site plan in question as provided by this chapter. If a minor modification is approved, the applicant shall prepare any required changes to the site plan documents (including, without limitation, maps and written materials) as necessary to show the approved modification. No approval of a minor modification shall become final and effective until the Zoning Administrator has reviewed and approved the changes made to the site plan documents to reflect the approved modification, and the necessary documents as revised have been placed on file with the township. After a modification is final and effective, no activity or use on the property shall be conducted, except in strict compliance with the plan as modified.

(E) *Changes eligible for consideration as minor modifications.* The following changes to a final approved site plan shall be the only changes eligible for consideration as minor modifications as provided by this section:

(1) A change of not more than 20 feet in the location of any building or structure in any direction from the location as originally approved; provided that, the building or structure is not moved closer to any public or private right-of-way and remains in compliance with applicable setback distances;

(2) For non-residential buildings, a reduction or increase by no more than 5% in gross floor area;

(3) A change in the height of any building or structure by not more than 10%; provided that, applicable maximum height limits are not exceeded;

(4) The internal rearrangement of parking spaces in a parking lot; provided that, the total number of parking spaces is not reduced, circulation hazards or congestion are not created by the redesign and the rearrangement will not result in increased impacts on adjoining property;

(5) The substitution of landscaping or plant materials; provided, they are substituted by similar types of materials on a one-to-one or greater basis, as determined by the official(s) authorized to approve the minor modification as provided by this chapter;

(6) A reduction in number of signs, a decrease in the height or size of signs or an increase in the setback for any sign;

(7) A decrease in the width of a curb cut, or an increase of not more than 50% in the width of a curb cut; provided that, the increase or decrease complies with all applicable street and highway regulations;

(8) Improvements to access and circulation systems, such as the addition of acceleration/ deceleration lanes, curbing and pedestrian or bicycle paths; provided, the improvement complies with all applicable street and highway regulations;

(9) An increase in area of areas designated on a plan as being reserved for open space or as otherwise not being subject to development; and

(10) Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the project if the official(s) authorized to approve the minor modification as provided by this chapter determine that the changes are not material or significant in relation to the entire project and will not have any significant adverse effect on adjacent or nearby lands or the public health, safety or welfare.

(Ord. passed 7-12-2012, § 6.12)

SPECIAL USES

§ 154.185 SPECIAL USE PERMITS.

In order that this chapter be flexible and reasonable, special uses are provided for in §154.247 of this chapter (and at other locations in this chapter) and require special use approvals by the Planning Commission. Conformance to special use standards is required, in addition to all other requirements of this chapter. 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 approval does not negate the requirement for any other required permit(s) or approvals.

(Ord. passed 7-12-2012, § 7.1)

§ 154.186 STANDARDS FOR CONSIDERATION.

The Planning Commission shall not approve a special use unless all of the following standards are met.

(A) The special use in combination with the location proposed for such use shall not impair the general health, safety and welfare of the community-at-large. In general, there must be:

- (1) Safe access to the property in question and adjacent properties to fire and police protection;
- (2) No dangerous or hazardous area traffic circulation on and off the site, which either now exists or will be created by the proposed use;
- (3) Transportation design proposals by the applicant, if necessary, which will be needed to mitigate any potential traffic impact by the proposed use; and
- (4) An appropriate relationship, similarity and compatibility between the location and scale of the proposed use to the size and type of uses, structures and buildings currently existing in the immediate vicinity, and which collectively comprise the overall character of the area.

(B) The special use shall not decrease the market value of adjacent buildings, uses and structures that are permitted by right under current zoning, if the proposed use is granted.

(C) The special use shall be in harmony with the land use plan. This considers whether the location and size of the proposed use, the nature and intensity of the activities involved, the size of the site with respect to existing and future streets (giving access to it), parks and drainage systems will be in harmony with the land use plan and the character of land use that is intended by said township plan for the area or district in question.

(D) The applicant's proposed use, its location and intensity and the height of its buildings, walls, fences and other structures shall not adversely impact the appropriate character of development intended for the area as deemed desirable by the land use plan.

(E) The special use shall not cause any hazards arising from storage and use of flammable fluids.

(F) The special use shall not be environmentally objectionable to nearby properties by reason of noise, fumes, pollution, vibration or lights to an extent that is more than would be the operations of any use permitted by right for that district wherein the special use is proposed.

(G) Before granting a special use approval, in addition to finding that it meets all of the previously stated requirements, the Planning Commission must also find:

- (1) The proposed use will not adversely affect existing adjacent uses within 500 feet; and
- (2) There will be no adverse effect upon public health, safety or general welfare and that it will not impair the intent of this chapter.

(Ord. passed 7-12-2012, § 7.2)

§ 154.187 CONDITIONS.

(A) Reasonable conditions may be attached to the approval of a special use by the Planning Commission. The conditions may 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, to protect the natural resources and energy, to ensure compatibility with adjacent uses of land and to promote the use of land in a socially and economically desirable manner. 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 that are affected by the proposed use or activity; and
- (3) Be necessary to meet the intent and purpose of this chapter, be related to the standards established in this chapter for the land use or activity under consideration and be necessary to insure compliance with those standards.

(B) The conditions imposed with respect to the approval of a special use 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 approving Planning Commission shall maintain a record of conditions that are changed.

(Ord. passed 7-12-2012, § 7.3)

§ 154.188 COMPLIANCE WITH PERFORMANCE STANDARDS; SITE PLAN REVIEW.

(A) Compliance with the performance standards for certain uses enumerated elsewhere in this chapter is also required.

(B) Site plan approval by the Planning Commission is required for all special uses. Site plans may be initially reviewed by the Zoning Administrator for content.

(Ord. passed 7-12-2012, § 7.4)

§ 154.189 TIME LIMITATION.

A special use approval shall be deemed to authorize only one particular special use and shall expire if the special use shall cease to function for more than 12 months for any reason, or has not begun within 12 months from the date of approval.

(Ord. passed 7-12-2012, § 7.5)

§ 154.190 EXISTING VIOLATIONS.

No approval shall be considered or issued for a special use for a property where there is an existing violation of this chapter.

(Ord. passed 7-12-2012, § 7.6)

§ 154.191 BASIS FOR DECISION IN WRITING.

It is further provided that in granting or denying a special use, the Planning Commission shall specify in the written decision the particular reasons relied upon and its relation to the proposed use.

(Ord. passed 7-12-2012, § 7.7)

§ 154.192 SPECIAL USE APPROVAL REQUIRED.

Special use approval by the Planning Commission is required (as well as site plan approval by the Planning Commission) for those uses specified as special uses in § 154.247 of this chapter.

(Ord. passed 7-12-2012, § 7.8)

§ 154.193 NON-AGRICULTURAL DEVELOPMENT OPTION FOR MANAGING DEVELOPMENT AND AGRICULTURAL PRESERVATION.

The Planning Commission may consider for a property in the Ag-1 Zoning District as a special use (as provided by this subchapter), a non-agricultural use that is listed in § 154.247 of this chapter (other than non-agricultural dwellings that are governed by § 154.207 of this chapter; provided, however, that:

(A) The site on which the use is to be located is not able to be used for agricultural purposes due to factors, including, but not limited to, existing soil conditions, slope or the presence of wetlands. The Planning Commission in making its determination shall consider factors such as, but not limited to, past and present use of the parcel, past productivity and the difficulty in making the parcel suitable for farming (the Planning Commission shall seek verification from either the county offices of the U.S. Soil Conservation Service or the Cooperative Extension Service-Agricultural Division, or both);

(B) A septic permit can be obtained;

(C) There will be minimal likelihood of conflicts arising between the use and the surrounding agricultural activities, based on the standards for special use and site plan review; and

(D) The precedent set by allowing the non-agricultural use in the circumstances under consideration will not adversely affect the long-term plans and development policies of the township.

(Ord. passed 7-12-2012, § 7.9)

§ 154.194 APPLICATION PROCEDURES FOR SPECIAL USE PERMITS BY PLANNING COMMISSION.

Prior to construction or physical development of a proposed special use, as specified by this chapter, an application for a special use approval must be obtained. An application for a special use approval must be made to the Zoning Administrator.

(A) *Contents of application.* Among the data to be supplied by the applicant and that shall constitute the application package, the following shall be included:

(1) Names and address of applicant or applicants;

(2) Location, shape, area and dimension of the lot and of the proposed structure or improvement (shown on the site plan);

(3) Description of proposed use and of the building (dwelling, structure, barn, garage and the like) or improvement;

- (4) The proposed number of sleeping rooms, dwelling units, occupants, employees, customers and other users;
- (5) The yard, open space and location of parking spaces (as shown on the site plan); and
- (6) A required site plan that must be approved before any granting of a special use permit.

(B) *Fee.* A fee or fees as set by the Township Board shall accompany any plans or applications in order to defray the cost of administration and inspection.

(C) *General procedural steps.* Upon submission of an application for a special use approval:

(1) *The Zoning Administrator.*

(a) Reviews application package:

- 1. To make sure that it is the right application for zoning action requested;
- 2. To see that all required information is submitted; and
- 3. To make sure that the proposed use is permitted in a particular district by special use permit.

(b) Takes one or more of the following actions:

- 1. Requests from the applicant that any omitted or necessary information now be submitted;
- 2. If necessary, seeks ordinance interpretation from the Board of Appeals;
- 3. Make advisory comments about the site plan based on site plan review standards; and/or
- 4. Forwards the complete application with comments to the Planning Commission for review and approval.

(2) *The Planning Commission.*

(a) Reviews the site plan according to the site plan review standards, as set forth in this chapter;

(b) Reviews the proposed special use according to standards for special use permits, as set forth in this chapter;

(c) Reviews for compliance with any and all additional site facility design requirements and standards, as may be required by this chapter; and

(d) Holds a public hearing pursuant to § 154.424 of this chapter.

(D) *Final approval, denial or approval with conditions to be in writing.* When an application for a special use is finally approved, denied or approved subject to conditions, the decision must be incorporated into an official written statement that contains the conclusions relative to the special use permit request. The decision shall specify the basis for the decision and any conditions that may be imposed in the case of approvals.

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

(F) *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 or stage shall be made.

(G) *Appeals.* No appeal shall be allowed to the Zoning Board of Appeals for the denial of a special use approval or for any conditions of approval.

(Ord. passed 7-12-2012, § 7.10)

SUPPLEMENTARY USE REGULATIONS

§ 154.205 GENERAL.

In addition to the general regulations set forth in §§154.245 through 154.274, 154.285 through 154.290, 154.305 through 154.318, 154.330 through 154.338 and 154.395 through 154.403 of this chapter (and regulations contained elsewhere in this chapter), the following are specific regulations and design standards for uses listed in this subchapter, and shall be the minimum governing requirements for the protection of the public health, safety and general welfare of the community.

(Ord. passed 7-12-2012, § 8.1)

§ 154.206 MANAGED GROWTH, DEVELOPMENT AND AGRICULTURAL PRESERVATION; LIMITATIONS ON NON-AGRICULTURAL USES IN THE AG-1 ZONING DISTRICT.

In recognition of local, state and national policies toward preserving agricultural resources; and the fact that both the topography of the township and its various agricultural uses historically foster much of the area's rural economic character and identity, the township hereby states its intent to preserve for agriculture, as much as possible, that land within its boundaries that is deemed to be prime agricultural soils, according to U.S. Soil Conservation Service criteria. Pursuant to this intent, a maximum density for non-agricultural dwellings is hereby established. In addition, controls and limitations shall

also be imposed for all other non-agricultural uses.

(Ord. passed 7-12-2012, § 8.2)

§ 154.207 MAXIMUM DENSITY REQUIREMENTS AND DEPTH-TO-WIDTH RATIO FOR NON-AGRICULTURAL DWELLINGS IN THE AG-1 ZONING DISTRICT.

(A) *Maximum number of lots.*

(1) The maximum number of lots that may be created for new non-agricultural dwellings in the Ag-1 Zoning District, in addition to creating a lot for an existing dwelling unit pursuant to division (A)(2) below, shall be based on the gross area of the lot of record that is to be split, as listed in the following table:

Permitted Lot Split Table ("Sliding Scale")	
Area of Lot of Record	Maximum Additional Lots Permitted for New Dwelling Units
Permitted Lot Split Table ("Sliding Scale")	
Area of Lot of Record	Maximum Additional Lots Permitted for New Dwelling Units
Less than 10 acres	0
10 - 19.99 acres	1
20 - 39.99 acres	2
40 - 59.99 acres	3
60 - 79.99 acres	4
80 or more acres*	5*

NOTES TO TABLE:
 *In addition to the 5 permitted additional lots, a lot of record of 80 or more acres is entitled to 1 additional lot for each increment of 20 acres in excess of 80 acres. (For example, a lot of record of 100 acres is entitled to a maximum of 6 additional lots, a lot record of 120 acres is entitled to a maximum of 7 additional lots, and so forth).

(2) In addition to the number of lots allowed under the table in division (A)(1) above, every farm in the Ag-1 Zoning District that contains a single-family dwelling existing before 8-8-2000 shall be allowed to split a lot from the lot of record and create a new lot for the existing dwelling. This new lot shall comply with § 154.273 of this chapter (except as provided in division (C) below), this section, and other applicable provisions of this chapter for dwellings in the Ag-1 Zoning District.

(3) No splits exceeding the number of splits permitted under divisions (A)(1) and (A)(2) above shall be allowed. After all permitted splits are made, the remaining portion of the lot of record may be used only for agricultural enterprises or other permitted uses excluding non-agricultural dwellings.

(4) A lot created for a new non-agricultural dwelling and the remaining portion of the lot of record for agricultural enterprise shall comply with § 154.273 of this chapter (except as provided in division (C) below), this section and other applicable provisions of this chapter.

(5) The above regulations shall not cause the lot of record to be split in such a manner that would violate the lot split provisions contained in the Land Division Act, Public Act 288 of 1967, as amended. Any provision of this chapter notwithstanding, the township is not responsible for any violations of this chapter or Ch. 151 of this code of ordinances.

(6) For purposes of this section, a **LOT OF RECORD** is a lot of record, as defined in §154.006 of this chapter, which exists as of the effective date of this section of this chapter (8-8-2000). However, when two or more lots of record, as defined herein, are contiguous and under common ownership on the effective date of this section (8-8-2000), and the lots are subsequently combined into a single lot, the combined single lot shall constitute the "lot of record" for purposes of determining the maximum number of lots that may be created for new non-agricultural dwellings pursuant to this section.

(B) *Depth to width ratio; minimum and maximum lot size.* Each new lot created for a non-agricultural dwelling pursuant to divisions (A)(1) and (A)(2) above shall not have a depth of more than four times its width, shall have a lot size of not less than one acre and not more than two acres and shall have a minimum road frontage of 200 feet. These restrictions shall apply at the time of creation of the lot and thereafter and shall not be violated by the subsequent transfer of property to the lot from an adjacent parcel. For purposes of this section, the depth of a lot shall be measured within the boundaries of the lot from the abutting road right-of way to the most remote boundary line point of the parcel from the point of commencement of the measurement, excluding access roads or easements.

(C) *Exception to minimum lot size; agricultural enterprises.* If a lot of record of 48 acres or less is split to create a lot for a non-agricultural dwelling pursuant to this section, the minimum net building area for agricultural enterprises on the remaining portion of the lot of record shall be 80% of the area of the lot of record. This provision applies notwithstanding the minimum

net building area for agricultural enterprises in the Ag-1 Zoning District in § 154.273 of this chapter. If a lot of record of more than 48 acres is split to create a non-agricultural dwelling pursuant to this section, the minimum net building area for agricultural enterprises on the remaining portion of the lot of record shall be 40 acres as provided in § 154.273 of this chapter.

(D) *Monitoring lot splits.* The township recognizes that proper administration of the “sliding scale” concept is important in meeting the intent of this chapter. The following procedures have been established to help ensure proper monitoring of lot splits.

(1) Concurrent with the adoption of this section of this chapter, an official map indicating existing lots of record, parcel numbers and land ownership shall be established along with an official register containing this information.

(2) An allotment of non-agricultural dwelling units possible under this chapter shall be made for each parcel in the Ag-1 Zoning District.

(3) As allotments are used up, the official map and register shall be updated to reflect these changes.

(4) The official map and register shall be maintained by the Township Clerk and copies made available for inspection by the public.

(E) *Preexisting lots of record; non-agricultural dwellings.*

(1) A new non-agricultural dwelling shall be permitted on a lot of record that:

(a) Existed as of 8-8-2000 is more than one acre and less than ten acres in size;

(b) Is not under common ownership with a contiguous lot that would create a lot of at least ten acres in size if the two lots were combined; and

(c) Complies with § 154.273 of this chapter.

(2) Except for a non-agricultural dwelling on a lot of record described in division (E)(1) above, a new non-agricultural dwelling shall not be permitted on any lot other than a new lot created for such purpose by a lot split permitted under division (A) above.

(3) The provisions of this division (E) shall apply notwithstanding any other provision of this chapter.

(F) *Variation of maximum or minimum lot size - special use.*

(1) Although in the Ag-1 Zoning District, the minimum lot size requirement for a farm or agricultural enterprise is generally 40 acres (§ 154.273 of this chapter), and the maximum lot size for a non-agricultural dwelling unit is two acres (pursuant to this section and § 154.273 of this chapter), certain unusual circumstances may arise that, with special use approval, could merit and justify the creation of a parcel for farm or agricultural uses under 40 acres or the creation of a new lot for a non-agricultural dwelling unit over two acres in size.

(2) If approved as a special use, the Planning Commission may authorize the creation of a new parcel under 40 acres in size for farm/agricultural uses or a parcel larger than two acres in size for a non-agricultural dwelling unit subject to the following conditions and requirements.

(a) For a lot of record, only one parcel under 40 acres in size can be approved as a special use for farm/agricultural use or one parcel over two acres in size can be approved for a non-agricultural dwelling unit. If that occurs, all other lots or parcels created from that lot of record shall fully comply with the minimum lot size requirements of § 154.273 of this chapter and any other ordinance requirements. No special use approval shall be granted by the Planning Commission if any other lot or parcel has already been split or divided off of the lot of record involved (since 8-8-2000).

(b) As a condition of approval of any such special use, all remaining permitted lot splits or land divisions for new non-agricultural dwelling units specified in division (E) above shall be extinguished and a permanent deed restriction may be placed on the property or properties involved to effectuate the extinguishment of such land division or split rights. Such deed restrictions shall be prepared at the expense of the applicant, be in a form and have language as approved by the Township Supervisor (or such other township official as may be designated by the Township Board), shall be signed and properly executed by all of the then-owners of the property involved, and shall be recorded with the county's Register of Deeds' records. No such split or land division shall occur until proof that such deed restriction has been recorded with the county's Register of Deeds' records has been provided to the township.

(c) In addition to the general standards for a special use contained in §154.186 of this chapter, the Planning Commission shall also find that the following standards are also met before approving a special use hereunder:

1. The granting of such special use will not have an adverse impact upon remaining or adjoining agricultural properties or uses;

2. The non-agricultural dwelling and driveway shall be located so as to minimize or avoid conflicts between the residents of the proposed dwelling and nearby farmland and to have the least impact on the ability to farm the adjacent land taking into account odors, pesticide and fertilizer application noise from farm equipment operation and other activities normally associated with farming;

3. To the extent possible, the non-agricultural dwelling unit shall be located on land that is difficult or unlikely to be

used for agricultural production due to soil types, poor drainage, wetlands, topography, woods or similar conditions;

4. The lot and driveway shall not have the effect of dividing the parent parcel land (original lot of record) into such isolated or small areas that these areas cannot feasibly be used for farming; and

5. Access to any agricultural use or property from the original lot of record shall not be impeded or obstructed.

(3) The proposal will not be contrary to the agricultural preservation goals for the Ag-1 Zoning District, pursuant to § 154.022 of this chapter.

(Ord. passed 7-12-2012, § 8.3; Ord. 2020-01, passed - -2020) Penalty, see § 154.999

§ 154.208 HOME OCCUPATIONS.

Home occupations, as defined in this chapter, are permitted as an accessory use as provided in §154.247 of this chapter; provided that, all of the following regulations shall control.

(A) No other than members of the family residing in the dwelling shall be engaged in connection with such home occupation at the same time.

(B) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and not more than 25% of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

(C) There shall be no change in the outside appearance of the building, no variation from the residential character of the dwelling, and no visible evidence of the conduct of such home occupation other than one sign, not exceeding two square feet in area, non-illuminated and mounted flat against the wall of the main building.

(D) No home occupation shall be conducted outdoors or in any accessory building.

(E) There shall be no sale of products or services, except as are produced on the premises by such home occupation.

(F) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

(G) No equipment or process shall be used in such home occupation that creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the premises if the occupation is conducted in a single-family dwelling. If conducted in other than a single-family dwelling, such nuisance shall not be detectable outside the dwelling unit. In the case of electrical interference, no equipment or process shall be used that creates visual or audible interference in any radio or television receivers off the premises or cause fluctuations in line voltage off the premises.

(H) In particular, a home occupation can be, but is not limited to: art studio; dressmaking; teacher, with musical or dancing instruction limited to four to six pupils at a time; contractor's office; professional office or studio or a physician, dentist, author, artist, musician, lawyer, engineer, architect, community planner, realtor, accountant or similar use; but shall not include animal hospital, automotive repair service, barbershop, beauty parlor, restaurant, tearoom, tavern or similar use.

(Ord. passed 7-12-2012, § 8.4) Penalty, see § 154.999

§ 154.209 MEDICAL MARIJUANA.

(A) A registered primary caregiver, as defined by and in compliance with the general rules of the state's Department of Community Health, Michigan Administrative Code, R 333.201 through R 333.203 (the "general rules"), the state's Medical Marijuana Act, PA 2008, Initiated Law 1, being M.C.L.A. §§ 333.26421 et seq. (the "Act"), and the requirements of this section, shall be allowed as a home occupation.

(B) (1) Nothing in this section, or, in any companion regulatory section adopted in any other provision of this chapter, is intended to grant, nor shall they be construed as granting immunity from prosecution for growing, selling, consuming, using, distributing or possession of marijuana where otherwise prohibited by law.

(2) Since federal law is not affected by the Act or the general rules, nothing in this section or in any other provision of this chapter, is intended to grant, nor shall they be construed as granting immunity from criminal prosecution under federal law. The Act does not protect users, caregivers or the owners of properties on which medical use of marijuana is occurring from federal prosecution or from having property seized by federal authorities under the Federal Controlled Substances Act, being 21 U.S.C. §§ 801 et seq. or other applicable law.

(C) In addition to the regulations for all home occupations contained in this chapter, the following additional requirements for a registered primary caregiver shall also apply.

(1) The medical use of marijuana shall comply at all times and in all circumstances with the state's Medical Marijuana Act and the general rules of the state's Department of Community Health, as they may be amended from time to time.

(2) Not more than one primary caregiver per dwelling unit shall be permitted. The dwelling unit shall be the principal residence of the primary caregiver.

(3) Medical marijuana shall be delivered to the qualifying patient where the qualifying patient resides. Pick up of

medical marijuana from the primary caregiver's dwelling is prohibited. Transactions relating to compensation of costs associated with assisting a qualifying patient are prohibited from occurring at the primary caregiver's dwelling.

(4) All medical marijuana shall be grown and contained within the dwelling unit, and such uses shall occur within the dwelling in an enclosed, locked facility inaccessible on three sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient, as reviewed and approved by the township's Building Official.

(5) A registered primary caregiver shall not display a sign associated with the home occupation.

(Ord. passed 7-12-2012, § 8.6) Penalty, see § 154.999

§ 154.210 RESEARCH AND DEVELOPMENT FACILITIES.

(A) A research and development facility is allowed if approved as a special use.

(B) The Planning Commission shall require the following design standards:

(1) The parcel of property for the proposed use is at least five acres in size;

(2) The ratio of total floor space counting all floors of all buildings to land area shall not exceed one-to-ten, but total floor area shall not exceed 100,000 square feet and floor area in any one building shall not exceed 200,000 square feet, but these requirements shall not apply to lawfully existing buildings as of the time of adoption of this chapter that are authorized for purposes allowed by this section, save the maximum limitation;

(3) All buildings shall be designed in such a way that they architecturally resemble farm type buildings, if located in the Ag-2 Zoning District;

(4) All parking and loading docks shall be within enclosed building(s) or placed or screened with trees, shrubbery or buildings such that cars or trucks parked there cannot be seen from any adjoining property or street;

(5) All activities shall be conducted within enclosed buildings;

(6) Property must be maintained, sprayed and traps placed such as to prevent any adverse effect upon surrounding agricultural property from any type of insect or disease;

(7) No noise, odor, gas, dust, vibration, glare, smoke or other substance of any degree shall emanate beyond the property lines of the lot upon which it is located;

(8) There will be no adverse effect upon property values to adjacent properties;

(9) There shall be a maximum of eight full-time employees at any one time per acre;

(10) All new utilities shall be placed underground;

(11) On-site signs must comply with the applicable sign regulations of this chapter; and

(12) Once approval is granted as provided herein, the research and development facility cannot be changed or used in any manner than would be contrary to any conditions made as part of the special use permit approval, nor contrary to the approved site plan.

(Ord. passed 7-12-2012, § 8.7)

§ 154.211 SANITARY LANDFILLS.

Sanitary landfills may be approved as a special use, but only when it is established that:

(A) There are no existing residential structures within 660 feet of the proposed landfill;

(B) 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;

(C) There must be 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 and/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;

(D) Two test wells shall be drilled within 75 feet of area used directly for the placement of hazardous and liquid wastes; and shall be monitored and tested monthly for purity and copies of those tests shall be filed with the Township Clerk within 30 days of taking the samples. The monitoring and testing of these wells and filing of tests shall continue even after the site is no longer used; and

(E) The hazardous or liquid materials are not placed within 500 feet of any natural or artificial body of water or wetlands. (See §§ 93.20 and 93.21 of this code of ordinances, as amended.)

(Ord. passed 7-12-2012, § 8.8) Penalty, see § 154.999

§ 154.212 ANIMAL KENNELS.

Kennels, as defined by § 154.006 of this chapter, must comply with all of the following.

(A) All kennels shall be operated in conformance with all applicable state, county and local township regulations including Ch. 90 of this code of ordinances.

(B) All kennels must be inspected and approved by the county's Director of Animal Control (or successor agency) or his or her agents on an annual basis.

(C) Minimum lot size shall be two acres for the first four animals and one-third additional acre for each additional animal.

(D) Structures wherein animals are kept and exercise areas shall not be located within 100 feet of any occupied dwellings or any public buildings and shall not be located in any required yard setback.

(E) Such facility shall also be subject to other conditions and requirements as may be deemed necessary by the state, county or township in order to ensure nuisance abatement (such as, fencing, landscaping, screening, sanitary precautions and the like).

(Ord. passed 7-12-2012, § 8.9) Penalty, see § 154.999

§ 154.213 ANIMAL HOSPITALS.

(A) The front yard setback for any principal or accessory structure shall be 75 feet from the front lot line. All other yard setbacks shall be at least 50 feet.

(B) All principal uses shall be conducted within a totally enclosed building.

(Ord. passed 7-12-2012, § 8.10) Penalty, see § 154.999

§ 154.214 DISPOSAL SITES FOR HAZARDOUS AND LIQUID MATERIALS.

Wherever proposed, a special use approval is required; however, no hazardous or liquid materials shall be placed or allowed to be placed within a disposal site or sanitary landfill by any individual(s), corporation, partnership, municipal corporation or other entity unless the provisions of §§ 93.20 and 93.21 of this code of ordinances are met and also the following requirements are met.

(A) There are no existing residential structures within 660 feet of the storage or disposal site.

(B) 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.

(C) 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.

(D) 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.

(E) 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.

(F) 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.

(G) 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.

(H) 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.

(I) There must be a PVC liner of 20 mil thickness between the barrier above provided for and the hazardous or liquid wastes.

(J) There must be a separation of at least 12 feet from the liquid or hazardous material mass and the highest point the water table has been within the last 50 years.

(K) (1) Two test wells shall be drilled within 75 feet of area used directly for the placement of hazardous and liquid wastes, and shall be monitored and tested monthly for purity and copies of those tests shall be filed with the Township Clerk within 30 days of taking the samples.

(2) The monitoring and testing of these wells and filing of tests shall continue even after the site is no longer used.

(L) When the area is no longer used for the disposal of liquid and hazardous materials, the area must be covered with at

least four feet of cover and must be graded and planted with grass and must be in such a state as to be walked on without any sinking and usable for at least recreational activities.

(M) The hazardous or liquid materials shall not be placed or stored within 500 feet of any natural or artificial body of water or wetlands.

(N) Samples of all liquid or hazardous wastes shall be obtained before disposal and kept and their origin, date of receipt by landfill, quantity, pH level and chemical composition shall be disclosed along with the name of the material and this information shall be recorded and be compiled each month and a copy filed with the Clerk of the township.

(Ord. passed 7-12-2012, § 8.11) Penalty, see § 154.999

§ 154.215 AIRFIELDS OR LANDING STRIPS.

(A) An **AIRCRAFT** shall be defined as **PERMANENTLY BASED** at an airfield when it is continuously operated out of and based on such an airfield or landing strip for more than 45 continuous days, or when it is based at said airfield or landing strip for more than 90 days in any 12-month period. An aircraft that is inoperable or not currently licensed as airworthy, as that term is defined under the Federal Aviation Regulations, shall not be deemed permanently based, even if it is at said airfield or landing strip for more than 45 days continuous or 90 days in any 12-month period. Airfields or landing strips shall only be allowed within agricultural districts. All airfield or aircraft landing strips, at which there are permanently based aircrafts belonging to more than three different owners shall be allowed as a special use only after a report by the Planning Commission as to its effect on existing or future development in the zoning district.

(B) Prior to approval, the Planning Commission must determine that:

- (1) Such use will not adversely affect existing or future development of the district;
- (2) The take-off and landing pattern within 200 feet of the end of the runway does not pass over an occupied structure;
- (3) The landing strip and areas upon which airplanes taxi are at least 50 feet from any property line;
- (4) The safety of the citizens of the township is not adversely affected;

(5) The airport must be of such size, with the runways so located, that the operation thereof, in accordance with the standards and requirements of the Federal Aviation Administration, will not require limitation of the heights of structures on adjacent land to less than the height limit specifically prescribed for the district in which such land is situated; and

(6) Every land area used by any aircraft under its own power shall be provided with a dustless surface.

(Ord. passed 7-12-2012, § 8.12) Penalty, see § 154.999

§ 154.216 FARM LABOR HOUSING.

Farm labor housing is allowed as either a primary or accessory use in the agricultural zoning districts (Ag-1 and Ag-2). A special use approval is required, except as provided in division (H) hereof. In addition to § 154.186 of this chapter, the following specific standards, requirements and conditions shall also apply:

(A) Farm labor housing is required to comply with the Michigan Public Health Code being Act 368 of the Public Acts of Michigan of 1978, as amended, including any rules promulgated pursuant thereto.

(B) Occupants of the farm labor housing must be employed for farm or agricultural labor. Members of a qualifying occupant's immediate family may also reside in the farm labor housing with the working occupant even if those family members are not employed for farm or agricultural labor.

(C) Mobile homes may be used to provide such housing, but must meet the size limitations of the state and as provided in division (G) hereof. There shall be no more than five mobile homes per lot.

(D) Farm labor housing shall not be placed within 100 feet of a property line not adjacent to a public street and must be at least 75 feet from the public street right-of-way on which the property fronts. These limitations as to distance from a property line shall not apply to an area presently and lawfully used for farm labor housing at the adoption of this section, but in no case will an existing area used for farm labor housing be allowed to expand closer to any property line, which is within 100 feet.

(E) Farm labor housing may be permitted on a lot which contains a minimum of five acres and which complies with all other requirements of this section. For a principal use, such lot shall be adjacent to a lot being actively farmed and both lots shall be under the same or substantially similar ownership.

(F) Farm labor housing (and occupancy) shall not exceed 100 persons per lot.

(G) Minimum dwelling size requirements and density for farm labor dwellings shall fully comply with State of Michigan laws and requirements.

(H) Farm labor housing which is lawfully in existence as of the date that this section was added to the zoning code may be expanded without special use approval by up to 50% of lawful occupancy every ten years. Any new or expanded farm labor housing beyond that requires special use approval.

(I) The side yard setback for a farm labor dwelling may be reduced to ten feet where both the lot where the farm housing

is located and the adjoining lot are owned by the same person or entity and the lots are lawfully combined.

(Ord. passed 7-12-2012, § 8.13; Ord. 2021-1, passed 7-8-2021) Penalty, see § 154.999

§ 154.217 HOTELS, MOTELS AND MOTOR COURTS.

(A) Public access to the principal business shall be located so as not to conflict with access to adjacent uses or not adversely affect traffic flow on adjacent streets. Only one exit to the major thoroughfare shall be permitted.

(B) Where the front yard is used to provide access, a 25-foot wide greenbelt shall be provided and maintained along the front property line, except for driveway openings.

(C) Each unit of commercial occupancy shall contain a minimum of 250 square feet of gross floor area.

(D) Where adjacent to a residential zoning district, refer to §154.264 of this chapter.

(Ord. passed 7-12-2012, § 8.14) Penalty, see § 154.999

§ 154.218 BOWLING ALLEYS, INDOOR COMMERCIAL RECREATION AND SIMILAR USES.

(A) Public access to the site shall be located at least 75 feet from any intersection (as measured from the intersection of right-of-way lines to the edge of said access).

(B) The main and accessory buildings shall be located a minimum of 100 feet from any residential use.

(Ord. passed 7-12-2012, § 8.15) Penalty, see § 154.999

§ 154.219 OPEN-AIR BUSINESSES.

(A) Minimum lot area shall be one acre.

(B) Minimum lot width shall be 200 feet.

(C) Except in any agricultural zoning district, a five-foot fence or wall shall be constructed along the rear and sides of the lot, capable of keeping trash, paper and other debris from blowing off the premises, except as provided otherwise in this chapter.

(D) An open air business shall comply with all applicable Health Department regulations regarding sanitation and general health conditions.

(E) Unless specifically waived by the Planning Commission, a building of not less than 500 square feet of gross floor area shall be constructed on the premises for the office use in connection with the subject open air business.

(F) The Planning Commission may, to insure strict compliance with any regulations contained herein and required as a condition of the issuance of a permit for an open air business use, require the permittee to furnish a surety bond executed by a reputable surety company authorized as to do business in the state, or in the sole discretion of the Planning Commission, a cash bond or letter of credit, in an amount determined by the Planning Commission hereunder. In fixing the amount of such security, the Planning Commission shall take into account the size and scope of the proposed open air business use, current prevailing cost of rehabilitating the premises upon default of the operator of the use, estimated expenses to compel the operator to comply by court decree and such other factors and conditions, as might be relevant in determining the sum reasonable in the light of all facts and circumstances surrounding each application.

(G) In addition to the above, for indoor-outdoor garden nurseries:

(1) The storage or materials display areas shall meet all the yard setback requirements applicable to any building in the zoning district;

(2) All loading activities and parking areas shall be provided on the same premises (off-street); and

(3) The storage of any soil, fertilizer or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.

(Ord. passed 7-12-2012, § 8.16) Penalty, see § 154.999

§ 154.220 GASOLINE SERVICE STATIONS (FILLING STATIONS).

(A) A special use approval is required.

(B) (1) All permanent storage of material, merchandise and equipment other than liquid fuel shall be within the building.

(2) Accessory buildings shall not be permitted.

(3) All lubrication, repair and servicing equipment shall be within the building.

(4) All repair work shall be done within the building.

(5) The storage of automobiles for a period in excess of 24 hours, unless the vehicle is enclosed within the building, is prohibited.

(6) The premises shall not be used for the sale of used or new vehicles.

(C) (1) No service station shall be erected within 25 feet of any residential area or dwelling. For screening, refer to § 154.265 of this chapter.

(2) Curb cuts shall not exceed 30 feet at the property line.

(3) Exterior lighting shall be so arranged as to reflect away from every adjacent property. There shall be no flashing or revolving lights.

(4) The minimum public road frontage shall be 140 feet and the minimum lot area shall be 15,000 square feet.

(5) The building shall be set back a minimum of 40 feet from every property line, and not less than 25 feet from any side or rear lot line adjoining a residentially zoned district.

(6) Driveways shall be a minimum of 20 feet from street intersections; said distance to be measured from the point of intersection of intersecting street rights-of-way. No driveway shall be located nearer than 20 feet to any residential property and shall be a minimum of ten feet from any abutting properties.

(7) Pump islands shall be located a minimum of 15 feet from any property line or public right-of-way.

(8) Driveways, service areas and parking areas shall be provided with pavement having an asphaltic 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.

(Ord. passed 7-12-2012, § 8.17) Penalty, see § 154.999

§ 154.221 CAR WASH ESTABLISHMENTS.

(A) Minimum lot size shall be 10,000 square feet.

(B) All washing activities must be carried on within a building.

(C) Vacuuming activities may be carried out only in the rear yard and at least 50 feet from any adjoining residential use.

(D) 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.

(Ord. passed 7-12-2012, § 8.18) Penalty, see § 154.999

§ 154.222 CONVALESCENT OR NURSING HOMES FOR SEVEN OR MORE PERSONS.

All provisions of the zoning district in which the use is allowed shall be met. In addition, the following minimum requirement must also be met. 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.

(A) *Height.* No building shall exceed a maximum of two and one-half stories or 35 feet in height, whichever is less.

(B) *Front yards.* No building shall be located closer than 35 feet to any street right-of-way.

(C) *Side yard.* No building shall be closer to any side lot line than 25 feet.

(D) *Rear yard.* There shall be a rear yard of at least 40 feet.

(E) *Floor area.* There shall be a minimum usable floor area of at least 250 square feet per patient.

(F) *Lot area.* There shall be a minimum lot area of 2,000 square feet for each patient and employee; provided, however, that, no lot shall contain less than 10,000 square feet.

(G) *Lot width.* No lot shall be less than 130 feet in width.

(H) *Parking.* See §§ 154.247 and 154.260 of this chapter.

(I) *Screened.* 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.

(J) *Sufficient size.* All care facilities shall contain a basement sufficient in size to accommodate all residents and employees during periods of high winds or tornados.

(K) *Approved site development plan.* An approved site development plan shall be required.

(L) *Residing in basement.* No resident of any care facility shall be housed in a basement.

(M) *Inspections.* Facilities shall be inspected by the Fire Chief, who shall furnish a report concerning his or her findings.

(N) *Density.* No care facility shall be located within 1,500 feet of another care facility.

(Ord. passed 7-12-2012, § 8.19) Penalty, see § 154.999

§ 154.223 GOLF COURSES AND COUNTRY CLUBS.

(A) Minimum lot size shall be 40 acres.

(B) A shelter building with toilet facilities shall be provided that meets all requirements of the county's Health Department.

(C) The main and accessory buildings shall be set back at least 75 feet from all property lines.

(Ord. passed 7-12-2012, § 8.20) Penalty, see § 154.999

§ 154.224 CAMPGROUNDS AND RECREATIONAL VEHICLE PARKS.

(A) Minimum lot size shall be three acres. The lot shall provide direct vehicular access to a public street or road. The term lot shall mean a campground or recreation vehicle park.

(B) Each site on a lot designated for camping use may accommodate a recreation vehicle or tent and shall be provided with individual electrical outlets and with individual bar-b-que facilities.

(C) Public stations, housed in all-weather structures, containing adequate water outlet, toilet, waste container and shower facilities shall be provided uniformly throughout the lot at a ratio of not less than one such station per each 20 sites.

(D) Each lot containing more than 60 sites shall provide a masonry building containing machine laundry (wash and dry) facilities.

(E) No commercial enterprises shall be permitted to operate on the lot; except that, a convenience goods shopping building may be provided on a lot containing more than 80 sites.

(F) Each lot shall provide a hard surface, dust-free vehicle parking area for site occupant and guest parking. Such parking area shall be located within 400 feet of the site it is intended to serve (except in the case of sites specifically designated only for tent camping), each parking space shall be 200 square feet in area and parking spaces for two vehicles shall be provided on each site.

(G) Each site shall contain a minimum of 1,500 square feet, except that the minimum size for sites specifically designated for tents shall be 3,000 square feet. Each site shall be set back from any public right-of-way or property line at least 75 feet, and from any private street at least 40 feet.

(H) A common use area shall be provided on each lot at a ratio of not less than 1,000 square feet of such area per each site. This common area shall be developed by seeding, landscaping, picnic tables, bar-b-que stands and passive recreation equipment (such as, swings, horseshoe pits, shuffleboard courts and the like) for the general use of all occupants of the entire lot.

(I) Each recreation vehicle site shall have direct access to a hard surfaced, dust free roadway of at least 24 feet in width for two-way traffic and 12 feet in width for one-way traffic. Parking shall not be allowed on any roadway. Public streets shall be paved with asphaltic concrete. Sites specifically designated and used for tent camping, need not have direct vehicular access to any street or road but shall be provided with adequately cleared and marked pedestrian pathway access that originates at a point on a street or road within 200 feet of the parking area mentioned above.

(J) Any open drainageways must have seeded banks sloped at least three-to-one and designed to properly drain all surface waters into the county drain system, subject to approval by the county's Drain Commissioner.

(K) All sanitary facilities shall be designed and constructed in strict conformance to all applicable county health regulations.

(L) The development of the entire lot is subject to all applicable requirements of the Department of Natural Resources.

(M) A minimum distance of 15 feet shall be provided between all recreational vehicles and tents.

(N) Fences and greenbelts shall be required by the Planning Commission. The location of common use areas, roadways, streets and buildings shall be subject to approval by the Planning Commission.

(Ord. passed 7-12-2012, § 8.21) Penalty, see § 154.999

§ 154.225 JUNKYARDS.

(A) A special use approval is required. In addition, the following more restrictive provisions shall take control above all other local provisions relating to setbacks, screening and the like. Furthermore, all junkyards and facilities shall be established and maintained in accordance with all applicable state of state statutes. If any of the following requirements are in conflict or at variance with applicable state statutes, the more restrictive or higher standard shall control.

(B) (1) The site shall be a minimum of five acres.

(2) Minimum required setback from any public street or road and any exterior lot line shall be 100 feet.

(3) The front yard shall be planted with evergreens and shrubs to minimize the appearance.

(4) A solid fence or wall at least eight feet in height must be located along the setback lines of the entire junkyard site in order to screen the use from all abutting public streets or roads and from all adjacent properties.

(5) All activities shall be confined within the fenced in area. There shall be no stocking of material above the height of the fence or wall; except that, movable equipment used on the site may exceed the wall or fence height. No equipment material, signs or lighting shall be used or stored outside the fencing area.

(6) No open burning shall be permitted and all industrial processes involving the use of equipment of cutting, compressing or packaging shall be conducted within a completely enclosed building.

(7) Wherever the side or rear lot line of such use abuts a residential use or a residential zoning district, refer to § 154.264 of this chapter.

(8) The site shall not be located within 500 feet of an existing residence or any residential district.

(9) For removal or storage of liquids, see §154.226 of this chapter.

(Ord. passed 7-12-2012, § 8.22) Penalty, see § 154.999

§ 154.226 REMOVAL AND STORAGE OF LIQUIDS.

(A) All vehicles that are brought into a junkyard as defined herein shall within 48 hours of having been brought onto the premises be inspected. The inspection shall be to determine if there are any liquids leaking from the vehicles. If there is any leaking of any liquids, all liquids, including, but not limited to, antifreeze, water, gasoline and oil shall be removed from any such vehicles, or the vehicles shall be immediately repaired to permanently prevent all leakage. In the event any vehicle is brought into a junkyard that has any damage affecting the engine or drive train, then all such liquids shall be immediately removed from such vehicle and brought into the premises. Removal of all such liquids shall be done within a completely enclosed building. Gasoline may be removed from vehicles outside of an enclosed building in an area that is designated for such removal. The area must meet all the minimum yard requirements for a building.

(B) The building area designated for removal of gasoline shall have a concrete, reinforced floor at least four inches thick and shall have concrete dikes or other similar type structures that will not allow any such liquids removed from vehicles to escape the building or the area designated for the removal of gasoline. The concrete floor dikes and other similar structures shall be maintained and constructed so that any such liquids cannot escape the building or the area designated for the removal of gasoline into the soil beneath or adjacent to such building or the area designated for the removal of gasoline and shall include water stops at joints, floors and dikes. Any water or any other liquids that go on to the floor shall be removed and disposed of in accordance with all state and federal statutes and regulations.

(C) All such liquids when on the premises shall be stored in leak-proof tanks that must be constructed and maintained such that the liquid cannot escape such tanks. All such tanks shall be below the surface of the ground in cradle in a concrete lined pit.

(D) Tanks for the storage of any such liquids shall be located at least ten feet from any wall or foundation of a building and 50 feet from any property line. Tanks shall not be located under any building. A distance of at least five feet shall be maintained between tanks in multiple tank installations. The concrete floor and walls of the pit in which any such tank is located shall be at least six inches thick. The concrete floor and walls shall be constructed and maintained so that any such liquids cannot escape into the soil beneath or adjacent to the pit and shall include water stops at joints. Any liquids that go into the floor of the pit shall be removed and disposed of in accordance with all state and federal statutes and regulations.

(E) One foot to four feet under any building used for the removal of such liquids under any concrete lined pit in which such storage tanks are placed, and under any area designated for the removal of gasoline, there shall be installed the following:

(1) At least four inches in diameter PVC, concrete or similar material culvert-type pipe all connected and laid out so that the pipe is immediately adjacent to the entire foundation of the building or area designated for the removal of gasoline or concrete lined pit and has lines of such pipe running parallel to the longest side of the building or area designated for the removal of gasoline or concrete lined pit every 20 feet or portion thereof of the width of the building or area designated for the removal of gasoline or concrete lined pit.

(2) All such pipe shall be perforated with one-quarter-inch holes spread 12 inches apart on two sides of the pipe and installed such that such holes are not on the top or bottom of the pipe when installed.

(3) All such pipe shall be surrounded on all sides by at least nine inches of one-half inch washed stone or pea gravel.

(4) On each side of the building and on at least two sides of the concrete lined pit or the area designated for the removal of gasoline, the pipe shall be extended to the surface of the ground and capped flush with the ground level with a screw-type cap. If the top of the pipe passes through concrete or asphalt or in an area used for vehicle traffic, it shall be located in a sleeve (manhole ring) with a cover for protection against vehicular damage and settlement. The cap to the pipe shall not be located inside any building and shall be accessible at all times.

(5) The pipe shall not be connected to any other pipes and must be sealed and capped, save for the perforations required herein but may also act as a footing drain system and be connected to a sump pump.

(6) Immediately under the building and tanks, there shall be a layer of clean sand and/or gravel and immediately thereunder a leak-proof liner made of a synthetic material of at least 60 mil thickness that will not deteriorate when placed in contact with such liquids. The liner shall be installed such that it slopes to any of the pipe herein required and then goes immediately under the pipe herein required.

(7) In the alternative to providing the leak-detection system herein stated under the tanks, a tank within a tank may be used provided a stand pipe similar to that required above is installed so as to enable detection of any leak within the inner tank. In the event any leak is detected in the inner tank, the tank shall either be repaired or replaced.

(8) The township, through the Zoning Administrator or Township Supervisor, may, at its or their discretion, require that the owner and/or occupant of the premises used as a junkyard submit to the township during each calendar year a chemical analysis of the water in the pipes described herein, which such analysis shall include, but not be limited to, a determination as to the presence of any oils, gasoline, grease, motor antifreeze and alcohol or other distillates and petroleum products. The Township Zoning Administrator, Township Supervisor or other individual designated by the township may at their discretion take samples of the water in the pipe described herein or of the tank within a tank at any time to determine if any of the liquids herein described have escaped into the ground or from the inner tank.

(9) Prior to the removal of any such liquids from any vehicles or the placing of any such liquids in the storage tanks, the owner and/or occupant of the premises shall have a chemical analysis done of the water in said pipes to determine a baseline level for such liquids, which shall be filed with the Township Clerk prior to the use of the buildings or tanks. Failure to do such chemical analysis shall create a presumption that the level of any such liquids found at a later date resulted from a leak of the tanks or a failure to properly contain such liquids as required herein. In the event any such analysis determines that there is any level of such liquids above the baseline level or if there was no baseline level determined, then any level whatsoever, then the township, in its discretion, may require the owner of the subject property to conduct a hydrogeological study by registered engineers to be conducted of the subject premises to determine if the ground water is being contaminated by any such liquids.

(Ord. passed 7-12-2012, § 8.23) Penalty, see § 154.999

§ 154.227 OFFICE DEVELOPMENTS (TWO OR MORE STRUCTURES).

(A) A special use and site plan approval by the Planning Commission are required.

(B) In order to facilitate innovative and attractive design of office uses, office developments shall be subject to the requirements of §§ 154.247 and 154.273 of this chapter and the following.

(1) Exterior walls of opposite or adjacent buildings shall be located no closer than one and one-half times the height of the higher building wall, but in no case closer than 50 feet.

(2) Buildings shall be so located and arranged that all structures have access to emergency vehicles.

(3) Maximum lot coverage upon lot shall not exceed 60%, including accessory uses and structures (off-street parking and the like).

(4) The ratio of total floor area to lot area shall not exceed one.

(Ord. passed 7-12-2012, § 8.24) Penalty, see § 154.999

§ 154.228 SHOPPING CENTER AND DEPARTMENT STORE DEVELOPMENTS.

(A) In order to provide for and encourage the development of long-term grouped retail sales and service establishments at logical and sound locations within the township, planned shopping centers and department store developments may be approved by special use (together with site plan approval) by the Planning Commission in the C-1, General Commercial District.

(B) Shopping center and department store developments are hereby defined as a retail commercial establishment, or group of retail commercial establishments, with a total gross sales floor area of 70,000 square feet or more, and which is planned, developed, owned and managed as a unit, with off-street parking provided on the property, and related in its location, size and type of shops to the trade area to which the unit serves.

(C) Shopping center developments are subject to the requirements of §§154.247 and 154.273 of this chapter and the following must also be met.

(1) (a) The applicant shall furnish a statement of economic justification and need for the establishment of a development of the type and size proposed by the applicant; to be submitted in a market analysis report by recognized, reputable market analyst. The statement and report shall be based upon, but not limited to, such factors as the trade area of the community, travel time from various parts thereof to the proposed site, general development trends, economic trends and disposable income characteristics of the area, anticipated sales volume to be captured, impact upon existing competing commercial facilities and other data and analysis related to the need for and feasible success and stability of the proposed center.

(b) This requirement is intended to protect the township and area merchants from the untimely and over-development of retail sales and service establishments that could prove highly injurious to the community welfare.

(2) A traffic study and analysis prepared by qualified experts indicating the circulation impact of the proposed development on adjacent streets and roads shall accompany the required site plan.

(3) Interior circulation and parking layout shall be shown on the site plan, along with the locations of traffic safety signs and accessory lighting structures.

(4) Architectural profiles of the development showing ground level perspectives, scale and massing from all road frontage shall be submitted.

(5) Proposed site shall derive access from a major thoroughfare only.

(6) Maximum lot coverage upon lot shall not exceed 70%, including accessory uses and structures, buildings and off-street parking and loading.

(7) The ratio of total floor area to lot area shall not exceed point three zero.

(8) A performance guarantee is required.

(Ord. passed 7-12-2012, § 8.25) Penalty, see § 154.999

§ 154.229 PLANNED INDUSTRIAL PARKS.

(A) In order to facilitate the growth of employment and to ensure a viable tax base for the township and to prevent the conflicts of incompatible industrial uses, planned industrial parks require special use and site plan approval by the Planning Commission in the I-1 and I-2 Districts.

(B) An **INDUSTRIAL PARK** is hereby defined as a tract of land laid out in accordance with an overall plan that is designed and equipped to accommodate a cluster of wholesale commercial and industrial activities, providing them with all necessary facilities and services in an attractive, park-like surrounding.

(C) Planned industrial parks shall be subject to the requirements of §§154.247 and 154.273 of this chapter and the following.

(1) In addition to a required site plan, all proposed planned industrial parks (public and private) shall first have an overall plan detailing the development concept, the spatial arrangement of site and structures and phased implementation and development, thereof.

(2) Exterior walls of adjacent buildings shall be located no closer than one and one-half times the height of the higher building wall, but in no case closer than 50 feet.

(3) The regulations of § 154.230 of this chapter shall be observed.

(4) The floor area of any one building shall not exceed 45,000 square feet.

(5) Maximum lot coverage shall not exceed 70%, including buildings, structures, accessory uses and off-street parking and loading.

(6) The ratio of total floor area to lot area shall not exceed one.

(7) A performance guarantee is required.

(Ord. passed 7-12-2012, § 8.26) Penalty, see § 154.999

§ 154.230 INDUSTRIAL PERFORMANCE STANDARDS (RESTRICTIONS ON THE CREATION OF DANGEROUS AND OBJECTIONABLE ELEMENTS).

It shall be unlawful to carry on or permit any activity or operation or use of land, building or equipment within the I-1, I-2, C-1 and C-2 Districts that produces irritants to the sensory perceptions greater than the measures herein established that are hereby determined to be the maximum permissible hazards to humans or human activities.

(A) *Sound.* The emission of measurable noises from the premises shall not exceed 65 decibels as measured at the boundary property lines; except that, where normal street traffic noises exceed such level, the measurable noise emanating from the premises may equal, but not exceed such traffic noise. Within industrial districts, sound levels not exceeding 70 decibels may be permitted. In addition, objectionable sounds of any intermittent nature, or characterized by high frequencies even if falling below the aforementioned decibel reading shall be controlled so as not to create a nuisance or hazard to adjacent properties. Above decibel rates shall refer to the commonly called A-scale.

(B) *Vibration.* All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of three-thousandths of one inch measured at any lot line of its source.

(C) *Odor.* The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines, when diluted in the ratio of one volume of odorous air to four or more volumes of clear air or as to produce a public nuisance or hazard beyond lot lines, is prohibited.

(D) *Toxic gases.* The escape of, or emission of any gas that is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated.

(E) *Glare and heat.* Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line, except during the period of construction of the facilities to be used and occupied.

(F) *Light.* All lighting shall be arranged to reflect light away from adjoining residential zones or uses.

(G) *Radioactive materials.* Radioactive materials shall not be emitted so as to be unsafe to human health or life.

(H) *Electromagnetic radiation.* The rules and regulations of the Federal Communications Commission, as amended with respect to the propagation and dissemination of electromagnetic radiation must be followed and are hereby made a part of this chapter.

(I) *Drifted and blown material.* The drifting or airborne transmission beyond the lot line of soot, particles or debris from any stockpile shall be unlawful and may be summarily caused to be abated.

(J) *Smoke, dust, dirt and fly ash.*

(1) It shall be unlawful to discharge into the atmosphere from any single source of emission whatsoever any air contaminator for a period or periods aggregating more than two minutes in any one-half hour that is:

(a) As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart as published by the United States Bureau of Mines and that is hereby made a part of this chapter. The Umbrascope readings of smoke densities, however, may be used when correlated with the Ringelmann Chart; and

(b) Of such opacity as to obscure an observer's view to a degree equal to or greater than the smoke described in division (J)(1)(a) above, except when the emission consists of only water vapor.

(2) The quantity of gas-borne or air-borne solids shall not exceed two-tenths grains per cubic foot of the carrying medium at a temperature of 500°F.

(K) *Liquid wastes.* No discharge shall be permitted at any point into any private sewage disposal system, or street, or into the ground of any materials in such a way or of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or objectionable elements, except when in accord with water quality standards of the state's Water Resources Commission, adopted by state legislature and administered by the state's Department of Natural Resources; and with the standards of such other state commissions having jurisdiction thereof.

(Ord. passed 7-12-2012, § 8.27) Penalty, see § 154.999

§ 154.231 SPECIAL EVENTS IN AG-1 AND AG-2 ZONING DISTRICTS.

(A) A special use permit is required in accordance with the requirements of §§154.185 through 154.194 of this chapter.

(B) The parcel on which the event is to take place shall contain a minimum of ten acres with a minimum of 200 feet of lot width.

(C) The parcel shall contain an occupied single-family dwelling.

(D) The applicant shall submit the following to the township as part of the application:

(1) A written description of:

(a) The types of events to be held;

(b) The frequency of events;

(c) Hours of operation;

(d) Provision for restroom facilities;

(e) Security and traffic control measures;

(f) Tents or other shelters to be erected;

(g) Sound system; and

(h) Other operational characteristics of the event.

(2) Ten copies of an accurate drawing shall be submitted illustrating the location of the parcel within the township, lot lines, setbacks of existing and proposed buildings, location and dimensions of the parking area, the width and location of access drives, location of exterior lights, event area, any tents or canopies to be used, distance to nearest dwelling unit off site and other relevant features of the site and the use as may be required by the Planning Commission; and

(3) Proof of liability insurance.

(E) The Planning Commission shall review the application and site drawing to confirm that the operation is designed to ensure the safety of users and that the use will not have a detrimental effect on nearby residents and property and will meet the special use approval standards of § 154.186 of this chapter as applicable.

(F) In approving the use the Commission may attach conditions in accordance with the provisions of §154.187 of this chapter including limiting the hours of operation and frequency of the use in order to protect nearby land uses. Failure to comply with the conditions of approval may result in the termination of the special use by the Planning Commission following a public hearing.

(Ord. 15-02, passed 2-12-2015) Penalty, see § 154.999

§ 154.232 MANDATORY PLANNED UNIT DEVELOPMENTS.

Please see § 154.275 of this chapter.

(Ord. 2022-1, passed 1-13-2022, § 8.30)

MISCELLANEOUS PROVISIONS

§ 154.245 EFFECT OF ZONING.

(A) Zoning affects every structure, building and use. Except as hereinafter specified, no building, structure or lot shall be used or occupied, and no building or part thereof or other structure shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except when in conformity with the regulations specified in this chapter and for the zoning district in which it is located.

(B) In case any building or part thereof is used, erected, altered or occupied contrary to law or to the provisions of this chapter, such building shall be declared a nuisance and may be required to be vacated, torn down or abated by any legal means and shall not be used or occupied until it has been brought into conformance.

(Ord. passed 7-12-2012, § 4.1)

§ 154.246 APPLICATION OF REGULATIONS.

(A) The regulations of this chapter and within each zoning district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land.

(1) 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 zoning district in which it is located.

(2) No building or other structure shall hereafter be altered:

(a) To accommodate or house a greater number of persons or families than permitted by the zoning district involved;
or

(b) To have narrower or smaller rear yards, front yards or other side yards, or other than permitted.

(B) No yard or lot existing at the time of passage of this chapter shall be subdivided or reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

(Ord. passed 7-12-2012, § 4.2) Penalty, see § 154.999

§ 154.247 SCHEDULE OF REGULATIONS; TABLES.

(A) (1) *Regulations generally.* Regulations affecting the use of buildings and land, and the bulk arrangement of buildings, materials and equipment occupying such land for each of the zoning districts are hereby established as set forth in the following table and in § 154.273 of this chapter.

(2) *Use table.* The table entitled "Table of Use Regulations" below shall be deemed to be part of this section (and this chapter), and is referred to herein as the "use table".

(3) *Bulk table.* The table entitled "Table of General Bulk Regulations" in §154.273 of this chapter shall be deemed to be part of this section (and this chapter), and is referred to herein as the "bulk table".

(4) *General regulations.* In accordance with other township codes, ordinances and regulations duly adopted by the Township Board, and in accordance with this chapter, no building or land use activity shall hereafter be erected, relocated, altered, moved or expanded in its exterior dimension or use, and no excavation for any building shall be begun until a zoning permit has been issued. With respect to this chapter, eligibility for such a permit shall be established upon conformance with the provisions contained herein.

(5) *Certificate of occupancy required.* No building, dwelling or other structure, or land platted or unplatted subject to the provisions of this chapter shall be occupied, inhabited or used until a certificate of occupancy is issued.

(Ord. passed 7-12-2012, § 4.3)

(B) Appendix A, attached to the ordinance codified herein, is hereby adopted by reference and incorporated herein as if set out in full.

(Ord. passed 7-12-2012, App. A) (Ord. 15-02, passed 2-12-2015; Ord. 15-03, passed 2-12-2015)

§ 154.248 RESTORING UNSAFE BUILDINGS.

Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the township or the county's Health Department.

(Ord. passed 7-12-2012, § 4.4)

§ 154.249 MINIMUM FLOOR AREA FOR DWELLING UNITS.

As shown in § 154.273 of this chapter, each new dwelling unit shall have a minimum finished interior floor area in accordance with the following standards.

(A) *Single-family detached.* Each new dwelling unit shall have a minimum total finished floor area of at least 720 square feet. In addition, for units of more than one story, a minimum of 720 square feet of finished floor area is required for the first floor. In the event the dwelling unit has less than 960 square feet of finished floor area, the dwelling unit must be so situated on the lot so as to have sufficient area in its rear and side yards so as to be able to construct an addition that would bring the finished total floor area up to at least 960 square feet.

(B) *Attached single-family, or two-family.* Each new dwelling unit shall have a minimum finished floor area of 720 square feet. In addition, for units of more than one story, a minimum of 720 square feet of finished floor area is required for the first floor.

(C) *Multiple-family dwellings.*

For:	Required Minimum Finished Floor Area/ Unit in Square Feet
Efficiency	375 square feet
1 bedroom	600 square feet
2 bedrooms	800 square feet
3 bedrooms	1,000 square feet
In excess of 3 bedrooms	1,000 square feet + 80 square feet for each additional bedroom

(D) *Sewer utilities.* Each dwelling unit and principal structure shall be equipped with adequate sewage disposal facilities to comply with the county’s Sanitary Code (or successor code) in effect at the time of the erection or enlargement of said dwelling or principal structure. Where public utilities exist within 200 feet of the dwelling, the owner or developer shall be required to hook up with such system.

(Ord. passed 7-12-2012, § 4.5) Penalty, see § 154.999

§ 154.250 STRUCTURES TO HAVE ACCESS.

Every principal structure and building hereafter erected or moved shall be on a lot abutting a public street or private road.

(Ord. passed 7-12-2012, § 4.6) Penalty, see § 154.999

§ 154.251 ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE PROHIBITED.

(A) In all zoning districts, not more than one building housing a permitted principal use may be erected on a single lot; except that, more than one building for business, commercial, industrial, agricultural or multi-family uses may be located on a single lot if the additional buildings are an integral part of the same business, commercial, industrial, agricultural or multi-family operation and provided that the use and the buildings otherwise comply with the provisions of this chapter.

(B) Not more than one principal use shall be conducted upon any lot or parcel of property, and only uses accessory to such principal use shall be permitted therefor.

(Ord. passed 7-12-2012, § 4.7) Penalty, see § 154.999

§ 154.252 ACCESSORY BUILDINGS AND USES.

Accessory buildings and uses shall be subjected to the following regulations.

(A) No accessory building or accessory use shall be erected or conducted in any front yard unless such accessory building or accessory use is located at least 300 feet away from the public road or private street upon which the lot involved is located.

(B) No accessory building or accessory use shall be erected or conducted within five feet of any other building or within ten feet of any property line.

(C) No accessory building shall be used for, or occupied as, a dwelling.

(D) Every single-family and two-family dwelling may provide one private garage for use by the occupants of the single- or two-family dwelling. This private garage may be attached to the dwelling or detached from the dwelling. The maximum size of such private garage shall not exceed the greater of 816 square feet or 70% of the floor area of the dwelling unit that it serves, but in no case shall the size of the private garage exceed 1,200 square feet.

(E) Every single-family dwelling and two-family dwelling may have not more than one primary accessory building and one

smaller accessory building (noted below as a shed), in addition to the attached or detached garage permitted herein, provided that the following requirements are met:

(1) Accessory building height, as described below, is a measurement of side wall height, and is measured from the existing grade to the bearing point of the roof truss. Total accessory building height, measured from the existing grade to the peak of the roof, may not exceed 35 feet;

(2) On a parcel of property less than two acres in size, accessory buildings are permitted as follows:

(a) One shed, not larger than 120 square feet and not taller than 12 feet in height; and

(b) A primary accessory building that shall not exceed the total area stated as follows, as measured along the exterior walls, nor exceed the height of 16 feet.

1. A parcel one acre in size or smaller - 1,200 square feet;

2. A parcel over one acre but two acres or less in size - 1,500 square feet;

(3) On a parcel of property at least two acres in size, but less than five acres in size, accessory buildings are permitted as follows:

(a) One shed, not larger than 200 square feet and not taller than 12 feet in height; and

(b) A primary accessory building that shall not exceed the total area stated as follows, as measured along the exterior walls, nor exceed the height of 16 feet.

1. A parcel over two acres but three acres or less in size - 1,800 square feet; and

2. A parcel over three acres but less than five acres in size - 2,100 square feet.

(4) On a parcel of property at least five acres in size, but less than ten acres in size, accessory buildings are permitted as follows:

(a) One shed, not larger than 240 square feet and not taller than 12 feet in height; and

(b) A primary accessory building that shall not exceed 2,400 square feet in total area, as measured on the exterior walls, nor exceed a height of 16 feet.

(5) On any parcel of property ten acres or more in size, accessory buildings are permitted as follows:

(a) One shed, not larger than 320 square feet and not taller than 12 feet in height; and

(b) A primary accessory building that shall not exceed 3,200 square feet in total area measured on the exterior walls, nor exceed a height of 16 feet.

(Ord. passed 7-12-2012, § 4.8; Ord. 14-01, passed 9-11-2014; Ord. 2020-01, passed - -2020) Penalty, see § 154.999

§ 154.253 EXCEPTIONS TO HEIGHT REGULATIONS.

The height limitations contained in § 154.273 of this chapter do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys or other appurtenances, since the items are usually required to be placed above the roof level and not intended for human occupancy. However, height limitations shall apply to the above-mentioned structures and to all other structures located within the Airport Overlay Zone and as regulated in §§ 154.055 through 154.058 of this chapter.

(Ord. passed 7-12-2012, § 4.9)

§ 154.254 EXCEPTIONS TO YARD SETBACK REGULATIONS.

The setback limitations contained in § 154.273 of this chapter do not apply to steps, awnings or similar facilities that may project into a minimum required yard area; provided, however, that, said facilities may not extend more than five feet into the minimum required yard area.

(Ord. passed 7-12-2012, § 4.10) Penalty, see § 154.999

§ 154.255 UNDERGROUND HOMES.

An underground home, as defined in § 154.006 of this chapter, may be approved as a special use in any residential zoning district if the Planning Commission finds that all of the following requirements 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 and the like).

(C) A performance bond or other security deemed acceptable by the township is supplied to the township with the proposed architectural and site plans.

(D) The aforementioned performance bond shall include final landscaping of the site.

(E) There is no evidence of detrimental effect to adjoining property owners.

(F) The structure is certified by a licensed engineer to be in compliance with all building codes, ordinances, zoning requirements and accepted engineering principles.

(Ord. passed 7-12-2012, § 4.11) Penalty, see § 154.999

§ 154.256 MOBILE HOMES.

No person shall use or permit the use or installation of any mobile home as a permanent residence or for any other use on any lot not specifically zoned as mobile home park, except as follows.

(A) It shall be unlawful for any person to use, to park or cause to be parked any mobile home on any street, alley, highway or other public place in the township or use the same as a dwelling or any other use, either temporarily or permanently, or for overnight stops outside of a licensed mobile home park, except as provided in this section or as allowed migrant housing accessory to a farm.

(B) (1) Except in mobile home parks licensed and supervised by a duly authorized governing body, no mobile home of similar structure shall be used for dwelling purposes for more than ten days during any one year without a building permit from the Building Inspector, nor for more than four months out of a 12-consecutive-month period or any parts thereof after a building permit therefor has been first obtained from the Building Inspector. Said building permit shall be issued only after proof satisfactory to said Building Inspector shall have been submitted showing that proper toilet and sanitary facilities are available for use, that no fire hazard will be created, and that no overcrowding therein will result from such use for residence purposes at the location desired. Said permit shall be good only for the location designated thereon and for the year only when issued. A fee, as set by the Township Board for each trailer or unit, shall be paid at the time of application for said permit. The permit may be revoked by the Building Inspector if the above requirements are not maintained.

(2) In the event a mobile home or similar structure is used for dwelling purposes during reconstruction of a residential building destroyed or partially destroyed by an "act of God", a permit shall be required from the township for such period as permitted by this section.

(C) All mobile homes used for dwelling purposes 20 feet or more in length shall be provided with two exits that shall be spaced a sufficient distance apart to ensure a means of escape in the event of fire.

(D) (1) No mobile home shall be parked between the street right-of-way in the setback of any lot for a period longer than 24 hours during any seven-day period.

(2) Any such unit parked for over 30 days adjacent to the side of a house shall in all cases observe the side and rear yard requirements of this chapter.

(3) At no time whatsoever shall there be the parking for any purpose of such a unit longer than 30 feet within a residential zone other than in a licensed mobile home park.

(E) Mobile homes are considered dwelling units but are permitted in only those areas as, specified in this section, notwithstanding the fact that the term "dwelling" is used and stated to be allowed in other areas.

(F) A mobile home may be used outside of a licensed mobile home park as a single-family dwelling within the Ag-1, Ag-2, R-1 and R-2 Zoning Districts; provided that, the following conditions are met in addition to the requirements of the zoning district in which it is placed.

(1) There shall be a minimum square feet of living area equal to that required for a site built residence or dwelling in the zoning district in which it is placed.

(2) There shall be a minimum floor to ceiling height meeting the regulations of the United States Department of Housing and Urban Development.

(3) There shall be a minimum width throughout the entire length of the mobile home of at least 22 feet measured between the exterior part of the walls having the greatest length.

(4) There shall be a foundation around the entire exterior perimeter of the mobile home of concrete or block of a minimum depth of 42 inches below grade with a maximum height of 16 inches of exposed foundation and a minimum of eight inches exposed of foundation above grade of the same design as required by the Construction Code as adopted by the township for single-family residences. Installation of the mobile home shall be pursuant to manufacturer's specifications or the equivalent thereof including placement on piers having a depth of 42 inches below grade or a cross beam configuration on the perimeter wall provided above.

(5) There shall be a crawl space below the entire bottom of the mobile home.

(6) The mobile home shall be firmly attached to the foundation so as to be reasonably water-tight.

(7) All wheels, hitches and axles shall be removed and none of the undercarriage shall be visible from outside the mobile home.

(8) There shall be connected to the mobile home public water and sewer and/or a well or septic system approved by the county's Health Department.

(9) No storage of any personal property (except legally operable vehicles) shall occur outside the interior of the mobile home or a garage or other accessory building as may be allowed.

(10) There shall be permanently attached to the foundation steps and/or porch areas where an elevation differential exists between any door and surrounding grade.

(11) There shall be a minimum of a double pitched roof of not less than two and one-half feet of rise for each 12 feet of run, and the roof shall be covered by either asphalt, fiberglass or shake shingles unless 20% or more of the residences, excluding mobile homes, within one-half mile have a double pitched roof of less than two and one-half feet of rise for 12 feet of run, then a double pitched roof equal to the average pitch of said 20% residences may be used.

(12) There shall be exterior siding consisting of horizontal lap siding or other siding of the same materials and attached in the same manner as allowed under the Construction Code as adopted by the township or as required by the regulations of the United States Department of Housing and Urban Development, entitled *Mobile Home Construction and Safety Standards*, effective 6-15-1976, as amended.

(13) There shall be no additions to the living space of the mobile home unless it meets all the requirements hereof and is built according to the same standard as the mobile home or according to the state Construction Code adopted by the township or unless allowed as a special use by the Planning Commission.

(14) There shall be a minimum of two exterior doors to provide means of ingress and egress from the mobile home.

(15) Prior to a building or zoning permit being issued, plans, floor plan layouts and certification of meeting HUD mobile home standards of the mobile home and foundation shall be presented to the township along with a site plan showing compliance herewith and with all other requirements of this chapter, including, but not limited to, the requirements of the zoning district in which it is located.

(16) The mobile home must meet standards for mobile home construction as contained in the United States Department of Housing and Urban Development (HUD) Regulations and titled *Mobile Home Construction and Safety Standards*, effective 6-15-1976, as amended.

(Ord. passed 7-12-2012, § 4.12) Penalty, see § 154.999

§ 154.257 ANTENNAS.

(A) All antennas and/or dish antennas designed to receive or transmit radio, television, satellite and/or microwave communication or the like for the lot where it is located within the R-1, R-2, R-3, R-4, Ag-1 and Ag-2 Zoning Districts and on a lot where the principal use is a single-family, two-family or multiple-family dwelling must meet all of the following requirements.

(1) The antenna and/or dish antenna shall not be placed in a front yard or required buffer zone.

(2) The antenna and/or dish antenna shall meet the side yard requirements of the zone in which it is located.

(3) The antenna and/or dish antenna shall not be closer than its height to a rear property line or a side property line in the rear yard, or a side property line in a side yard.

(4) The antenna and/or dish antenna shall be permanently anchored to a foundation with such foundation being designed by an engineer or in accordance with specifications of the manufacturer but in no case shall the foundation fail to meet the requirements of the state's Construction Code as adopted and enforced by the township.

(5) No portion of the antenna and/or dish antenna shall conduct or display any advertising message or other graphic representation other than manufacturer's name, which in no case shall such name cover more than one square foot in area.

(B) All antennas and/or dish antennas designed to receive or transmit radio, television, satellite and/or microwave communications, or the like within the C-1, C-2, I-1 and I-2 Zoning Districts (except for property used principally for single-family, two-family and multiple-family dwellings) must meet all of the following requirements.

(1) The antenna and/or dish antenna shall be located either on a roof of a principal building or in the rear yard or side yard, and in no event shall it be closer to a property line than one-half its height.

(2) The antenna and/or dish antenna shall be permanently anchored to a foundation or roof structure with such foundation anchoring and/or attachment being designed by an engineer or in accordance with specifications of the manufacturer.

(3) No portions of the antenna and/or dish antenna shall conduct or display any advertising, message or other graphic representation other than the manufacturer's name, which in no case shall such name cover more than one square foot in area.

(C) Dish antennas or similar equipment have been designed to receive and/or transmit satellite, radio, television and microwave communications or the like.

(D) The township wishes to encourage the use of such dish antennas and yet reasonably regulate the same in light of clearly defined health, safety and aesthetic considerations.

(E) The height of a dish antenna exceeding 15 feet in height is aesthetically out of character with other uses within the various zoning districts and with various residential uses.

(F) The placement of dish antennas on structures or buildings that are used as dwellings or that are in certain zoning

districts are aesthetically out of character with such uses and districts.

(G) Permitting uses that are aesthetically out of character promotes premature economic obsolescence and decrease in property values.

(H) (1) Dish antennas by their design and construction have a greater surface area in a more dense configuration than other antennas.

(2) The dish antennas that exceed a height of 15 feet and/or are placed in residential and agricultural zoning districts or on buildings or structures that are used as residential dwellings limits the providing of adequate light and open space and increases the possible danger to inhabitants of dwellings from such dish antennas becoming detached in storms and high winds.

(3) Dish antennas within the R-1, R-2, R-3, R-4, Ag-1 and Ag-2 Districts (and on property in other zoning districts used principally for single-family, two-family or multiple-family dwellings) shall be mounted on the ground and shall not exceed a height of 15 feet including its mounting structure.

(4) Antennas on existing structures other than towers.

(a) In the Ag-1 District, any antenna that is attached to an existing structure other than a tower, as defined in this section, and any antennas attached to elevated water storage tanks, telephone poles or towers principally used for telephone or electric wires and lines, may be approved by the Zoning Administrator; provided:

1. The antenna does not extend more than 30 feet above the highest point of the structure;
2. The antenna complies with all applicable FCC and FAA regulations; and
3. The antenna complies with all applicable building codes and ordinances.

(b) In the C-1, C-2, I-1 and I-2 Zoning Districts, any antenna that is attached to an existing structure other than a tower, as defined in this section, may be approved by the Zoning Administrator as an accessory use to any commercial, industrial, office, institutional or governmental use; provided that, all of the requirements of this section are satisfied.

(c) In the event of any conflict between this section and any other sections of this chapter or other applicable ordinances or codes, the more stringent provision shall govern.

(Ord. passed 7-12-2012, § 4.13) Penalty, see § 154.999

§ 154.258 LOTS.

(A) All lots shall have a buildable area. The net 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 of a lot be less than 15,000 square feet unless otherwise specified herein.

(B) No lot shall be created that does not meet the minimum lot size and dimensional regulations of this chapter.

(C) On a corner lot, each lot line that abuts a street shall be deemed to be a front lot line, and the required yard along both lot frontages shall be a required front yard. The owner shall elect, and so designate in his or her application for a permit, which of the remaining two required yards shall be the required side yard and which the required rear yard.

(D) (1) A lot shall be considered to be a cul-de-sac lot if the lot has more than one-half of its required road frontage on the cul-de-sac. The one-half required road frontage shall be determined prior to reducing the required frontage permitted by division (D)(3) below. Thus, if the required road frontage is 150 feet, the lot must have more than 75 feet of road frontage on the cul-de-sac portion in order to qualify for the reduction in total road frontage as specified in division (D)(3) below.

(2) The cul-de-sac shall be determined to commence at the intersection of the radius of the cul-de-sac with the street right-of-way line.

(3) A lot on a cul-de-sac shall have road frontage on a cul-de-sac that is not less than 60% of the minimum lot width required for the zoning district in which it is located.

(Ord. passed 7-12-2012, § 4.16) Penalty, see § 154.999

§ 154.259 UTILITIES.

(A) (1) 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 Electrical Code (or the equivalent) that is in effect at the time of the beginning of construction of any building shall be considered as good standards practice by the Zoning Administrator.

(2) 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 Art. I through XI, inclusive, of the Plumbing Code of the state (or the equivalent).

(Ord. passed 7-12-2012, § 4.17) Penalty, see § 154.999

§ 154.260 PARKING.

(A) *Off-street parking.* All buildings located in the township shall provide off-street parking adequate for the use intended, as specified in § 154.247 of this chapter. A parking space shall be ten feet by 20 feet or 200 square feet. Parking lots shall include aisle space of 25 feet in width.

(B) *Parking, storage or use of recreational equipment in platted areas.* For purposes of these regulations, recreational equipment is construed as including boats and boat trailers, recreational vehicles and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

(1) Recreation vehicle or boat larger than 19 feet in length shall not be parked or stored in any required front yard of any lot in a platted residential subdivision, except when temporarily parked for not more than 24 hours during loading or unloading (no such equipment shall be used for permanent living or housekeeping purposes when parked or stored on any residential lot).

(2) Parking and storage of the above defined recreational equipment must be within a building located in the side or rear yards and must observe the requirements for accessory buildings, as provided elsewhere in this chapter.

(C) *Inoperable vehicles/unlicensed vehicles.* No inoperable or unlicensed vehicle shall be parked or stored, except when in a completely enclosed structure.

(Ord. passed 7-12-2012, § 4.18) Penalty, see § 154.999

§ 154.261 OUTDOOR FURNACES.

(A) *Definition.* An **OUTDOOR FURNACE** is defined as a furnace, heating system, stove or boiler that is a separate structure not located in a building (which building is intended for habitation by humans or domestic animals), but which provides heat or hot water for such building or structure located on the same lot.

(B) *Applicability.*

(1) One outdoor furnace is permitted per lot in the Ag-1, Ag-2, R-1 and R-2 Zoning Districts subject to the requirements of this section and the issuance of a building permit (or its equivalent) by the township's Building Inspector (or such other official as is designated by the Township Board).

(2) Any outdoor furnace that was lawfully located on a lot and in operation prior to the date of adoption of this section shall be allowed to continue, but must comply with divisions (A) above and (C) below. In addition, such lawfully existing furnaces shall also comply with all of the following requirements.

(a) If a smoke stack on an existing outdoor furnace is to be replaced or modified, the new or modified smokestack shall comply with the height requirements of division (D) below.

(b) If the existing furnace does not meet the setback requirements of this section, it shall not be moved so as to decrease the existing setbacks. Any moving of the outdoor furnace shall be considered a modification and the furnace must then comply with the setback, smoke stack and other requirements of this section.

(c) If any of the major components of an outdoor furnace system (such as the heat exchanger, smokestack, water pump or underground pipes) are to be replaced or modified or the outdoor furnace is proposed to be moved on the lot, then the entire outdoor furnace shall comply with all of the requirements of this section. However, if the township's Building Inspector (or such other official as is designated by the Township Board) determines that any such modification or replacement will promote safety and public health, but that the owner of the lot will not do such replacement or modification if the outdoor furnace is required to be moved and be in full compliance with all of the requirements of this section, the township's Building Inspector (or other equivalent township official) can allow such modification or replacement to be made while waiving some or all of the requirements of this section regarding the location and other aspects of a new outdoor furnace.

(C) *Operating requirements.*

(1) Outdoor furnaces shall be installed (and operated) according to the manufacturer's instructions and all applicable building and mechanical codes at all times.

(2) Each outdoor furnace shall only be used to burn wood without additives, wood pellets without additives and agricultural seeds in their natural state. The following materials are specifically prohibited as items or materials to be burned in outdoor furnaces:

(a) Rubbish or garbage including, but not limited to, food waste, food, wraps, packaging, animal carcasses, paint, petroleum products or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes;

(b) Waste oil or other oily wastes;

(c) Treated or painted wood;

(d) Any plastic material including, but not limited to, nylon, PVC, polystyrene or urethane foam and synthetics fabrics, plastic films and plastic containers;

(e) Rubber, including tires and synthetic like products; and

(f) Newspapers, corrugated cardboard, container board or office paper.

(3) Outdoor furnaces shall be kept in a reasonable condition and repair at all times.

(4) No outdoor furnace shall be used or operated in such a fashion as to become a nuisance to the owners or occupiers of any adjoining or nearby properties or dwellings or in such a fashion that smoke emissions unreasonably interfere with the safe or reasonable enjoyment of any of the owners or occupants of nearby or adjoining properties.

(D) *Location and smokestack height.*

(1) Every outdoor furnace shall be located at least 100 feet from the nearest dwelling unit that is not on the same lot as the outdoor furnace.

(2) Each outdoor furnace shall be located a minimum of 50 feet from all property lines and shall not be located between the principal building on the lot and the public or private street.

(3) (a) Each outdoor furnace shall have a smokestack that extends at least ten feet above the ground surface. In addition, if any dwelling or other principal building is intended to be occupied by humans and which is not on the same lot as the outdoor furnace, but which is located within 300 feet of the outdoor furnace, the height of the smokestack shall be no lower than the roof peak of such dwelling or principal building.

(b) The Building Inspector (or other person so designated by the Township Board) may approve a lesser smokestack height if necessary to comply with the manufacturer's recommendations and if it can be demonstrated that smoke from the lower smokestack height will not create a nuisance for residents of nearby existing dwellings. Factors that shall be considered by the Building Inspector (or Township Board designee) in making a determination to permit a lower smokestack height shall include, but are not limited to, topography, height of nearby dwellings, prevailing wind direction, type of furnace and proposed smokestack height.

(4) An outdoor furnace shall be located no closer than ten feet to a propane tank or similar flammable container.

(Ord. passed 7-12-2012, § 4.19) Penalty, see § 154.999

§ 154.262 ANIMALS, LIVESTOCK AND FOWL.

(A) No animals, livestock or fowl, other than common household pets, shall be permitted to be used, sheltered or stored in the R-1, R-2, R-3, R-4 and RR Zoning Districts unless otherwise specified in this chapter.

(B) Where animals, livestock and fowl other than common household pets are permitted to be used, sheltered or stored either by right, or by special use permit, or as any accessory use, all buildings or structures used for shelter, storage or feeding shall be setback a minimum of 50 feet from any lot line. In the event such animals are used accessory to a single-family dwelling, there shall be a minimum lot area of one and one-half acres for the first two such animals and one-half additional acre of lot area for each additional such animal. Such animals, when accessory to a single-family dwelling, shall not be pastured, kept or stored within the front 35 feet of any front yard. When any such animals are to be stored, kept or housed on any parcel of property five acres or less in size, a permit shall first be obtained from the Building Inspector. All premises used for any such animals shall continuously be maintained in a sanitary condition and shall be subject to inspection by the Building Inspector at any reasonable time and shall not emanate objectionable odors that would be a nuisance to adjacent neighbors. The use, storage or keeping of such animals shall not cause any erosion and no animal wastes shall run off onto any adjacent property. The Building Inspector, upon violation of any of the provisions hereof, may revoke any permit. That revocation shall continue until the premises have been brought into compliance, and their causes of non-compliance removed or remedied, and the Building Inspector has approved the premises.

(Ord. passed 7-12-2012, § 4.20) Penalty, see § 154.999

§ 154.263 CHURCHES; DAY CARE AND CHILD CARE CENTERS.

Notwithstanding any other provision of this chapter, a child care or day care center shall be permitted as an accessory use of a church in any zoning district (including a church that is a non-conforming use in the zoning district in which it is located).

(Ord. passed 7-12-2012, § 4.21)

§ 154.264 TRANSITION ZONING.

(A) A residentially zoned lot having its side yard abutting a commercial or industrial zoning district boundary that is located within the township may be used as a special use in accordance with the least restrictive residential district requirements for new residential structures. Such transition lot cannot be construed to extend for more than 150 feet from such commercial or industrial zoning district boundary. In addition, said land may be used for offices for doctors, dentists, architects and similar professions.

(B) For approval of these uses on a transitional lot, a detailed site development plan and an architectural profile of all structures to be erected shall be submitted to the Zoning Administrator to determine that site development meets the following requirements:

(1) Yard and area requirements of the zoning district;

- (2) Adequate parking areas and access drives;
- (3) Landscaping and screening to safeguard adjacent residential uses; and
- (4) The proposed building has a residential appearance in keeping with the character of the adjacent neighborhood.

(Ord. passed 7-12-2012, § 4.22)

§ 154.265 LIGHTING AND SCREENING; FENCES.

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

(B) Non-residential uses abutting transitional and residentially zoned lots. Except as otherwise provided in this chapter, all premises used for business, commercial or industrial purposes shall be screened from all abutting residential districts or uses. Screening shall be any of the following and shall apply to side yards and rear yards:

(1) A natural buffer ten feet wide measured at the property line and planted with evergreens or shrubbery that maintains their density and screening effect throughout the calendar year, not less than four feet in height at the time of planting and maintained in a neat and attractive manner commensurate with the adjoining residential district; and

(2) An artificial wall or fence of sufficient density or compactness to screen the structures and activities of the business from the view of occupants of adjoining premises, not less than five feet in height and maintained in a neat and attractive manner, commensurate with the adjoining residential district. No such wall or fence shall terminate closer than ten feet from any adjoining street right-of-way line.

(C) Unless specifically provided for elsewhere in this chapter, a front yard fence in a residential zone may not exceed a height of four feet and shall not be more than 50% solid.

(D) It is unlawful to construct any private fence or barrier within a public right-of-way.

(E) In all districts, the frontage for corner lots shall follow the same limitations as provided for residential front yard screening.

(F) Barbed wire fences are prohibited only within the R-1 and R-2 Zoning District on land that has been platted or made part of a site condominium. Notwithstanding the above, barbed wire fence may be used to enclose schools, public buildings and structures and utility and essential service buildings and structures.

(G) Electrical fences are prohibited only within R-1 and R-2 Zoning District on land that has been platted or made part of a site condominium. Notwithstanding the above, electrical fences may be used to enclose schools, public buildings and structures and utility and essential service buildings and structures.

(H) In the event of any controversy as to the adequacy of any proposed or existing screening or the creation of any nuisance or annoyance by artificial lighting, the Zoning Board of Appeals shall have the right and is hereby given the authority to interpret and determine the screening and lighting provisions and the purpose herein sought to be accomplished.

(Ord. passed 7-12-2012, § 4.23) Penalty, see § 154.999

§ 154.266 AMATEUR RADIO TOWERS.

In order to reasonably accommodate licensed amateur radio operators as required by Federal Code of Regulations, 47 C.F.R. part 97, as amended, and Order and Opinion (PRB-1) of the Federal Communication Commission of September, 1985, a licensed amateur radio operator may locate a tower not to exceed 100 feet in height in the R-1 and R-2 Zoning Districts and 195 feet in height in any other zoning district; provided, the following requirements are met.

(A) The tower and any antennas located thereon shall not have any lights of any kind on it and shall not be illuminated either directly or indirectly by any artificial means.

(B) The color of the tower and any antennas located thereof must all be the same and such that it blends into the sky, to the extent allowed under requirements set forth by either the Federal Aviation Administration or the state's Department of Transportation, Bureau of Aeronautics.

(C) No advertising logo, trademark, figurines or other similar marking or lettering shall be placed on the tower or any attachments thereto, or any building used in conjunction therewith.

(D) No signs shall be used in conjunction with the tower, except for one sign not larger than eight and one-half inches high and 11 inches wide.

(E) Towers may be located upon a site where there is another principal use and shall not constitute a second principal use.

(F) Towers must be at least three-quarters of its height from any property line on the parcel of property on which it is located, unless a licensed engineer certifies that the tower will not collapse or that it is designed in such a way that in the event of collapse, it falls within itself, and in that event, it must be located at least one-third of its height from any property line.

(G) Towers must be at least 100% of its height from a dwelling on an adjacent parcel.

(H) Tower space shall not be leased or rented to commercial users. Towers shall not accommodate commercial users and shall not otherwise be used for commercial purposes.

(I) All towers must meet all applicable state and federal statutes, rules and regulations.

(Ord. passed 7-12-2012, § 4.24) Penalty, see § 154.999

§ 154.267 MEDICAL MARIJUANA DISPENSARIES AND OTHER FACILITIES.

No medical marijuana dispensary, medical marijuana provisioning center, medical marijuana grower facility, medical marijuana safety compliance faculty, medical marijuana secure transporter, medical marijuana processor facility or similar facility or use shall be conducted, commenced, operated or utilized in any zoning district or on or from any property within the township. Furthermore, no person shall frequent, patronize or obtain or purchase any marijuana from any medical marijuana dispensary, medical marijuana provisioning center or similar facility, business or operation within the township.

(Ord. passed 7-12-2012, § 4.25; Ord. 17-2, passed 12-14-2017) Penalty, see § 154.999

§ 154.268 MISCELLANEOUS USES.

Any use, use of land, activity, building, structure or development activity not expressly allowed by this chapter is prohibited, unless the Zoning Administrator finds that the proposed use is identical in character to a use or item listed in this chapter. Uses, activities, enterprises or purposes that are contrary to, or violate federal, state or county laws or regulations, this chapter, or other township ordinances are prohibited. An individual may apply to the Planning Commission for consideration of an amendment to this chapter to include a proposed use in one or more of the zoning districts of this chapter, either as a permitted use or a special use. At their option and discretion, the Planning Commission and Township Board may consider an appropriate amendment to this chapter, but are not required to do so.

(Ord. passed 7-12-2012, § 4.26)

§ 154.269 MINING; NATURAL RESOURCES.

(A) *Purpose and intent.* The purpose of this section is to provide for the use of lands that have significant gravel and/or sand deposits and which, if mined for such deposits under the regulations of this subchapter and this chapter, would not constitute a hazard to the public health, safety and welfare. The regulations are intended to result in: mining and excavation operations that will not be detrimental to the public health, safety and welfare; and operations that will be conducive to and result in the reclamation of the land so that it will be suitable for other purposes, including single-family residential and agricultural uses and purposes. Further, it is the intent of these provisions to preserve the natural resources of the township.

(B) *Zoning districts.* Mining and mineral extraction shall be allowed in any zoning district if approved by the Planning Commission as a special use.

(C) *Site plans.* A site plan for the proposed mining or mineral extraction operation (together with a reclamation plan) shall be filed with the township and shall be reviewed and approved, approved with conditions or denied by the Planning Commission as part of the special use review process.

(D) *Standards.* In order to approve a special use for mining or mineral extraction, the Planning Commission must find that no very serious consequences would result from the mining or mineral extraction operation, use or activities. In making that determination, all of the following factors may be considered if applicable:

- (1) The relationship of extraction and associated activities with existing land uses;
- (2) The impact on existing land uses in the vicinity of the property involved;
- (3) The impact on property values in the vicinity of the property involved and along the proposed hauling route serving the property involved, based on credible evidence;
- (4) The impact on pedestrian and traffic safety in the vicinity of the property involved and along the proposed hauling route serving the property involved;
- (5) The impact on other identifiable health, safety and welfare interests in the township; and
- (6) The overall public interest in the extraction of the specific natural resources on the property involved.

(E) *Conditions.* If the Planning Commission approves a special use for a mining or mineral extraction use, activity or operation, the Planning Commission can attach reasonable conditions to such approval regarding the following areas and topics:

- (1) Hours of operation;
- (2) Noise;
- (3) Dust control;
- (4) Blasting hours; and
- (5) Traffic.

(Ord. passed 7-12-2012, § 4.28)

§ 154.270 BED AND BREAKFAST ESTABLISHMENTS.

A bed and breakfast establishment may be approved by the Planning Commission as a special use in the Ag-1 and Ag-2 Zoning Districts upon compliance with the following requirements.

(A) Bed and breakfast establishments shall be located only in buildings that are used and have been used as detached single-family dwellings with a minimum of 2,000 square feet of finished floor area. No dwelling or other building shall be constructed or enlarged for the purpose of having or operating a bed and breakfast establishment.

(B) Off-street parking shall be provided in addition to that required for residential purposes at the rate of one vehicle parking space per sleeping room. Such parking need not be paved.

(C) One sign shall be allowed for identification purposes only. Such sign shall not exceed 16 square feet in size and shall otherwise comply with the requirements of §§ 154.380 and 154.381 of this chapter.

(D) No use shall be permitted that is not also a permitted use within the zoning district in which the bed and breakfast establishment is located.

(E) Meals may be served only to the operator's family and lodgers of the establishment.

(F) Cooking facilities in bed and breakfast guest rooms are prohibited.

(G) The bed and breakfast shall comply with all applicable regulations of the county's Health Department for the serving of food. In addition, if a bed and breakfast is approved by the Planning Commission, the property owner shall provide documentation from the county's Health Department that the well and septic system on the property is capable of serving the proposed use. This documentation shall be provided to the township's Zoning Administrator before the bed and breakfast is open for business.

(H) The dwelling unit in which the bed and breakfast is located shall be the principal residence of the operator/owner, and the operator/owner shall live in the dwelling unit when the bed and breakfast operation is active.

(I) Exterior refuse storage facilities in addition to what would normally be expected for a detached single-family dwelling shall be screened from view on all sides by a six-foot solid decorative fence or wall, or by other screening approved by the Planning Commission.

(J) In addition to providing a site plan to the township as required by §§154.160 through 154.171 of this chapter, an applicant for a bed and breakfast shall also provide to the township a floor plan of the dwelling unit and the use of each room.

(K) The maximum stay for any lodger of a bed and breakfast (excluding the operator/owner) shall be ten consecutive days, not to exceed to a total of 30 days during any 12-month period.

(L) (1) The Building Inspector and Fire Chief shall conduct an inspection of the dwelling proposed for the bed and breakfast establishment following approval by the Planning Commission in order to ensure compliance with the applicable requirements of the Building Code and Fire Code.

(2) Any measures required to comply with these codes shall be completed before the bed and breakfast shall open for business.

(Ord. passed 7-12-2012, § 4.29) Penalty, see § 154.999

§ 154.271 EXOTIC AND DANGEROUS ANIMALS.

No person shall keep, house, breed or possess any exotic or dangerous animal within the township. Such prohibition includes, but is not limited to, lions, tigers, wolves, bears, coyotes, elephants, alligators, crocodiles, primates, snakes over three feet in length, wild or exotic cats (such as, but not limited to, bobcat, cheetah, cougar, lynx, panther, mountain lion or puma), wild pigs or boar, and venomous snakes or reptiles.

(Ord. passed 7-12-2012, § 4.30) Penalty, see § 154.999

§ 154.272 COMMUNICATION TOWERS.

Communication towers, as defined within the Federal Telecommunication Act of 1996, as amended (47 U.S.C. § 332(c)(7) (C)), and for functionally equivalent services (including those provided as essential services) must meet the following requirements.

(A) The tower and any antenna located thereon shall not exceed 250 feet in height.

(B) The tower must be of a monopole or free standing lattice design, capable of supplying its own support without the assistance of guy wires or other supports.

(C) The tower and any antennas located thereon shall not have any lights of any kind on it and shall not be illuminated either directly or indirectly by any artificial means, except when lighting is required by either the Federal Aviation Administration or the state's Department of Transportation, Bureau of Aeronautics.

(D) The color of the tower and any antennas located thereof must all be the same and such that it blends into the sky, to the extent allowed under requirements set forth by either the Federal Aviation Administration or the state's Department of Transportation, Bureau of Aeronautics.

(E) No advertising logo, trademark, figurines or other similar marking or lettering shall be placed on the tower or any attachments thereto or any building used in conjunction therewith.

(F) The tower shall be located a distance equal to (or greater than) its height from any existing residential structure located on another parcel of property, unless a licensed engineer certifies that the tower and method of construction is such that the tower will not collapse or that it will collapse within itself and in that event, it must be located at least one-half of its height from any residence located on another parcel of property.

(G) (1) Any equipment used in conjunction with the tower (other than antennas placed upon the tower) shall be located within a completely enclosed unmanned building.

(2) The building shall not be larger than 500 square feet in area.

(3) Only one low wattage (150 w or less) shielded wall-mounted security light over the entrance to the building is permitted.

(4) Shielding of the light shall be to direct light down to the ground.

(5) There shall be no storage or placement of personal property outside such building.

(H) No signs shall be used in conjunction with the tower, except for one sign not larger than eight and one-half inches high and 11 inches wide.

(I) Personnel are not allowed to be continuously on the site, but may come onto the site for servicing, maintenance and related work necessary to the operation of the tower and related equipment.

(J) (1) No toxic, hazardous, or other dangerous substances of any kind shall be stored, placed or used on the property, except for gasoline used specifically for emergency electrical generators and which is located within gas tanks directly attached to such generators.

(2) Notwithstanding the above, maintenance crews may bring onto the property, while maintenance is being conducted, lubricants and other materials reasonably necessary to properly maintain the facility; provided, there is compliance with all applicable township, county, state and federal ordinances, statutes, rules and regulations.

(K) All access drives and areas used for vehicular use shall be composed of at least 12 inches of compacted road gravel (MDOT 21AA or 22A).

(L) Towers may be located upon a site where there is another principal use and shall not constitute a second principal use.

(M) A tower must be located at least three-quarters of its height away from any property line on the parcel of property on which it is located, unless a licensed engineer certifies that the tower will not collapse or that it is designed in such a way that in the event of collapse, it falls within itself and in that event, it must be located at least one-third of its height from any property line.

(N) All towers must meet all applicable state and federal statutes, rules and regulations.

(O) The applicant must demonstrate by way of a written opinion of a registered engineer that the proposed tower meets all applicable local, state and federal building requirements.

(P) The owner or operator of the tower and any subsequent owner or operator of the tower must make reasonable accommodation for co-location of antennas or other similar devices to provide for personal wireless services and/or for functionally equivalent services by other providers upon payment of reasonable compensation under all of the circumstances; and, provided, such co-location is technically and legally feasible.

(Q) No tower shall be closer than one-half mile to a similar such tower, that is capable of supporting the required antenna loading at the necessary height; provided, co-location on such tower can be obtained.

(R) There must be submitted to the township an engineering study showing that there is a reasonable need for the tower in order to provide for personal wireless services or functionally equivalent services and that it is not reasonably possible to co-locate on an existing tower to provide such service.

(S) The towers must be located only within the Ag-1, I-1 or I-2 Zoning Districts. Any such tower located within the Airport Overlay District must meet the requirements of §§ 154.055 through 154.058 of this chapter.

(T) All other requirements of the zone in which they are located must be met.

(U) A site plan showing compliance with the requirements hereof, shall be submitted and approved by the Planning Commission.

(V) Antennas used for personal wireless service as defined within the Federal Telecommunication Act of 1996, as amended, 47 U.S.C. § 332(c)(7)(C), and for functionally equivalent services that are four feet in length or less may be placed in any zoning district on elevated water storage tanks, telephone poles and towers whose principal use is for

telephone wires and lines on poles or towers whose principal use is for electrical distribution or transmission wires, cables or lines.

(W) In order to reasonably accommodate licensed amateur radio operators as is required by Federal Code of Regulations, 47 C.F.R. part 97, as amended, and Order and Opinion (PRB1) of the Federal Communication Commission of September, 1985, a licensed amateur radio operator may locate a tower not to exceed 100 feet in height in the R-1 and R-2 Zoning Districts and 200 feet in height in any other zoning district; provided, the requirements above are met.

(Ord. passed 7-12-2012, § 4.32) Penalty, see § 154.999

§ 154.273 SCHEDULE OF BULK REGULATIONS.

Appendix B, attached to the ordinance codified herein, is hereby adopted by reference and incorporated herein as if set out in full.

(Ord. passed 7-12-2012, App. B)

§ 154.274 CERTAIN PROHIBITED LAND USES.

(A) Land uses, activities, structures, enterprises or purposes that are contrary to or which violate federal or state laws, county ordinances, this chapter or other township ordinances are prohibited.

(B) No zoning approval, permit, variance, rezoning, site plan approval or zoning compliance permit shall be issued or granted by the township for any use, activity, structure or building that is illegal under state law or federal law.

(C) The following applies to certain marijuana (marihuana) establishments and facilities.

(1) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

IHRA. The Industrial Hemp Research Act, Public Act 547 of 2014, being M.C.L.A. §§ 286.841 et seq.

MARIJUANA ESTABLISHMENT. As defined in the MRTMA.

MARIJUANA FACILITY. As defined in the MMFLA.

MMFLA. The Medical Marijuana Facilities Licensing Act, Public Act 281 of 2016, being M.C.L.A. §§ 333.27101 et seq., as amended.

MMMA. The Michigan Medical Marijuana Act, 2008 IL 1, being M.C.L.A. §§ 333.26421 et seq., as amended

MRTMA. The Michigan Regulation and Taxation of Marijuana Act, 2018 IL 1, being M.C.L.A. §§ 333.27951 et seq., as amended.

(2) (a) Pursuant to § 6 of the MRTMA, marijuana establishments are prohibited within the boundaries of the township.

(b) Marijuana facilities are also prohibited within the boundaries of the township.

(3) (a) This division (C) shall not affect the rights or privileges of any individual or other person under § 5 of the MRTMA, being M.C.L.A. §§ 333.27955, as amended.

(b) This division (C) does not affect the rights or privileges of a marijuana facility outside of the township to engage in activities within the township that it is permitted to engage in under the MMFLA within a municipality that has not authorized marijuana facilities to operate within its boundaries.

(c) This division (C) does not affect the rights or privileges of registered qualifying patients or registered primary caregivers under the MMMA or the MMFLA.

(d) This division (C) does not affect the rights or privileges of any individual or other person under the IHRA.

(e) This division (C) does not affect the rights or privileges of any individual or other person under any other federal or state law, rule or regulation related to the medical use of marijuana.

(Ord. 19-2, passed 3-14-2019) Penalty, see § 154.999

§ 154.275 CERTAIN RESIDENTIAL DEVELOPMENTS AS PLANNED UNIT DEVELOPMENTS.

(A) Certain large scale residential developments (being those which include 20 or more lots, parcels or site condominium units in the AG-2, R-1, R-2, and R-3 zoning districts) shall be approved and developed only as planned unit developments (PUD). The regulating of such development on a PUD basis will enable the township to control and moderate the size, scope and impact of such development, in accordance with the Township Master Plan and the purposes of this chapter. The requirements of this section shall apply whether such development involves simple land divisions, platted subdivisions, site condominium units or any other type of land division, conveyance or development resulting in a number of lots, parcels, site condominium units or other land divisions greater than 20.

(B) For purposes of this section, **SUBDIVISION** includes any lands, whether contiguous or not, if the number of lots, parcels of land, site condominium units or other units or interests more than 11 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 landowner, or more than one developer or landowner, whether acting individually or in concert.

(C) In the AG-2, R-1, R-2, and R-3 zoning districts, 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, nor shall any building permit or zoning approval permit be issued, for any land in a subdivision unless such subdivision shall have been approved by the township as a planned unit development (PUD).

(D) If 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, other interests, or any combination thereof, exceeds 11.

(E) For purposes of this section **CONTIGUOUS** land means any additional land adjacent to or adjoining the subdivided or divided land included in any previous subdivision.

(F) If a parcel of land is created, divided or split from or out of another parcel of land, and if either or both of such parcels are further divided, split or site condominium units are created, or if any of such actions is proposed, within seven years after the recording of the first land division or land split, then each parcel shall be considered a subdivision for purposes of this section, and accordingly, each parcel shall be subject to planned unit development (PUD) approval, if the number of lots, parcels of land, or site condominium units created or developed from or out of such parcels or either of them exceeds 20 in total.

(Ord. 2022-1, passed 1-13-2022, § 4.33)

WIRELESS INTERNET SERVICE PROVIDERS (WISP)

§ 154.285 PURPOSE.

The purpose of this subchapter is to establish standards and procedures by which the installation and operation of towers and antennas used for the purpose of wireless internet communication shall be regulated within the township, in order to promote the safe, effective and efficient use of this communication system.

(Ord. passed 7-12-2012, § 4.14)

§ 154.286 DEFINITION.

For purposes of this section, a **WIRELESS INTERNET SERVICE PROVIDER (WISP)** is defined as an antenna or similar device mounted on a tower, building or other structure that serves to provide wireless internet communication service.

(Ord. passed 7-12-2012, § 4.14)

§ 154.287 APPLICABILITY.

(A) A WISP which, for mounting purposes, requires the installation of a pole, tower or similar structure other than a building shall only be allowed as a special use within the Ag-2 Zoning District subject to the regulations and requirements of this subchapter and also the general special use review procedures and standards of §§ 154.185 through 154.194 of this chapter.

(B) A WISP that is attached to an existing building, tower, pole or similar structure is permitted in all zoning districts subject to the issuance of a building permit in accordance with all applicable requirements of the township's Building Code and the requirements of this subchapter.

(Ord. passed 7-12-2012, § 4.14)

§ 154.288 APPLICATION REQUIREMENTS; SPECIAL USE PERMITS.

An applicant for a WISP that requires a special use permit shall submit an application on a form provided by the township and shall also submit the following information and materials:

(A) A description of the WISP(s) to be installed and its design, including cross-section and elevation drawings and a diagram of how the tower will be anchored to the ground;

(B) A statement from the applicant that the WISP will be installed in compliance with the manufacturer's specifications;

(C) Engineered drawings of the tower and a copy of the manufacturer's specifications;

(D) A description of the tower maintenance program;

(E) A decommissioning plan explaining the process to be undertaken by the applicant for tearing down the tower and removing all tower equipment, materials and structures and restoring the site so it can be used by a use permitted in that zoning district;

(F) Security measures including emergency contact personnel;

(G) Ten copies of a site plan accurately drawn at a scale of not more than one inch equals 100 feet; however, a larger scale may be accepted by the Planning Commission depending upon the size of the parcel. The site plan shall contain at a minimum the following information unless specifically waived by the Planning Commission:

- (1) The date on which the site plan was prepared;
- (2) A north arrow and legal description of the property;
- (3) The area and dimensions of the parcel containing the WISP including any area leased for the WISP;
- (4) A location map sufficient to show the character of the area surrounding the proposed WISP and the zoning and land use on adjacent properties;
- (5) The height of the tower and its distance to all property lines;
- (6) Any buildings or structures existing on the parcel;
- (7) The distance to the closest building on adjacent property;
- (8) The location of any overhead transmission lines on the site or on adjacent property that might be affected by the tower;
- (9) Guy wires, guy wire anchors and any other tower supporting structure or device;
- (10) Type and height of fencing to be installed around the tower or an equipment building;
- (11) Elevation drawings of any buildings designed to serve the tower;
- (12) Access road; width and construction standards along with access easement; and
- (13) Any lighting proposed to be located on the tower.

(H) Additional information as required by §§ 154.185 through 154.194 of this chapter, or as may be required by the Planning Commission.

(Ord. passed 7-12-2012, § 4.14)

§ 154.289 WISP MOUNTED ON A TOWER; GENERAL REQUIREMENTS.

A WISP mounted on a tower shall comply with the following requirements:

(A) The tower shall be setback from all property lines a distance of not less than one and one-tenths times the height of the tower as measured from the base of the tower. Such tower shall not be located within the front yard;

(B) All applicable state construction and electrical codes and local building permit requirements as well as the manufacturer's installation requirements provided they do not conflict with the state and local requirements;

(C) All tower lighting required by the FAA 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 and the minimum FAA lighting standards shall not be exceeded;

(D) The state's Airport Zoning Act (Public Act 23 of 1950, being M.C.L.A. Chapter 259), as amended;

(E) The state's Tall Structures Act (Public Act 259 of 1959, being M.C.L.A. §§ 259.481 et seq.), as amended;

(F) The township's Airport Overlay Zone regulations;

(G) A WISP tower that is unused or abandoned shall be removed, along with any associated buildings and structures, by the owner/operator within 90 days of the date of a written notice from the township. An extension of 90 days may be granted by the Planning Commission upon a request from the owner/operator citing extenuating circumstances beyond his, her or their control in removing the tower within the initial 90-day period; and

(H) In removing the tower the owner/operator shall comply with the decommissioning plan submitted by the applicant and as approved by the Planning Commission.

(Ord. passed 7-12-2012, § 4.14) Penalty, see § 154.999

§ 154.290 WISP MOUNTED ON A BUILDING; GENERAL REQUIREMENTS.

A WISP mounted on a building shall comply with the following requirements.

(A) All applicable state construction and electrical codes and local building permit requirements as well as the manufacturer's installation requirements provided they do not conflict with the state and local requirements.

(B) The total height of a building mounted WISP shall not exceed 15 feet as measured from the highest point of the roof, excluding chimneys, antennas and other similar protuberances.

(C) (1) The setback for a building mounted WISP shall be a minimum of 15 feet from the property line, public right-of-way, public easement or overhead utility lines if mounted directly on a roof or other elevated surface of the building.

(2) If the WISP is affixed by any extension to the side, roof or other elevated surface, then the setback from the property line or public right-of-way shall be a minimum of 15 feet.

(3) The setback shall be measured from the furthest outward extension of all moving parts.

(4) The 15-foot minimum setback requirement may be reduced by the Building Inspector under either or both of the following circumstances:

(a) If the applicant provides a registered engineer's certification that the WISP is designed to collapse, fall, curl or bend within a distance less than the required setback of the WISP; and

(b) If the Building Inspector determines that a lesser setback will not be detrimental to adjoining properties. In making this determination the Building Inspector shall, at a minimum, take into consideration the type and location of the building containing the WISP, the type of WISP proposed, the installation requirements of the WISP and the location of buildings or uses on the adjacent properties.

(D) (1) (a) The Planning Commission shall review the proposed WISP tower according to the standards for special uses contained in §§ 154.185 through 154.194 of this chapter.

(b) The Commission may impose reasonable conditions with its approval of a WISP tower including, but not limited to, a requirement that the applicant provide a performance guarantee in a form and amount acceptable to the township for the cost of removing the WISP tower and restoration of the site and a requirement that the applicant provide regular reports regarding the maintenance and condition of the tower.

(2) Following approval of a WISP by the Planning Commission, the applicant may proceed to apply for a building permit.

(Ord. passed 7-12-2012, § 4.14) Penalty, see § 154.999

WIND ENERGY SYSTEMS (WES)

§ 154.305 PURPOSE.

The purpose of this subchapter is to establish standards and procedures by which the installation and operation of a wind energy system shall be regulated within the township, in order to promote the safe, effective and efficient use of wind energy.

(Ord. passed 7-12-2012, § 4.15; Ord. 19-3, passed 7-11-2019; Ord. 19-5, passed 8-8-2019; Ord. 2020-01, passed - -2020)

§ 154.306 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AMBIENT SOUND. The all-encompassing sound associated with a given environment, being usually a composite of sound from many sources near and far, as defined by ANSI S12.9 Part 3.

APPLICANT. The person, firm, corporation, trust, association, company, limited liability corporation, or other entity that applies for township approval under this subchapter, as well as the applicant's successor(s), assign(s) and/or transferee(s) to any approved WES. An **APPLICANT** must have the legal authority to represent and bind the landowner or lessee who will construct, own and operate the WES. The obligations regarding a zoning approval for any approved WES shall be with the landowner and the owner of the WES and jointly and severally with the owner and operator or lessee of the WES if different than the landowner.

INHABITED STRUCTURE. A building or group of buildings occupied on a temporary or permanent basis including, but not limited to, residential dwellings, hospitals, motels, hotels, bed and breakfast, homeless shelters, transitional housing and adult foster care facilities.

INTERCONNECTED WES. A WES that is electrically connected to the local electrical power utility system and can provide power to the local electrical power utility system.

NACELLE. In a wind turbine, the nacelle refers to the structure that houses all of the generating components, gearbox, drive train and other components.

NON-PARTICIPATING PARCEL. A parcel which is not under lease or other property agreement with the owner/operator of a WES.

ON-SITE USE WIND ENERGY SYSTEM. A WES the purpose of which is to provide energy to only the property where the structure is located, or to adjacent properties under the same ownership or control as the property where the structure is located, or by the mutual consent of the owners of adjacent properties.

PARTICIPATING PARCEL. A parcel which is under lease or other property agreement with the owner/operator of a WES.

ROTOR. An element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.

SHADOW FLICKER. Alternating changes in light intensity caused by the moving blade of a WES casting shadows on the ground and stationary objects such as dwellings.

SINGLE WES FOR COMMERCIAL PURPOSES. A single WES placed upon a parcel or parcels with the intent to sell or provide electricity to a site or location other than the premises upon which the WES is located. The WES may or may not be owned by the owner of the property upon which the WES is placed.

SOUND PRESSURE LEVEL. Twenty times the logarithm to the base 10, of the ratio of the root-mean-square sound pressure to the reference pressure of twenty micropascals, expressed as decibels (dB). Note that, unless expressed with reference to a specific weighing network (such as dBA), the unit dB shall refer to an un-weighted measurement.

STRUCTURE-MOUNTED WES. A WES mounted or attached to an existing structure or building.

UTILITY GRID WIND ENERGY SYSTEMS. A WES designed and constructed to provide electricity to the electric utility grid.

WES HEIGHT. The distance from the ground at normal grade to the highest point of the tip of a rotor blade when the blade is in full vertical position.

WES SETBACK. The distance from the edge of the base of the tower or structure upon which the WES is mounted to the nearest lot line. In the case of multiple parcels utilized for multiple or single WES, the **SETBACKS** shall be taken from the outside boundary of the parcels utilized for the WES project.

WIND ENERGY SYSTEM (WES).

(1) Any combination of the following:

- (a) A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;
- (b) A surface area such as a blade, rotor or similar device, either variable or fixed, for utilizing the wind for electrical or mechanical power;
- (c) A shaft, gearing, belt or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator or other electricity-producing device;
- (d) The generator, alternator or other device to convert the mechanical energy of the surface area into electrical energy; and
- (e) The tower, pylon or other structure upon which any, all or some combination of the above are mounted.

(2) Notwithstanding the above, a windmill traditionally used only to pump water shall not be considered a **WIND ENERGY SYSTEM**.

WIND FARM. Clusters or arrangements of two or more WES placed upon a lot or parcel (or upon two or more lots or parcels where used together) with the intent to sell or provide electricity to a site or location other than the premises upon which the WES are located. The WES may or may not be owned by the owner of the property upon which the WES is placed.

(Ord. passed 7-12-2012, § 4.15; Ord. 19-3, passed 7-11-2019; Ord. 19-5, passed 8-8-2019; Ord. 2020-01, passed - -2020)

§ 154.307 WES ALLOWED AS PERMITTED USE.

Any on-site use wind energy system (including a structure mounted WES) that is 65 feet or less in total height shall be a permitted use in all zoning districts, subject to all of the following.

- (A) The height of the WES with the blade in vertical position shall not exceed 65 feet.
- (B) The WES shall be set back from all lot lines a distance that is at least equal to one and one-half times the height of the WES as measured from the lot line to the base of the tower and no portion of the WES (including the guy wire anchors) shall be located within or above the required front, side or rear yard setback.
- (C) (1) A structure mounted WES shall have a distance from the nearest property line that is at least equal to 1.1 times the height of the WES as measured from the point of attachment to the structure or building to the top of the WES with the blade in the vertical position.
(2) The blade arcs created by a WES mounted on an existing structure shall have a minimum clearance of eight feet or be designed so that the blade or other moving parts do not present a safety hazard.
- (D) (1) A permit shall be required to be obtained from the township to construct and operate an on-site use WES 65 feet or less in total height. A permit shall be issued after an inspection of the WES by the township or an authorized agent of the township, and where the inspection finds that the WES complies with this chapter and also all applicable state construction and electrical codes, local building permit requirements and all manufacturers' installation instructions.
(2) The WES shall not be operated nor remain on the property unless a permit has been issued. A copy of the manufacturer's installation instructions and blueprints shall be provided to the township.
- (E) An on-site use WES may provide electrical power to more than one dwelling unit; provided that, the dwelling units are

located on property or properties that are adjacent to the property or properties on which the WES is located.

(F) Sound levels shall be verified by the manufacturer at the time of application. The documentation must support that the sound level will not exceed 43 dBA Leq measured at the property line of the parcel containing the WES.

(Ord. passed 7-12-2012, § 4.15; Ord. 19-3, passed 7-11-2019; Ord. 19-5, passed 8-8-2019; Ord. 2020-01, passed - -2020)

§ 154.308 WES THAT REQUIRE SPECIAL USE APPROVAL.

Any WES (including a structure mounted WES) that is taller than 65 feet in height, wind farms, single WES for commercial purposes and utility grid wind energy systems may be allowed as a special use only within the Ag-1, Ag-2, C-1, C-2, C/1, I-1 and I-2 Zoning Districts subject to all of the following regulations and requirements of this section and also the general special use review procedures and standards of §§ 154.185 through 154.194 of this chapter.

(A) *Site plan requirements.* For those WES for which a special use is required, the following items shall be included with or on the site plan:

- (1) All requirements for a site plan contained in §§154.160 through 154.171 of this chapter, including the area and dimensions of the area to be purchased or leased for the WES;
- (2) Digital versions of all planning and construction documents required pursuant to §154.160 of this chapter. Digital submittals are in addition to paper plans and do not replace any current submission requirements. Digital versions shall be submitted in PDF (Adobe Acrobat/Portable Document File) format;
- (3) A decommissioning plan as required by § 154.310 of this chapter;
- (4) A location map of the proposed WES sufficient to show the character of the area surrounding the proposed WES;
- (5) Location and height of all existing and proposed buildings, structures, boundary lines, electrical lines, towers, guy wires, guy wire anchors, security fencing and any other above-ground structures proposed or existing for the parcel or parcels containing the WES;
- (6) Distances from the WES structures to all other buildings, structures, boundary lines and above ground utilities on the parcel or parcels upon which the WES is proposed to be located;
- (7) Distance from the proposed WES to the nearest occupied dwelling unit on a parcel which does not contain the WES;
- (8) Location of all existing overhead and underground electrical transmission or distribution lines, located on the lot or parcel(s) upon which the WES or is proposed to be located, as well as within 300 feet of the boundaries of the parcel(s). The applicant shall also provide evidence to the township that easements have been obtained from the property owners for the construction of the transmission and distribution lines. The applicant shall also provide as-built drawings to the township of all electrical transmission lines constructed to serve the WES;
- (9) Location, height and type of all buildings and structures within one mile of the exterior boundaries of the lot or parcel where the WES is proposed to be located;
- (10) Contour elevations of at ten-foot intervals of the parcel(s) upon which the WES is proposed to be located;
- (11) Land uses within one mile of the parcel(s) containing the WES;
- (12) A description of the routes to be used by construction and delivery vehicles and of any road improvements that will be necessary in the township to accommodate construction vehicles, equipment or other deliveries;
- (13) Access drives to the WES, including dimensions and composition, with a narrative describing proposed maintenance of the drives;
- (14) All lighting proposed for the site, including diagrams of lighting fixtures proposed if requested by the Planning Commission;
- (15) Security measures proposed to prevent unauthorized trespass and access;
- (16) Standard drawings of the structural components of the WES, including structures, towers, bases and footings. A registered engineer shall certify drawings and any necessary calculations that show that the system complies with all applicable local, state and federal building, structural and electrical codes;
- (17) The applicant shall provide elevation drawings, detailed computer and/or photographic simulations and other models and visual aids showing the wind energy system with all related facilities as they will appear on the proposed site from vantage points north, south, east and west of the project at points one mile from the site and at three miles from the site;
- (18) Maintenance and construction schedule. The applicant shall provide a written description of the maintenance program to be used to maintain the WES, including a schedule of types of maintenance tasks to be performed and the anticipated construction schedule;
- (19) Additional information as required by §§ 154.185 through 154.194 of this chapter, or as may be required by the Planning Commission; and

(20) The Planning Commission may waive or modify some of the above requirements at the request of the applicant if it is determined that those items would not be needed to properly review the project.

(B) *Construction standards for WES.*

(1) *Height.* The height of a WES for which a special use is required shall not exceed 500 feet.

(2) *Setbacks and separation.* The following setbacks and separation requirements shall apply to all WES.

(a) *Inhabited structures.* On a participating parcel, each WES shall be set back from the nearest inhabited structure a distance of no less than 1,320 feet. Regarding a non-participating parcel, each WES shall be set back from the nearest inhabited structure a distance of no less than 1,640 feet. A lesser setback may be approved by the Planning Commission only with written approval from the owner of the inhabited structure.

(b) *Special structures and boundaries.* A WES shall be setback a minimum of 1,640 feet from a school, hospital, church, public library, city, village or adjacent township boundary.

(c) *Other setbacks.* Except as required by division (B)(2) above, a WES shall be set back from all property lines, road rights-of-way, gas transmission lines, railroads rights-of-way, communication and electrical lines a distance of not less than one and one-half times the WES height. For wind farms, the set back shall be measured from the property lines of non-participating parcels.

(d) *Tower separation.*

1. The separation of one WES from another WES shall be based on:

- a. Industry standards; and
- b. Manufacturer certification.

2. At a minimum, there shall be a separation between adjacent WES of not less than three times the rotor diameter of the WES. Documents shall be submitted to the township by the applicant/manufacturer confirming specifications for WES separation.

(e) *Rotor or blade clearance.* Blade arcs created by a WES shall have a minimum of 30 feet of clearance over, above and from any structure, adjoining property or tree.

(f) *Visual appearance and lighting.* The applicant shall reduce the visual impact of a WES to the extent possible, utilizing at least all of the following.

1. A WES shall be mounted on tubular towers, painted a non-reflective, white, off-white or gray color. The appearance of the WES and buildings shall be maintained throughout the life of the wind energy facility pursuant to industry standards.

2. The design of the WES's buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend facility components with the natural setting and the existing environment.

3. A WES shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or otherwise necessary for the reasonable safety and security thereof.

4. There shall be no advertising on the WES or any of its components.

(g) *Certification of compliance.* The applicant shall provide certification to the township that the applicant has complied or will comply with all applicable county, state and federal laws and regulations including, but not limited to:

1. All applicable state construction and electrical codes and local building permit requirements;
2. Federal Aviation Administration requirements;
3. The state's Airport Zoning Act, Pubic Act 23 of 1950, being M.C.L.A. Chapter 259, as amended;
4. The state's Tall Structures Act, Public Act 259 of 1959, being M.C.L.A.

§§ 259.481 et seq. as amended;

5. The township's Airport Overlay Zone;

6. Private landing strips in or adjacent to the township; and

7. The state's Public Service Commission and Federal Energy Regulatory Commission if the WES is an interconnected system.

(C) *Exception.* A WES (except for a structure mounted WES) may be located on a lawful parcel or parcels that do not have frontage on a public or private road.

(Ord. passed 7-12-2012, § 4.15; Ord. 19-3, passed 7-11-2019; Ord. 19-5, passed 8-8-2019; Ord. 2020-01, passed - -2020)

§ 154.309 OPERATING STANDARDS FOR ALL WIND ENERGY SYSTEMS.

All WES shall comply with all of the following.

(A) *Sound pressure level.*

(1) Noise from a wind energy system shall not exceed 43 dBA Leq over a ten-minute period measured at the property line located closest to the WES for any adjacent non-participating parcel.

(2) Utility grid systems and wind farms shall be subject to the requirements of this subsection, but the sound pressure level shall be measured at the property line closest to the WES at the outside boundary of all participating parcels.

(3) The applicant shall provide modeling and analysis that will demonstrate that the utility grid system or wind farm will not exceed the maximum permitted sound pressure requirements.

(B) *Shadow flicker.* The allowable shadow flicker measured at the nearest external wall or walls of inhabited structures shall be limited to a maximum of 20 hours per year. The applicant shall provide evidence to the township that this requirement will be met.

(C) *Signal interference.*

(1) A WES shall not be installed in any location where its proximity with existing fixed broadcast, retransmission or reception antennas for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception.

(2) A WES shall not be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.

(3) The applicant shall provide evidence to the township that these requirements will be met.

(D) *Minimization of disruption.* The wind energy facility shall be designed to minimize disruption to farmland activity on both participating and non-participating parcels.

(E) *Roads.* For each wind energy system, the applicant/owner/operator, the township and the county's Road Commission shall agree upon and document construction routes and public and private road conditions before construction begins. Any damage to a public road within the township resulting from the construction, maintenance or operation of a wind energy system shall be repaired at the applicant/owner/operator's sole expense as may be required by the county's Road Commission or the township.

(F) *Safety.*

(1) Each WES shall be equipped with both a manual and automatic braking device capable of stopping the WES operation in high winds so that the rotational speed of the rotor blade does not exceed the design limits of the rotor.

(2) To prevent unauthorized access, each WES must comply with at least one of the following provisions, and more than one if required by the Planning Commission.

(a) Tower climbing apparatus shall not be located within 12 feet of the ground.

(b) A locked anti-climb device shall be installed and maintained.

(c) A tower capable of being climbed shall be enclosed by a locked, protective fence at least ten feet high with barbed wire fence.

(d) All WES shall have lightning protection.

(e) If a tower is supported by guy wires, the wires shall be clearly visible with colored guards to height of at least ten feet above the guy wire anchors.

(f) The minimum height of the lowest position of the rotor or blade shall be at least 30 feet above the ground.

(G) *Signs.* Each WES shall have one sign not to exceed four square feet posted at the base of the tower or, if the structure is fenced, on the fence. The sign shall include the following information:

(1) The words "Warning: High Voltage";

(2) Emergency telephone numbers;

(3) The name, address, telephone number and email address of the operator of the WES; and

(4) A WES shall not include any advertising of any kind, except the nacelle may have lettering that exhibits the manufacturer's and/or owner's identification.

(H) *Maintenance and annual summary report.* Every WES must be kept and maintained in good repair and condition at all times and shall not pose a potential safety hazard. The applicant shall keep a record of all maintenance performed on each WES and any repairs made to and replacement of equipment and parts for each WES. On or about the anniversary date of the approval by the Planning Commission of the special land use permit, the applicant shall provide a summary of this maintenance record to the township's Zoning Administrator.

(I) *Underground.* All distribution lines from the WES shall be located and maintained underground, both on the property

where the WES will be located and off-site. The Planning Commission may waive the requirement that distribution lines for the WES that are located off-site (such as, are not located on or above the property where the WES will be located) be located and maintained underground if the Planning Commission determines that to install, place or maintain such distribution lines underground would be impractical or unreasonably expensive.

(Ord. passed 7-12-2012, § 4.15; Ord. 19-3, passed 7-11-2019; Ord. 19-5, passed 8-8-2019; Ord. 2020-01, passed - -2020)

§ 154.310 DECOMMISSIONING PLAN.

A decommissioning plan shall be submitted by the applicant to the township for approval. The plan shall consist of a written description of the anticipated life of the system and facility; a description as to how the useful life of the system will be determined and who will make this determination; the estimated cost of decommissioning; the method of ensuring that funds will be available for decommissioning and restoration of the site; and removal and restoration procedures and schedules that will be employed if the WES becomes obsolete or abandoned. The plan shall also describe any agreement with the landowner regarding equipment removal upon termination of the lease.

(Ord. passed 7-12-2012, § 4.15; Ord. 19-3, passed 7-11-2019; Ord. 19-5, passed 8-8-2019; Ord. 2020-01, passed - -2020)

§ 154.311 REMOVAL AND SITE RESTORATION.

Upon a determination by the township that a WES should be decommissioned or that the WES has been abandoned and within 90 days of receipt of written notification from the township, the owner/operator shall begin to remove any wind energy system or anemometer tower from the site.

(A) All equipment, structures, foundations, transmission lines and access roads (such access roads that are located on a participating parcel) associated with the wind energy system including all materials above and below ground shall be removed from the property, and the site shall be restored to a stable condition consistent with conditions existing prior the establishment of the wind energy system. The Planning Commission, however, may allow the access road to be retained if so requested by the property owner.

(B) The restoration process shall comply with all state, county or local erosion control, soil stabilization and/or runoff requirements or ordinances and shall be completed within one year of the above noted written notification from the township.

(C) Failure to begin to remove a wind energy system within the 90-day period provided in this section shall be grounds for the township to remove the wind energy system or anemometer tower at the owner's expense.

(Ord. passed 7-12-2012, § 4.15; Ord. 19-3, passed 7-11-2019; Ord. 19-5, passed 8-8-2019; Ord. 2020-01, passed - -2020)

§ 154.312 REMOVAL COST GUARANTEE.

(A) The cost of removal and site restoration is the full responsibility of the landowner and the applicant and/or owner/operator.

(B) In order to provide the greatest possible financial assurance that there will be sufficient funds to remove each wind energy system and to restore the site, the following requirements shall be fulfilled before any construction of a WES(s) by applicant begins:

(1) For each wind energy system, the applicant/owner/operator shall determine an amount of money equal to the estimated removal and restoration cost. The Planning Commission may require independent verification of the adequacy of this amount;

(2) Such removal and site restoration obligation shall be secured by the land owner and/or the applicant filing with the township for a surety bond, letter of credit, or cash deposit with language and terms acceptable to the township;

(3) The removal cost guarantee amount shall be valid throughout the lifetime of the system, and it shall be adjusted by the applicant/land owner every five years. The Planning Commission may require independent verification of the adequacy of this amount. Bonds and letters of credit shall be extended on a regular basis with expiration dates never less than two years from the annual anniversary of special use approval.

(4) Any money left in the escrow account after complete removal and site restoration of each wind energy system shall be returned by the township to the then-owner/operator.

(Ord. passed 7-12-2012, § 4.15; Ord. 19-3, passed 7-11-2019; Ord. 19-5, passed 8-8-2019; Ord. 2020-01, passed - -2020)

§ 154.313 ABANDONED, INOPERABLE AND UNSAFE WES AND ADVERSE IMPACTS.

(A) (1) Any wind energy system or anemometer tower that is not operated for a continuous period of nine months shall be considered abandoned and subject for removal.

(2) Any wind energy system or anemometer tower that is found to present an imminent physical threat or danger to life or a significant threat of damage to property shall be shut down immediately and removed or repaired or otherwise made safe.

(B) (1) A state professional engineer hired by the applicant shall certify to the township its safety prior to resumption of operation.

(2) The owner/operator shall notify the township's Zoning Administrator or the township's designee within 24 hours of any occurrence of tower collapse, turbine failure, fire, thrown blade or hub, collector or feeder line failure or injury.

(Ord. passed 7-12-2012, § 4.15; Ord. 19-3, passed 7-11-2019; Ord. 19-5, passed 8-8-2019; Ord. 2020-01, passed - -2020)

§ 154.314 COMPLAINT RESOLUTION PLAN.

(A) The applicant shall submit to the township's Zoning Administrator the procedures it will use to receive and respond to complaints about its wind energy system(s) and facilities.

(B) Procedures shall include provisions for immediate response to complaints regarding unsafe wind energy system(s) and serious violations of this chapter, as defined in this chapter.

(Ord. passed 7-12-2012, § 4.15; Ord. 19-3, passed 7-11-2019; Ord. 19-5, passed 8-8-2019; Ord. 2020-01, passed - -2020)

§ 154.315 INSPECTION.

The township shall have the right upon approving any WES to inspect the premises on which the WES is located at all reasonable times with the permission of the property owner. The township may hire a consultant to assist with any such inspections at the applicant's cost.

(Ord. passed 7-12-2012, § 4.15; Ord. 19-3, passed 7-11-2019; Ord. 19-5, passed 8-8-2019; Ord. 2020-01, passed - -2020)

§ 154.316 CERTIFICATION OF INSURANCE.

(A) The applicant/owner/operator and landowner shall indemnify, defend and hold harmless the township against any and all claims arising out of the existence, operation or failure of the wind energy system.

(B) The applicants/owners/operator and the landowner shall procure comprehensive general liability, casualty, wrongful acts insurance policies and any other policies customary to the wind energy system industry. This insurance shall be in the amount of \$5,000,000 per wind energy system, but not to exceed \$100,000,000 in the aggregate if the applicant/owner/operator own(s) more than one wind energy system in the township. The Planning Commission may adjust these amounts periodically to reflect inflation.

(C) The landowner and the applicant/owner/operator shall maintain these insurances for the, duration of the construction, operation, decommissioning, removal and site restoration of the wind energy system. The insurance carrier shall be instructed to provide the township with certificates of the existence of such insurances, and shall be instructed to notify the township if such insurances expire for any reason. Failure of the landowner or the applicant/owner/operator to maintain these insurances at all times shall result in termination of the township approval for the WES.

(Ord. passed 7-12-2012, § 4.15; Ord. 19-3, passed 7-11-2019; Ord. 19-5, passed 8-8-2019; Ord. 2020-01, passed - -2020)

§ 154.317 NOISE MONITORING AND COMPLAINT INVESTIGATION AND RESOLUTION.

The township's Zoning Administrator shall maintain a noise complaint log. The Planning Commission shall review this log at least once a year to identify and address potential adverse noise impacts. During the review process, the township can require additional sound studies to be prepared by an acoustic engineer approved by the township.

(Ord. passed 7-12-2012, § 4.15; Ord. 19-3, passed 7-11-2019; Ord. 19-5, passed 8-8-2019; Ord. 2020-01, passed - -2020)

§ 154.318 ADMINISTRATIVE COSTS; INITIAL APPLICATION AND ON-GOING.

(A) For each wind energy system application, the applicant/owner/operator shall deposit into a township escrow account the amount of \$10,000. This escrow account shall be in addition to the escrow account required by § 154.312 of this chapter.

(B) The purpose of this joint escrow account is:

(1) To reimburse the township for its costs incurred to hire consultants and experts as the township, at its sole discretion, deems desirable to examine, evaluate and verify the data and statements presented by the applicant/owner/operator; and

(2) For the life of each wind energy system, to cover the administrative and legal costs incurred by the township in monitoring and enforcing the owner/operator's ongoing compliance with this subchapter as well as any costs for administering and overseeing any WES removal and restoration costs under § 154.312 of this chapter.

(C) The account shall be managed as follows.

(1) Funds can be withdrawn from this account only by the signature of a township designee.

(2) If, at any time, the balance of this account shall fall below \$5,000, the applicant/owner/ operator shall deposit an additional \$5,000 into the account.

(3) If, at any time, the balance of this fund shall fall below \$5,000 for a continuous period of 30 days, the application shall be considered to have been withdrawn, or the township approval for the wind energy system may be terminated.

(4) The township's Zoning Administrator or township designee shall be charged with monitoring the escrow account and

giving quarterly reports to the Planning Commission. After the wind energy system has been removed and site restoration has been completed, as defined in this subchapter, any balance remaining in this account shall be returned to the applicant/owner/operator.

(D) Prior to a change in the ownership or operation of a wind energy system, including but not limited to the sale or lease of that system or the underlying property, the current land owner or operator shall provide written notice to the township at least 60 days prior to that change becoming effective. This notice shall inform the township of the intended transfer of control of the wind energy system or the underlying property, and shall include a copy of the instrument or agreement effectuating that transfer. Such an instrument or agreement shall include an express statement that the new owner or operator of the wind energy system or the underlying property shall not be permitted to operate that system until compliance with the terms of this section, including requirements for continuing security and escrow funds, has been established.

(Ord. passed 7-12-2012, § 4.15; Ord. 19-3, passed 7-11-2019; Ord. 19-5, passed 8-8-2019; Ord. 2020-01, passed - -2020)

SOLAR ENERGY SYSTEMS (SES)

§ 154.320 PURPOSE.

The township desires to promote the effective and efficient use of solar energy systems (SES) subject to reasonable regulations. It is the intent of the township to permit these systems under certain circumstances by regulating the siting, design and installation of such systems to protect the public health, safety, and welfare, and to ensure compatibility of land uses in the vicinity of solar energy systems.

(Ord. 2020-01 passed - -2020)

§ 154.321 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ARRAY. Any number of electrically connected photovoltaic (PV) modules providing a single electrical output.

BUILDING INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS. A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof, wall or the facade, and which does not alter the relief of the roof.

GROUND-MOUNTED SOLAR ENERGY SYSTEM. A solar energy system that is installed directly in the ground and is not attached or affixed to an existing building or similar structure.

ONSITE SOLAR SYSTEM. A solar energy system mounted on a building or on the ground and located on a parcel containing a principal use. An onsite solar system is considered an accessory use of the parcel and provides its electricity or heat only to uses on the parcel.

PHOTOVOLTAIC (TV) SYSTEMS. A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, which generate electricity whenever sunlight strikes them.

ROOFTOP SOLAR SYSTEM. A solar energy system in which solar panels are mounted on top of a roof, either as a flush-mounted system or as modules fixed to frames which can be tilted.

SOLAR ACCESS. The right of a property owner to have sunlight shine onto the property owner's land.

SOLAR COLLECTOR. A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR ENERGY SYSTEM (SES). Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation, and distributed. Solar systems include solar thermal, photovoltaic, and concentrated solar. This definition does not include small devices or equipment such as solar powered lawn or building lights which house both the solar energy generation system and the system which uses that energy to operate.

SOLAR FARM. A solar energy system which is the principal use of a parcel and which is designed and constructed to produce electrical energy for sale back into an electrical energy grid system and not consumed on site.

SOLAR PANEL. A device for the direct conversion of solar energy into electricity.

SOLAR-THERMAL SYSTEMS. A system, which through the use of sunlight, heats water or other liquids for such purposes as space heating and cooling, domestic hot water or heating pool water.

WALL-MOUNTED SOLAR ENERGY SYSTEM. A solar energy system that is installed flush to the surface of the wall of a permanent building.

(Ord. 2020-01 passed - -2020)

§ 154.322 GENERAL REQUIREMENTS FOR SOLAR ENERGY SYSTEMS.

(A) This section applies to solar energy systems to be installed and constructed after the effective date this section.

(B) Lawful solar energy systems constructed prior to the effective date of this section shall not be required to meet the requirements of this section; provided that any structural change, upgrade or modification to an existing solar energy system that materially alters the size, location or placement of such system shall comply with the provisions of this section.

(C) The granting of any permit for a solar energy system does not constitute solar access rights.

(D) A solar energy system shall be constructed and placed so it does not create a glare for persons off site.

(E) A solar energy system shall be properly maintained at all times. Such maintenance shall include measures to maintain the original appearance of each structure, ensuring that the solar panels do not leak and that the ground cover beneath the panels does not become a visual nuisance.

(F) Solar energy systems shall be installed, maintained, and used only in accordance with the manufacturer's directions. A copy of such directions shall be submitted to the township prior to installation.

(G) Solar energy systems, and the installation and use thereof, shall comply with the township Building Code and the landowner shall obtain all applicable county, state and federal permits.

(H) Any SES that is not operated for a continuous period of nine months as determined by the township shall be considered abandoned or non-functional and subject for removal. Upon a determination by the township that a SES should be decommissioned and within 90 days of receipt of written notification from the township, the owner/operator shall begin to remove the SES from the site and proceed promptly toward completion in accordance with the approved decommissioning plan.

(Ord. 2020-01 passed - -2020)

§ 154.323 REQUIREMENTS FOR ROOFTOP AND WALL MOUNTED SES.

(A) Roof and wall mounted SES are a permitted use in all zoning districts and are subject to review and approval by the Zoning Administrator. Applicants shall submit an accurate sketch plan to the Zoning Administrator providing the location of the building, location of the SES, the height of the SES including a data sheet and installation instructions from the equipment manufacturer and other information as requested by the Zoning Administrator. The applicant shall provide information on the type of solar panel to be used and any hazardous chemicals contained in the solar panels and measures to prevent leakage.

(B) A roof mounted SES shall not project more than five feet above the highest point of the roof, and in any case, shall not exceed the maximum building height limitation for the zoning district in which it is located, and shall not project beyond the eaves of the roof.

(C) Each roof and wall mounted SES shall be securely and safely attached to a building or structure. Proof of the safety and reliability of the means of such attachment shall be submitted to the Zoning Administrator prior to installation along with information that the roof is capable of supporting the equipment. Such proof shall be subject to the Zoning Administrator's approval.

(D) Each wall-mounted SES shall not exceed the height of the building wall to which it is attached.

(E) Each wall-mounted SES shall not be mounted on a building wall that faces upon a public or private street.

(Ord. 2020-01 passed - -2020)

§ 154.324 LEVEL 1 ONSITE GROUND MOUNTED SES.

A Level 1 Onsite Ground Mounted Solar Energy System is allowed in all zoning districts as a permitted accessory use subject to review and approval by the Zoning Administrator according to the following requirements.

(A) *Occupancy.* A Level 1 Onsite Ground Mounted Solar Energy System shall not occupy an area greater than 5,000 square feet in size.

(B) *Sketch plan.*

(1) Applicants shall submit an accurate sketch plan to the Zoning Administrator illustrating property lines of the parcel, buildings on the parcel, the proposed setbacks and height of the SES including a data sheet from the equipment manufacturer and other information as requested by the Zoning Administrator. Information on the visual impact of the proposed solar farm using photos or computer-generated images of the project on the site to demonstrate the appearance of the project from off site.

(2) The applicant shall also provide information on the type of solar panel to be used and any hazardous chemicals contained in the solar panels and measures to prevent leakage.

(C) *A ground mounted SES is an accessory structure.* A ground mounted SES is permitted on the same lot as an accessory building but shall not count as one of the permitted accessory buildings allowed by § 154.252(E) of this chapter. The combined area of an accessory building and SES shall not exceed the total square footage allowed by 154.252(E) of this chapter. For example, for a lot of one acre or less, the total area occupied by the permitted accessory building and a ground mounted SES shall not exceed 1,200 square feet. The area occupied by the SES shall be measured around the

outside boundaries of the solar panels not the solar panel supports.

(D) *Setbacks.* A ground mounted solar energy system shall only be located in the side and rear yards and shall be set back a minimum of ten feet from all lot lines and five feet from any structure.

(E) *Height.* The height of a SES shall not exceed ten feet above natural grade at the time of project approval, as depicted on the sketch plan. The height shall be measured from the highest point of the panel when oriented at its maximum tilt to the ground immediately below the panel.

(Ord. 2020-01 passed - -2020)

§ 154.325 LEVEL 2 ONSITE GROUND MOUNTED SES.

A Level 2 Onsite Ground Mounted Solar Energy System (SES) occupies an area greater than a Level 1 Onsite Solar Energy System and is allowed in all zoning districts as an accessory use subject to review and approval of a Special Use Permit by the Planning Commission in accordance with the requirements and procedures of §§ 154.185 through 154.194 of this chapter and also the following requirements.

(A) *Occupancy.* A Level 2 Ground Mounted SES shall not occupy an area greater than five acres in size.

(B) *Setbacks.* A ground mounted solar energy system shall only be located in the side and rear yards and shall comply with the setback requirements for principal buildings for the zoning district in which the SES is located and shall be five feet from any structure. On a corner lot, the SES shall comply with the setback requirements for accessory buildings and shall be five feet from any structure.

(C) *Height.* A ground mounted SES shall not exceed a height of 14 feet above natural grade at the time of project approval, as depicted on the site plan. The height shall be measured from the highest point of the panel when oriented at its maximum tilt to the ground immediately below the panel.

(D) *Visual impact.* Information on the visual impact of the proposed solar farm using photos or computer-generated images of the project on the site to demonstrate the appearance of the project from off site.

(E) *Electrical interconnections.* All electrical interconnection or distribution lines shall comply with all applicable codes. The applicant shall provide evidence to the township of approval from the applicable utility company.

(F) *Pavement.* The portion of the premises on which the array of collector panel structures is located shall not be paved with asphalt or any other surface material that is impervious to rainwater.

(G) *Plantings.* Plantings shall be installed around the perimeter of the parcel or parcels containing the SES. One deciduous or conifer tree for every 25 feet of property line length is required. The Planning Commission may modify the landscaping requirement depending upon the location of existing plant material on the site or if additional plantings are needed to buffer existing land uses. Trees shall be a minimum of four feet tall when planted and remain in good condition for the life of the project.

(H) *Above ground transmission lines.* Use of above ground transmission lines for the SES shall be prohibited within the site.

(I) *Type of panel.* The applicant shall provide information on the type of solar panel to be used and any hazardous chemicals contained in the solar panels and measures to prevent leakage.

(J) *Decommissioning plan.* A decommissioning plan shall be provided as required by subsection.

(K) *Kept and maintained in good repair and condition.* Every SES must be kept and maintained in good repair and condition at all times and shall not pose a potential safety hazard. The applicant shall provide a written description of the maintenance program to be used to maintain the SES. For Level 2 SES, the applicant shall keep a record of all maintenance performed and repairs made to and replacement of equipment and parts. On or about the anniversary date of the approval by the Planning Commission of the Special Land Use permit, the applicant shall provide a summary of this maintenance record to the township's Zoning Administrator.

(L) *Removal cost guarantee.* The cost of removal and site restoration is the full responsibility of the landowner and the applicant and/or owner/operator. In order to provide the greatest possible financial assurance that there will be sufficient funds to remove the solar energy system and to restore the site, the following steps shall be followed for Level 2 SES:

(1) For each solar energy system, the applicant/owner/operator shall determine an amount of money equal to the estimated removal and restoration cost. The Planning Commission may require independent verification of the adequacy of this amount;

(2) Such removal and site restoration obligation shall be secured by the land owner and/or the applicant filing with the township a surety bond, letter of credit, or cash deposit with language and terms acceptable to the township; and

(3) The removal cost guarantee amount shall be valid throughout the lifetime of the system, and it shall be adjusted by the applicant/land owner every five years. The Planning Commission may require independent verification of the adequacy of this amount. Bonds and letters of credit shall be extended on a regular basis with expiration dates never less than two years from the annual anniversary of special use approval.

(M) *Transfer of ownership.* Prior to a change in the ownership or operation of a solar energy system, including but not

limited to the sale or lease of that system or the underlying property, the current land owner or operator shall provide written notice to the township at least sixty days prior to that change becoming effective. This notice shall inform the township of the intended transfer of control of the solar energy system or the underlying property, and shall include a copy of the instrument or agreement effectuating that transfer. Such an instrument or agreement shall include an express statement that the new owner or operator of the solar energy collector system or the underlying property shall not be permitted to operate that system until compliance with the terms of this chapter, including requirements for continuing security and escrow funds, has been established.

(Ord. 2020-01 passed - -2020)

§ 154.326 SOLAR FARMS.

(A) Solar farms are only allowed in the Ag-1, Ag-2 and industrial zoning districts subject to review and approval of a special use permit by the Planning Commission in accordance with the requirements and procedures of §§ 154.185 through 154.194 of this chapter and also the following requirements.

(B) *Lot size.* The minimum lot size for a solar farm shall be 20 acres. A parcel containing a solar farm shall not require frontage on a public street.

(C) *Application Requirements.* In addition to the site plan required by §§154.160 through 154.171 of this chapter, the applicant shall provide all of the following information to the township:

- (1) Proof of a lease, deed or purchase agreement for the parcel for the proposed solar farm;
- (2) Type of solar panel to be used and any hazardous chemicals contained in the solar panels and measures to prevent leakage;
- (3) Name and address of the manufacturer, and model of the solar panels;
- (4) Expected energy output and anticipated useful life of the system, development phases, likely markets for the generated energy, and possible future expansions;
- (5) Information on the visual impact of the proposed solar farm using photos or computer-generated images of the project on the site to demonstrate the appearance of the project from off site.
- (6) *Maintenance and construction schedule.* The applicant shall provide a written description of the maintenance program to be used to maintain the SES, and the anticipated construction schedule;
- (7) Digital versions of all planning and construction documents required pursuant to §§ 154.160 through 154.171 of this chapter, Site Plan Review. Digital submittals are in addition to paper plans and do not replace any current submission requirements. Digital versions shall be submitted in PDF (Adobe Acrobat/Portable Document File) format;
- (8) A decommissioning plan as required by division (D) of this section;
- (9) Distance from the proposed solar farm to the nearest habitable dwelling unit on a parcel which does not contain the solar farm;
- (10) A security plan detailing on-site security provisions which may include fencing, security guards, video surveillance, and similar measures;
- (11) A landscaping plan illustrating the number, size, type and spacing of trees proposed to screen the solar farm from nearby roadways;
- (12) Additional information as required by §§ 154.160 through 154.171 of this chapter, or as may be required by the Planning Commission; and
- (13) The Planning Commission may waive or modify some of the above requirements at the request of the applicant if the Commission determines that those items would not be needed to properly review the project.

(D) *Decommissioning:* The applicant shall submit a decommissioning plan to the township which shall address all of the following:

- (1) Defined conditions upon which decommissioning will be initiated (such as, end of land lease, no power production for nine months, obsolete equipment and similar circumstances);
- (2) A description as to how the useful life of the system will be determined and who will make this determination;
- (3) Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and building foundations to a depth of three feet below grade;
- (4) Restoration of property to the condition prior to development of the solar farm including measures to ensure that soils are not contaminated during decommissioning;
- (5) The timeframe for completion of decommissioning activities;
- (6) An engineer's cost estimate for all aspects of the decommissioning plan;

- (7) Description of any agreement with the landowner regarding decommissioning;
- (8) Provisions for updating the decommissioning plan;
- (9) A statement signed by the owner or operator that they take full responsibility for reclaiming the site in accordance with the decommissioning plan and the special land use permit upon cessation of use; and
- (10) The Planning Commission may require that the owner or operator provide a financial guarantee to cover the costs of decommissioning the site in accordance with division (G) of this section.

(E) *Additional requirements for solar farms.*

(1) *Safety/access.* A security fence shall be placed around the perimeter of the solar farm with a locked gate. Knox boxes and keys shall be provided at locked entrances for emergency personnel access. The height and material of the fence shall be as approved by the Planning Commission depending upon the location of the facility.

(2) The facility shall be designed for interconnection to a public utility electrical power grid, and shall be operated with such interconnection. All electrical interconnection or distribution lines shall comply with all applicable codes. The applicant shall provide evidence to the township of approval from the applicable utility company. Use of above-ground transmission lines for the SES shall be prohibited within the site.

(3) The portion of the premises on which the array of collector panel structures is located shall not be paved with asphalt or any other surface material that is impervious to rainwater.

(4) Plantings shall be installed around the perimeter of the parcel or parcels containing the solar farm. One deciduous or conifer tree for every 25 feet of property line length is required. The Planning Commission may modify the landscaping requirement depending upon the location of existing plant material on the site or if additional plantings are needed to buffer existing land uses. Trees shall be a minimum of four feet tall when planted and remain in good condition for the life of the project.

(5) *Setbacks.* Solar panels shall be setback a minimum of 50 feet from all right of way lines and ten feet from all other lot lines except solar panels shall not be placed closer than 100 feet from the lot line of another parcel containing a dwelling unit. There shall be five feet between any separate structures that comprise a solar farm.

(6) *Height.* A ground mounted SES shall not exceed a height of 20 feet above natural grade at the time of project approval, as depicted on the site plan. The height shall be measured from the highest point of the panel when oriented at its maximum tilt to the ground immediately below the panel.

(7) *Electrical Interconnections.* All electrical interconnection or distribution lines shall comply with all applicable codes. The applicant shall provide evidence to the township of approval of connection from the applicable utility company.

(8) Use of above-ground transmission lines for the SES shall be prohibited within the site.

(9) *Maintenance and annual summary report.* Every solar farm must be kept and maintained in good repair and condition at all times and shall not pose a potential safety hazard. The applicant shall keep a record of all maintenance performed and repairs made to and replacement of equipment and parts. On or about the anniversary date of the approval by the Planning Commission of the special land use permit, the applicant shall provide a summary of this maintenance record to the township's Zoning Administrator.

(F) *Administration costs initial application and ongoing.*

(1) For each solar energy system application, the applicant/owner/operator shall deposit into an escrow account with the township the amount of \$5,000. The purpose of this escrow account is:

(a) To reimburse the township for its costs incurred to hire consultants and experts as the township, at its sole discretion, deems desirable to examine, evaluate and verify the data and statements presented by the applicant/owner/operator; and

(b) For the life of each solar energy system, to cover the administrative and legal costs incurred by the township in monitoring and enforcing the owner/operator's ongoing compliance with this chapter.

(2) The account shall be managed as follows:

(a) Funds can be withdrawn from this account only by the signature of a township designee;

(b) If at any time the balance of this account shall fall below \$1,000, the applicant/owner/operator shall deposit additional funds to restore the account to a \$5,000 balance;

(c) If at any time the balance of this fund shall fall below \$1,000 for a continuous period of thirty days, the application shall be considered to have been withdrawn, or the Permit for the solar energy system may be terminated by the township; and

(d) A township designee shall be charged with monitoring the escrow account and giving quarterly reports to the Planning Commission. After the solar energy system has been removed and site restoration has been completed, as defined in this chapter, any balance remaining in this account shall be returned to the applicant.

(G) *Removal cost guarantee.* The cost of removal and site restoration is the full responsibility of the landowner and also

the applicant and/or owner/operator. In order to provide the greatest possible financial assurance that there will be sufficient funds to remove the solar energy system and to restore the site, the following steps shall be followed:

(1) For each solar energy system, the applicant/owner/operator shall determine an amount of money equal to the estimated removal and restoration cost. The Planning Commission may require independent verification of the adequacy of this amount;

(2) Such removal and site restoration obligation shall be secured by the land owner and/or the applicant filing with the township a surety bond, letter of credit, or cash deposit with language and terms acceptable to the township; and

(3) The removal cost guarantee amount shall be valid throughout the lifetime of the system, and it shall be adjusted by the applicant/land owner every five years. The Planning Commission may require independent verification of the adequacy of this amount. Bonds and letters of credit shall be extended on a regular basis with expiration dates never less than two years from the annual anniversary of special use approval.

(H) *Transfer of ownership.* Prior to a change in the ownership or operation of a solar energy system, including but not limited to the sale or lease of that system or the underlying property, the current land owner or operator shall provide written notice to the township at least 60 days prior to that change becoming effective. This notice shall inform the township of the intended transfer of control of the solar energy system or the underlying property, and shall include a copy of the instrument or agreement effectuating that transfer. Such an instrument or agreement shall include an express statement that the new owner or operator of the solar energy collector system or the underlying property shall not be permitted to operate that system until compliance with the terms of this subchapter, including requirements for continuing security and escrow funds, has been established.

(Ord. 2020-01, passed - -2020)

PRIVATE ROADS

§ 154.330 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EXISTING BUILDING or an **EXISTING DWELLING UNIT.** A building or dwelling unit for which a building permit has been issued by the township as of the effective date of this subchapter.

EXISTING LOT. A lot that, as of the effective date of this subchapter, meets at least one of the following conditions:

(1) The lot consists of a parcel described by metes and bounds for which a deed has been recorded with the county's Register of Deeds, or of a parcel described by a land contract or memorandum of land contract that has been recorded with the county's Register of Deeds;

(2) The lot has been assigned its own permanent parcel number by the county's Property Description and Mapping Department (or successor agency) and is individually assessed and taxed on that basis; or

(3) The lot consists of a "condominium unit" (in other words, a portion of a condominium project designed and intended for separate ownership and use as described in the condominium master deed) located within a "site condominium" development for which a condominium master deed has been recorded with the county's Register of Deeds in accordance with the requirements of the state's Condominium Act (Public Act 59 of 1978, as amended, being M.C.L.A. §§ 559.101 et seq.) and other applicable laws and ordinances.

EXISTING PRIVATE ROAD. A private road or a private road system that is used to provide access to existing lots, buildings or dwelling units as of the effective date of this subchapter.

(Ord. passed 7-12-2012, § 4.27)

§ 154.331 GENERAL REQUIREMENTS; APPLICATION TO EXISTING PRIVATE ROADS.

(A) After the effective date of this subchapter, a private road shall not be constructed, extended, improved or relocated, except in accordance with the minimum standards and requirements of this section. New lots may be created with the required frontage on an existing private road, to a total of five lots, without upgrading the private road. If six or more lots are proposed adjacent to an existing private road, the road shall meet the requirements of § 154.332(F) of this chapter and a private road permit must be obtained under this subchapter. If an existing private road is proposed to be extended then the existing portion shall be improved to meet the standards of this subchapter. The new portion shall also comply with the standards of this subchapter.

(B) Private roads may be permitted in all zoning districts except the Ag-1 Zone according to the provisions of this subchapter. In the Ag-1 Zoning District, a private road shall only be permitted if approved by the Planning Commission as a special use in accordance with the provisions of §§ 154.185 through 154.194 of this chapter. Such private road, if approved, shall adhere to the requirements of this subchapter.

(C) In order to approve a private road in the Ag-1 Zoning District, the Planning Commission shall find that the proposed road meets the general standards of this subchapter and also the following standards.

(1) The private road will not be built upon land that is classified as prime or unique by the United States Department of

Agriculture.

- (2) The private road will not be built on land that is being actively farmed.
- (3) The private road shall be setback a minimum of 150 feet from the limits of active farm land.
- (4) The use of the private road will not cause an adverse effect on nearby farm operations and that users of the private road will not be adversely affected by nearby farm operations.
- (5) Allowing a private road in the Ag-1 Zoning District will not adversely affect the long-term plans and development policies of the township.

(D) The provisions of this subchapter shall not apply to access roads internal to any individual lot or parcel of land that has direct public street frontage access and is under the control of one person, firm, corporation or association; provided that, the access road does not provide access to any abutting lot or parcel of land. Examples of access roads that may be exempted from the provisions of this chapter include those serving multi-family dwellings, nursing homes, hospitals, factories, schools, mobile home parks and shopping centers that are otherwise subject to site plan review and approval under the provisions of this chapter.

(E) The provisions of this subchapter shall not apply to an existing private road that provides access solely to existing lots, buildings or dwelling units, except for those requirements pertaining to names for private roads, house numbers and minimum lot frontage, as contained herein.

(Ord. passed 7-12-2012, § 4.27)

§ 154.332 MINIMUM STANDARDS.

(A) A private road shall be located within a private road easement. Such easement shall not be less than 66 feet in width at any point if it serves residential, non-commercial or non-industrial uses, or less than 86 feet wide at any point if it serves a commercial or industrial use. At any dead-end of such easement, the easement shall widen such that there is a minimum radius of 60 feet for residential, non-commercial or non-industrial use and 75 feet for commercial and industrial use.

(B) A lot shall have frontage on the private road easement that is at least equal to the minimum lot width required for the zoning district in which the lot is located.

(C) A private road shall intersect and connect to a public road.

(D) The private road shall be given a street name that is not the same or similar to any other street name in the county. A street sign bearing the street name given the private road meeting County Road Commission standards as to design, location and maintenance shall be erected and maintained where such private road adjoins any public road.

(E) A private road or more than one private road that forms a connected private road system shall not contain more than 2,000 lineal feet of roadway unless another means of ingress and egress is provided that meets the standards of this chapter. The measurement shall be made from the point where the private road abuts the public road right-of-way and shall be made along the centerline of the private roadway to the center of the turnaround radius for each portion or segment of the private road and the total shall not exceed 2,000 lineal feet.

(F) A private road that serves less than six dwellings or buildings is not required to be paved but shall have a minimum width of 22 feet with a three-foot shoulder on each side. The road base shall consist of at least a six-inch gravel base with a 12-inch sand sub-base. The road shall widen at any dead-end so there is at least a 40-foot diameter turnaround for non-commercial and non-industrial roads and 50 feet diameter turnaround for commercial and industrial roads.

(G) A private road that serves six or more dwelling units or buildings shall be constructed to the standards of the county's Road Commission for a local paved road. Notwithstanding that paving requirement, if a private road lawfully existed and was not paved as of 6-30-2015 and served five parcels or lots as of that date, one additional lot or building site may be created or added thereafter to be served by that non-paved private road and that paving requirement would not be applicable for the resulting sixth lot or parcel served by that private road if the paving requirement is waived by the Planning Commission pursuant to a special use approval. In addition to the generally applicable special use standards contained in § 154.186 of this chapter, the Planning Commission must also find that all of the following additional standards will be met before such a special use approval can be granted:

- (1) Modifications to the existing non-paved private road will result in the road being improved to be in greater conformity with the private road requirements contained in this chapter;
- (2) The existing private road will be improved so as to minimize dust with regard to the lots and parcels served by the private road as well as the surrounding neighborhoods;
- (3) The alterations to the private road will increase safety. In addition, as modified, the private road will have to be able to accommodate emergency vehicles more easily and safely;
- (4) The private road will have to have an adequate turnaround or cul-de-sac to accommodate turnarounds and emergency vehicles;
- (5) Without the special use approval, it is unlikely that the private road would ever be improved or upgraded; and
- (6) If the special use approval is granted, the applicant must still appear before the township's private road committee

for final approval.

(H) A private road shall not exceed a grade of 10%; provided that, within 30 feet of the intersection of a private road with any other private road or with any public right-of-way, a private road shall not exceed a grade of 4%.

(I) A private road shall be constructed in a manner to provide effective storm water drainage and to prevent run-off onto adjacent property. If a private road crosses a natural drainage course, stream or other natural body of water, the method of crossing (by bridge, culvert or other structure) must be certified by a registered professional engineer that it complies with applicable County Road Commission and state requirements.

(J) A dwelling unit that derives its primary access from a private road shall display a house number in a manner so that the number is at all times readily visible from the private road. The house numbers shall be a minimum of three inches in height.

(Ord. passed 7-12-2012, § 4.27; Ord. 16.01, passed 3-10-2016)

§ 154.333 ROAD MAINTENANCE.

(A) The applicant(s) and/or owner(s) of the proposed private road shall provide to the township a recordable or recorded road maintenance agreement, access easement agreement, and deed restrictions that shall provide for the perpetual private (non-public) maintenance of such roads and/or easements to a necessary and reasonable standard to serve the parties having an interest in the private road.

(B) These documents shall contain the following provisions:

(1) A method of initiating and financing of such road and/or easements in order to keep the road in a reasonably good and usable condition;

(2) A workable method of apportioning the costs of maintenance and improvements;

(3) A notice that if repairs and maintenance are not made, the Township Board may bring the road up to the design standards required by this subchapter and assess owners of parcels on the private road for the improvements, plus an administrative fee in the amount of 25% of the total cost of the improvements;

(4) A notice that no public funds of the township are to be used to build, repair or maintain the private road;

(5) Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary; and

(6) A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, tradesmen and others bound to or returning from any of the properties having a right to use the road.

(Ord. passed 7-12-2012, § 4.27)

§ 154.334 PROCEDURE FOR REVIEW.

(A) An application to establish, extend, improve or relocate a private road shall be filed with the township's Zoning Administrator along with a fee as set by the Township Board.

(B) The application shall contain or be accompanied by the following information:

(1) The name(s) of the owners and any other parties having any legal interest in the private road and the property across which it is to be constructed;

(2) Permanent parcel number or legal description of the property over which the private road is to be constructed;

(3) A site location map not to scale that shows the location of the parcel containing the road to surrounding properties and road ways within one-half mile of the site;

(4) A scaled drawing prepared by a registered engineer showing the precise location; route, elevations, dimensions, specifications and design of the private road and any proposed extensions of the road, existing or proposed curb cuts and the location and distance to any public street that the private road is to intersect;

(5) A proposed road maintenance agreement, access easement agreement and deed restrictions shall also accompany the application; and

(6) A driveway permit from the county's Road Commission.

(Ord. passed 7-12-2012, § 4.27)

§ 154.335 REVIEW COMMITTEE.

(A) The application, drawings and other required information shall be forwarded to the Private Road Review Committee (the "Committee"). This Committee shall consist of two Planning Commissioners appointed by the Chair of the Planning Commission and the Zoning Administrator. An alternate member from the Planning Commission shall also be appointed by

the Chair.

(B) The Zoning Administrator shall upon receipt of all required information and payment of the required fee, call a meeting of the Committee. All meetings of the Committee shall conform to the provisions of the Open Meetings Act, being Public Act 267 of 1976, being M.C.L.A. §§ 15.261 et seq., as amended.

(C) The Committee shall review this information to determine compliance with the standards and requirements for private roads as contained herein. The Committee may consult with the township's Fire Chief, Attorney, Engineer or Planner as deemed necessary. All members of the Committee shall be present to review and decide upon the application.

(D) If the Committee finds that the application meets the requirements of this subchapter, it shall approve the application and direct the Zoning Administrator to issue a permit for the construction of the private road. This permit shall consist of a stamp noting approval and containing the signature of the Zoning Administrator and the date of approval. Two copies of the private road plans shall be stamped for approval, one copy shall be kept by the applicant, and one by the Township. This construction permit is not a private road permit and does not authorize the construction of any buildings on the private road. The construction permit is valid for a period of one year from the date of approval. If construction of the private road has not commenced before this date, the permit shall expire. A new permit shall be required before construction can begin.

(E) If the Committee denies the application, the written reasons for denial shall be provided to the applicant within five working days of the date of denial.

(Ord. passed 7-12-2012, § 4.27)

§ 154.336 FINAL COMPLIANCE REQUIREMENTS.

Upon completion of construction of the private road, the applicant shall provide to the Zoning Administrator:

(A) A letter from a registered professional engineer that the road has been constructed in compliance with the approved private road plans; and

(B) Documentation that the road maintenance, agreement, access easement and deed restrictions have been recorded with the county's Register of Deeds office.

(Ord. passed 7-12-2012, § 4.27)

§ 154.337 PERMIT ISSUANCE.

Upon approval of all items required for final compliance, the Zoning Administrator shall issue a private road permit.

(Ord. passed 7-12-2012, § 4.27)

§ 154.338 PERMITS FOR BUILDINGS.

(A) A building permit shall not be issued for any principal building, dwelling or structure that derives its primary access from a private road unless a private road permit has been issued by the township and the road has either been completed in accordance with the approved permit or the applicant for the building permit or owner(s) of the private road right-of-way have provided the township with cash or irrevocable letter of credit in an amount determined by the township, to ensure construction of the private road in accordance with the approved private road construction permit within one year from the issuance of the building permit. The letter of credit shall contain a provision that the township shall have the right to access the letter of credit if such letter is not renewed 30 days before the expiration date of the letter.

(B) A private road permit shall not be required for the issuance of a building permit for a principal building, dwelling or principal building, dwelling or structure that derives its primary access from an existing lawful private road as defined herein, except as otherwise provided in § 154.331 of this chapter.

(Ord. passed 7-12-2012, § 4.27)

ADULT-ORIENTED BUSINESSES

§ 154.350 LOCAL AND APPROVAL.

An adult-oriented business shall be allowed as a special use in the I-2 Heavy Industrial Zoning District only if all of the following standards are satisfied.

(A) Adult-oriented businesses shall be allowed only within the in the I-2 Heavy Industrial Zoning District if approved as a special use.

(B) No adult-oriented business shall be located within 500 feet of another adult-oriented business. For purposes of this division (B) and divisions (C) and (D) below, the distance between a proposed adult-oriented business and another adult-oriented business, the boundary of any land in the agricultural or any residential zoning district or approved as a planned unit development for residential purposes, or land used for any single-family, two-family or multiple-family dwelling; township, county or state park; school; library; licensed childcare facility; playground; church or place of worship, shall be measured in a straight line from the nearest property line of the parcel of land upon which the proposed adult-oriented business is to be located to the nearest property line of the parcel of land used for the other adult-oriented business, the nearest boundary of the land in the agricultural or any residential zoning district or approved as a planned unit development

or a plat for residential purposes or the nearest property line of the parcel of land used for a single-family, two-family or multiple-family dwelling; township, county or state park; school; library; licensed childcare facility; playground; church or place of worship.

(C) No adult-oriented business shall be located on a parcel or lot that is within 1,500 feet of the boundary of any land in the agricultural or any residential zoning district, or approved as a planned unit development for residential purposes.

(D) No adult-oriented business shall be located on a parcel or lot within 1,500 feet of any single-family, two-family or multiple-family dwelling; any township, county or state park; school; library; licensed child care facility; playground; church or place of worship.

(E) No adult-oriented business shall be located within any principal or accessory building or structure already containing another adult-oriented business.

(F) The proposed use shall conform to all requirements of the zoning district in which it is located.

(G) The proposed use shall be in compliance with all other ordinances of the township and with all statutes, laws, rules and regulations of the county, state and federal government and, to the extent required, all governmental approvals must be obtained.

(H) The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from neighboring properties or the adjacent right-of-way of a public street or private street.

(I) Any sign or signs proposed for the adult-oriented business shall comply with the provisions of this chapter; may not otherwise include photographs, silhouettes, drawings or pictorial representations of specified anatomical areas, specified sexual activities or obscene representations of the human form; and may not include animated or flashing illumination.

(J) Entrances to the proposed adult-oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using clearly marked lettering no less than two inches in height stating that:

(1) "Persons under the age of 18 are not permitted to enter the premises"; and

(2) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission".

(K) No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible by a person of normal visual acuity from the nearest adjoining right-of-way of a public street or private street or a neighboring property.

(L) Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m., Monday through Saturday. All adult-oriented businesses shall remain closed on Sundays and legal holidays.

(M) All off-street parking areas shall comply with this chapter and shall be illuminated after sunset during all hours of operation of the adult-oriented business, and until one hour after the business closes. The illumination shall be designed to provide a minimum level of brightness of one foot candle, with a three-to-one uniformity ratio. The illumination shall not reflect on and shall be screened from adjoining properties.

(N) Any booth, room or cubicle available in any adult-oriented business, except an adult motel, that is used by patrons for the viewing of any entertainment characterized by the showing of specified anatomical areas or specified sexual activities shall:

(1) Be handicap-accessible to the extent required by law;

(2) Be unobstructed by any floor, lock or other entrance and exit control device;

(3) Have at least one side totally open to a public, lighted aisle so that there is an unobstructed view of any occupant at all times from the adjoining aisle;

(4) Be illuminated such that a person of normal visual acuity can, by looking into the booth, room or cubicle from its entrance adjoining the public lighted aisle, clearly determine the number of people within; and

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

(Ord. passed 7-12-2012, § 8.5)

§ 154.351 SPECIAL LAND USE PROCESS.

Any special use application for an adult-oriented business shall be processed under the provisions of §§154.185 through 154.194 of this chapter.

(Ord. passed 7-12-2012, § 8.5)

§ 154.352 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a

different meaning.

ADULT CABARET. A nightclub, restaurant or other establishment which regularly features or displays:

- (1) Live performances, displays or dancing predominantly characterized by an emphasis on the exposure of any specified anatomical area or by any specified sexual activity; or
- (2) Films, motion pictures, video cassettes, DVDs, slides, computer displays, other photographic reproductions or other visual media predominantly characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area.

ADULT MERCHANDISE STORE. An establishment that emphasizes merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area. An establishment emphasizes merchandise that is predominantly distinguished by its "emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area" if any one or more of the following applies to the establishment:

- (1) Twenty-five percent or more of the establishment's retail display space (excluding bathrooms, office areas, fitting rooms, eating areas, storage areas, closets and other non-public areas) is used for the sale of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area;
- (2) Twenty-five percent or more of the establishment's visible inventory is comprised of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area;
- (3) Twenty-five percent or more of the establishment's gross revenues are generated by the sale or rental of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area; and
- (4) The establishment is operated consistently with its being an adult-oriented business (such as, advertising is directed to an "adults only" market; the establishment self-imposes or imposes consistent with state or federal law, prohibitions on minors being present in the establishment and the like).

ADULT MOTEL. A hotel, motel or similar establishment that:

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

ADULT-ORIENTED BUSINESS. A business or commercial establishment engaging in one or more of the following enterprises, uses or activities:

- (1) Adult cabaret;
- (2) Adult merchandise store;
- (3) Adult motel;
- (4) Adult theater;
- (5) Escort agency;
- (6) Nude or semi-nude model studio; or
- (7) Sexual encounter center.

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

EMPLOYEE. A person who performs any service for any consideration on the premises of an adult-oriented business on a full-time, part-time or contract basis, whether or not the person is denominated as an employee, independent contractor, agent or otherwise, and whether or not said person is paid a salary, wage or other compensation by the operator of said adult-oriented business. **EMPLOYEE** does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises or for the delivery of goods to the premises.

ESCORT. A person who, for any form of consideration and regardless of who pays that consideration, agrees to act or

offers to act as a companion or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY. A person or entity which furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration. An **ESCORT AGENCY** is deemed to be operated in the location where:

- (1) A request for an escort is received; or
- (2) The escort and the person requesting the escort are together.

MATERIAL. Anything tangible, whether through the medium of reading, observation, viewing, sound or in any other manner, including, but not limited to, anything printed or written, any book, magazine, newspaper, pamphlet, picture, drawing, pictorial representation, motion picture, photograph, video tape, video disk, DVD, film, computer display, transparency, slide, audiotape, audio disk, computer tape, holographic images or any other medium used to electronically produce or reproduce images, or any mechanical, chemical or electronic reproduction. **MATERIAL** includes undeveloped photographs, molds, printing plates and other latent representational objects whether or not processing or other acts are required to make the content of the material apparent. This definition is intended to include material which is the product of any technology, whether that technology is available on the effective date of the ordinance that added this definition or becomes available after that date.

MERCHANDISE. Material, products and novelties.

NOVELTY. Any instrument, device or paraphernalia which depicts or describes any specific anatomical area or any specific sexual act, or which is designed for use, or commonly used, in connection with specific sexual activities, excluding condoms and other birth control and disease prevention products.

NUDITY, NUDE or STATE OF NUDITY. The knowing or intentional live display of a human genital organ or anus with less than a fully opaque covering or a female's breast with less than a fully opaque covering of the nipple and areola. **NUDITY**, as used in this subchapter, does not include a woman's breast-feeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.

NUDE OR SEMI-NUDE MODEL STUDIO. Any place where a person who displays any specified anatomical area is provided to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by any other person who pays money or any form of consideration, but does not include the following:

- (1) An educational institution funded, chartered or recognized by the state; or
- (2) Any modeling session for a local, non-profit organization, that is not open to the public or to any persons other than members of the organization, that is for the purpose of instruction in the artistic depiction in two-dimensional or three-dimensional media of the human form, during which no specified sexual activities occur and during which the model remains in a fixed pose.

OPERATE or CAUSE TO OPERATE. To cause to function or to put or keep in a state of doing business.

OPERATOR. Any person on the premises of an adult-oriented business who exercises overall operational control of the business or a part of the business, who can open or close the business to the public, or who causes to function or who puts or keeps the business open or in operation. A person may be found to be "operating" or "causing to be operated" an adult-oriented business regardless of whether that person is an owner or part owner of the business.

PATRON. A customer of the adult-oriented business or a person from the general public, not an employee of the business, who is on the premises to obtain, receive or view the products, services or performances offered by the business.

REGULARLY. Recurring, attending or functioning at fixed or uniform intervals.

SEMI-NUDITY or SEMI-NUDE or IN A SEMI-NUDE CONDITION. The showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited in a bikini, dress, blouse, shirt, leotard or similar wearing apparel provided the areola is not exposed in whole or in part.

SEXUAL ENCOUNTER CENTER. An establishment, except that which is part of the practice of and under the supervision and control of a physician, psychologist or psychiatrist licensed to practice in the state, that offers:

- (1) Activities between male and female persons and/or persons of the same sex when one or more of the persons exposes or displays any specified anatomical area; or
- (2) The matching and/or exchanging of persons for any specified sexual activities.

SPECIFIED ANATOMICAL AREA. Any or more of the following:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breast at or below the top of the areola; or
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITY. Any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breast;
- (2) A sex act, actual or simulated, including intercourse, oral copulation or sodomy;
- (3) Masturbation, actual or simulated; or
- (4) Excretory functions as part of or in connection with any of activities set forth in divisions (1), (2) or (3) above.

(Ord. passed 7-12-2012, § 8.5)

§ 154.353 COMPLIANCE.

Each adult-oriented business shall comply with all applicable township ordinances and codes.

(Ord. passed 7-12-2012, § 8.5)

MOBILE HOME PARKS

§ 154.365 PURPOSE.

In recognition of the growing trend toward mobile home parks and the need for well-located and properly developed areas to accommodate them, mobile home park regulations are hereby prescribed for such use with appropriate construction and site development standards to promote the health, safety and general welfare of the residents of such areas as well as the residents of adjoining and neighboring premises.

(Ord. passed 7-12-2012, § 9.1)

§ 154.366 ELIGIBILITY; REQUIREMENTS.

A mobile home park must meet all of the following requirements and standards.

(A) *Mobile home developments.* Mobile home parks are permitted in the R-4 Medium/High Density Mobile Home Park Zoning District; provided, they are in conformance with all applicable state laws, rules and regulations governing mobile home developments, including Public Act 419 of 1976, as amended, being repealed by M.C.L.A. §§ 125.2301 et seq., and this chapter.

(B) *Minimum area and maximum densities.* Each mobile home park shall be owned and operated as one entity or on a condominium basis. Mobile home developments shall contain a minimum of 15 acres.

(C) *Buffer zones.* All mobile home developments shall provide and maintain a 50-foot setback from any street that borders the mobile home park or development and a 30-foot buffer zone from any mobile home and any boundary line of the mobile home park or development. When a buffer strip adjoins any residential zoning district, the following shall be provided.

(1) The buffer strip shall be graded with a continuous berm at least three feet above the grade elevation at the common property line and depth of the buffer strip shall be at least 12 feet. The berm need not be provided when adjacent to a mobile home park district and need only be provided if there is existing residential usage at the time of construction.

(2) All portions of the buffer strip shall be planted with grass, ground cover, shrubbery or other suitable plant material.

(3) A minimum of one deciduous tree, plus one additional deciduous tree shall be planted for each 30 lineal feet of required buffer strip length. Required trees shall be planted at approximately 30-foot intervals.

(4) A minimum of one evergreen tree, plus one additional evergreen tree shall be planted for every ten lineal feet of required buffer strip length.

(5) A minimum of three intermediate shrubs shall be planted for every ten lineal feet of required buffer strip length.

(D) *Minimum lot area.* The mobile home park shall be developed with sites having 5,500 square feet per mobile home unit being served. This 5,500 square feet may be reduced by 20%; provided that, the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of the site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space.

(E) *Minimum mobile home size.* No mobile home in any mobile home development shall contain less than 600 square feet of living area.

(F) *Yard requirements.* The front yard of each mobile home development lot shall be no less than 20 feet as measured from the nearest edge of the street pavement to the nearest wall of the mobile home. The rear yard of each lot shall be no less than ten feet. No mobile home shall be within 20 feet of any other mobile home.

(G) *Corner lots.* Where a lot is bounded by two streets, the front yard requirement shall be met for each street. No fence or structure over 30 inches in height and no plantings whatsoever shall be located on any corner lot within the required front yards. No driveway for the parking of motor vehicles shall run the length of any front yard on the two front yards on a corner lot.

(H) *Street requirements.* If two-way traffic is to be accommodated, the street pavement width shall be no less than 24

feet. One-way traffic on a street is not permitted.

(I) *Parking.* Parking shall be provided in off street parking bays or on site with two parking spaces for each mobile home and one visitor parking space for every three mobile home sites. Each parking space shall be no less than nine and one-half feet by 20 feet in area.

(J) *Access from major streets.* Each mobile home development shall have a minimum of two access streets; provided, there are more than 100 mobile homes. If two access streets are required, they must be at least 150 feet apart.

(K) *Signs.* A maximum of one identification sign is allowed at each access point to the mobile home development. Each such sign shall not exceed 36 square feet in area and shall not be illuminated by any light source other than a continuous indirect white light. In those cases where signs are intended to be read from both sides, the combined total area of both sides when combined shall not exceed 72 square feet.

(L) *Sales prohibited.* The business of selling new and/or used mobile homes as a commercial operation in connection with the operation of a mobile home development is prohibited. New or used mobile homes located on lots within the mobile home development to be used and occupied within the mobile home park may be sold by a licensed dealer and/or broker. This section shall not prohibit the sale of a new or used mobile home by a resident of the mobile home development; provided, the development permits the sale.

(M) *Underground utilities.* All public and private utilities shall be installed underground.

(N) *Site improvements.* Each mobile home shall be provided with a continuous pad of four inches thick concrete running the full length and width of the mobile home or pier at least 42 inches deep below grade. Each site shall be equipped with anchors or tie-down equipment meeting the requirements of an approved Construction Code anchoring system. Skirting shall be installed along the base of each mobile home sufficient to hide the undercarriage and supports from view and shall meet the requirements of the rules of the Mobile Home Commission.

(O) *Sidewalks.* Paved sidewalks shall be provided on one side of main collector streets within the mobile home development. The sidewalks shall be a minimum of three feet in width and be adjacent to each street.

(P) *Streets and parking areas.* All street and parking areas in a mobile home development shall be hard surfaced with either Huron concrete or bituminous concrete.

(Q) *Refuse disposal.* Each mobile home development shall provide an effective system of garbage and rubbish storage, collection and disposal in accordance with the rules and regulations of the state's Department of Public Health.

(R) *Lighting.* Each mobile home development shall be provided with sufficient lighting to meet the rules of the Mobile Home Commission.

(S) *Central antenna.* Each mobile home development may have a master under ground television antenna system. Exterior television and radio reception and transmission antennas and towers are not permitted on individual mobile homes or on individual mobile home sites.

(T) *Ground cover.* All exposed ground surfaces in the mobile home development, in order to prevent erosion, must be sodded, seeded or covered with ornamental stone and shall be in accordance with the county's soil erosion criteria.

(U) *Drainage.* In the event a storage drain system for water leaving the mobile home park is necessary, construction of storm drainage systems shall be in accordance with the standards and specifications adopted by the county's Drain Commissioner. All proposed storm drainage construction plans for such systems for water leaving the mobile home park shall be approved by the county's Drain Commissioner or the Department of Public Health and shall be in accordance with all the rules and regulations thereof.

(V) *Storage areas.* No storage of any personal property, except licensed operable motor vehicles, shall be stored outside or under any mobile home. Storage sheds may be utilized for any such storage, but need not be supplied by the owner of the mobile home development.

(W) *Recreation vehicle storage.* The storage or parking of recreational vehicles, motor homes, boats, snowmobiles or other vehicles or items ordinarily towed, driven or used for a special purpose, if storage or parking of such is permitted in the mobile home park, shall be in accordance herewith. The storage of the vehicles or items in the mobile home development is specifically prohibited, except in the storage area. The storage area shall be screened by solid-type fence five feet in height around its perimeter or by some other similar screening device.

(X) *Open space.*

(1) Each mobile home park shall include an open space area equal in size to no less than 25,000 square feet or 2% of the gross acreage, whichever is greater.

(2) All open space areas shall be centrally located, well-drained and accessible to all residents of the mobile home park.

(Y) *Height.* No building or structure shall exceed a height of 35 feet.

(Z) *Site development plan.* Prior to the granting of a zoning permit, a site plan shall be submitted to and approved by the Planning Commission showing that the proposal meets all the requirements of this chapter and the requirements of the Mobile Home Commission.

SIGNS

§ 154.380 DESIGN STANDARDS AND CONDITIONS FOR CERTAIN USES.

No sign shall be erected, maintained or used in any zoning districts, except those that meet the following requirements.

(A) *All zoning districts.*

(1) All signs (except government signs) shall be on private property.

(2) No sign shall be erected or maintained at any location where it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device. No rotating or moving beam, strobe, beacon or flashing illumination shall be permitted. No exterior portion of a sign shall move or rotate.

(3) Illuminated signs shall be lighted in a manner such that no illumination source is directly visible beyond the property lines of the lot upon which the sign is located.

(4) A zoning permit shall be required for the erection, construction or alteration of any sign exceeding 16 square feet in area.

(B) *Residential and agricultural zones.*

(1) One temporary, unlighted sign advertising the sale or rental of the premises on which it is maintained, not to exceed a total of eight square feet; provided that, one such sign may be permitted for each street the advertised premises abuts.

(2) One identification sign that may include a bulletin board not to exceed 32 square feet in area, for the following uses: apartment house; cemetery; church; educational facility; golf course; mobile home park; recreational subdivision; or other public or semi-private institution.

(3) Said sign shall not exceed a height of ten feet above grade and shall have a minimum setback of 25 feet.

(C) *Commercial and industrial zones.*

(1) *Freestanding signs.*

(a) One freestanding sign shall be allowed for each use where setbacks permit; provided that, where there are multiple uses upon any one parcel, the total square footage of all sign area shall not exceed 50% more than that which is permitted herein for one sign; provided further that, whenever there are two or more uses, they shall use the same sign pole, pylons or other supports and shall be governed hereby.

(b) Each freestanding sign shall not exceed a maximum of two sides upon which advertising matter may appear.

(c) Freestanding signs may have an area not to exceed 64 square feet, except a freestanding sign fronting a state divided highway or a street or road having four or more lanes, excluding turning lanes, may have a sign area not to exceed 128 square feet; provided, however, where the lineal feet of lot frontage exceeds 160 feet, the sign may exceed 64 square feet by two square feet for every five feet of additional lineal lot frontage over 160 feet subject to a maximum of 128 square feet. In addition, a sign's area may be increased one square foot for each additional foot it is set back from the minimum setback requirement up to a maximum of 160 square feet. This formula shall apply to each side of the sign.

(d) Freestanding signs shall be at least eight feet above the ground measured from the bottom of the sign, except the following shall be permitted:

1. A sign 24 square feet or less in area; provided, it is at least three feet above the ground;

2. A sign more than 35 feet from the road right-of-way, save for corner lots or parcels, the sign shall be at least 40 feet from one of the road ways on it which fronts;

3. A sign parallel with the road, at least 25 feet from the road right-of-way on which it fronts and at least 20 feet from any driveway and 55 feet from any other road;

4. A sign not greater than four feet in height measuring from the ground to the top of the sign; provided, it is at least 25 feet from the road right-of-way, or parallel to the road on which it fronts and not closer than 15 feet from any driveway and 40 feet from any other road;

5. Freestanding sign posts shall be at least 20 feet from street rights-of-way; provided, however, freestanding signs may be erected two feet closer to the right-of-way line for each five feet distance over 15 feet between the sign and the nearest adjoining side property line. In no event shall any part of the sign posts be closer than ten feet from any right-of-way line;

6. Where the property upon which a sign is located abuts a residential zone on the side, the side yard required in a residential district shall be maintained in the commercial zone and the sign shall not be placed any closer to the lot line than that required distance for a side yard in the residential zone; and

7. The design of freestanding signs over 25 feet in height shall bear a seal of a licensed professional engineer or architect and in no case shall the sign have an overall height exceeding 35 feet.

(e) Flat signs.

1. Flat signs shall be attached to buildings and parallel with the side upon which they are attached.
2. Flat signs shall not exceed an area greater than 10% of the area of the side of the building upon which they are attached; except that, a flat sign on any building may have an area of 48 square feet.
3. Flat signs shall not be higher than four feet above the roof line of buildings and must be incorporated into the building architecture as an integral part.
4. A flat sign may be placed upon each side of a building; but in no case shall there be more than four flat signs totally. However, no such sign shall face towards a residential district unless the building and the residential district are separated by a public street.
5. Where there are multiple uses on one parcel or lot of property, each use may have only two flat signs, and the total area of all signs may not exceed 10% of the area of the side of the building on which they are placed.

(f) Gasoline service stations, automobiles sales area and garages may display the following signs, in addition to the foregoing signs:

1. Two temporary signs may be located inside the property line that advertise special seasonal servicing. Each sign may not exceed nine square feet in area;
2. Directional signs or lettering displayed over individual entrance doors or bays; and
3. Customary lettering; insignias that are a structural part of the gasoline pump and non-illuminated credit cards.

(g) One rental or sale sign is permitted for each use or parcel of land. Such signs may not exceed nine square feet in area: and shall be removed within six months. The Board of Appeals may grant one extension of six months.

(h) Shopping center signs.

1. Shopping centers signs may have only two flat permitted commercial signs pertaining to each individual use, and one freestanding sign advertising such shopping center.
2. Such flat signs and freestanding signs of a shopping center shall comply in all other respects to the provisions of this chapter applying to commercial and industrial districts.

(i) Temporary signs are permitted in the commercial zone upon approval by the Zoning Administrator under the following conditions only. No temporary sign shall:

1. Be placed on any premises for a period of more than 15 days nor more frequently than one time in any three months. There shall be at least 30 days between each such interval and only one temporary sign is allowed for each parcel of property;
2. Exceed 60 square feet of area on any one side including border; and
3. Be placed within 25 feet of the edge of the pavement, but in no case within the road right-of-way or in any location that will obscure visibility of ingress or egress to and from property.

(j) The required zoning permit fee for signs are listed in the township's schedule of fees.

(2) *Reader board signs.* All lawful wall and freestanding signs may include a reader board sign subject to the following regulations.

(a) For signs that are 50 square feet or less in area, the reader board shall consist of not more than 75% of the total allowable sign area. The area encompassing the reader board sign shall be considered part of the wall or freestanding sign for purposes of size limitations.

(b) For signs that exceed 50 square feet in area, the reader board shall not exceed 50% of the total allowable sign size. The area encompassing the reader board sign shall be considered part of the wall or freestanding sign for purposes of size limitations.

(c) For electronic reader board/digital display signs and multi-vision signs, the following requirements shall apply.

1. The sign shall not have any scrolling, animated, moving or flashing text displays or images.
2. The dwell time, defined as the interval or duration of each individual message between changes of messages, shall be at least ten seconds long and a change of message must be accomplished within one second or less. The dwell time shall not include the one second or less time it takes to change the message.
3. Such sign shall not: be brighter than is necessary for clear and adequate visibility; be of such intensity or brilliance as to impair or interfere with the vision of a motor vehicle driver with average eyesight or to otherwise interfere with the driver's operation of a motor vehicle; and/or be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device or signal. In order to ensure compliance with the above requirements, an electronic reader board or digital display sign shall not exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum illumination of 500 nits (candelas per square meter) between dusk to dawn as measured at the sign's face at maximum brightness.

(d) An electronic reader board/digital display sign may serve as a window sign, but shall not exceed more than 25% of the area of the window.

(e) Video display signs are prohibited in all zoning districts.

(f) For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

NIT. A unit of illuminative brightness equal to one candela (12.5 lumens) per square meter, measured perpendicular to the rays of the source.

READER BOARD SIGN. One of the following.

a. **MANUAL.** A sign on which the letters or pictorials are changed manually.

b. **ELECTRONIC READER BOARD/DIGITAL DISPLAY SIGN.** A sign or portion thereof that displays electronic, pictorial or text information in which each alphanumeric character, graphic or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area. Such signs include computer programmable, microprocessor controlled electronic displays.

c. **MULTI-VISION SIGN.** Any sign composed in whole or in part of a series of vertical or horizontal slats or cylinders that are capable of being rotated at intervals so that partial rotation of the group of slats or cylinders produces a different image or images.

VIDEO DISPLAY SIGN.

a. A sign that changes its message or background in a manner or method of display characterized by motion or pictorial imagery, which may or may not include text and depicts action or a special effect to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames that give the illusion of motion, including, but not limited to, the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes, not including electronic changeable copy signs.

b. **VIDEO DISPLAY SIGNS** include projected images or messages with these characteristics onto buildings or other objects.

(Ord. passed 7-12-2012, § 10.1)

§ 154.381 PURPOSES AND INTENT.

(A) This subchapter is intended to regulate the type, number, physical dimensions, erection, placement and maintenance of signs in the township.

(B) Its purpose and intent are to:

(1) Protect, promote and further the public peace, health and safety of residents, property owners and visitors;

(2) Prevent, eliminate or minimize traffic hazards and pedestrian accidents caused by signage that obstructs vision or views, distracts or confuses motorists, or is improperly secured or constructed;

(3) Protect the public's ability to identify establishments and premises;

(4) Protect the natural beauty and distinctive character of the township;

(5) Protect commercial, business, office and industrial districts and areas from visual chaos and clutter;

(6) Provide an environment that fosters the reasonable growth and development of business and commerce;

(7) Protect and enhance property values; and

(8) Balance the individual rights of property owners to communicate their message with the public's right to be free of unreasonable distractions and aesthetic intrusions.

(Ord. passed 7-12-2012, § 10.2)

ZONING AGREEMENTS; CONDITIONAL REZONINGS

§ 154.395 GENERAL.

(A) The Township Board recognizes that there are certain instances where it would be in the best interest of the township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions and limitations could be proposed by an applicant as part of an application for a rezoning.

(B) Therefore, it is the intent of this subchapter to provide a process by which an applicant seeking a change in zoning districts may propose a zoning agreement, with conditions and commitments attached thereto, as part of the application for the requested rezoning.

(C) These provisions shall be in accordance with the provisions of the Zoning Act, being M.C.L.A. §§ 125.3101 et seq., as amended.

(Ord. passed 7-12-2012, § 4.31)

§ 154.396 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

REZONING OFFER. Conditions proposed by the applicant and approved by the township that are processed as part of an approval under this section. These conditions shall constitute permanent requirements for and in connection with the development and/or use of the property approved with a zoning agreement.

ZONING AGREEMENT. A written agreement offered by the applicant and approved and executed by the applicant and the township and recorded with the county's Register of Deeds, incorporating the rezoning offer along with any requirements necessary to implement the rezoning offer. When necessary, the **ZONING AGREEMENT** shall also include and incorporate, by reference, a site plan that illustrates the implementation of the rezoning offer. This plan shall not replace the requirement for a site plan or other approvals that may be required by this chapter.

(Ord. passed 7-12-2012, § 4.31)

§ 154.397 ELIGIBILITY.

An applicant for rezoning may submit a proposed zoning agreement with an application for rezoning.

(Ord. passed 7-12-2012, § 4.31)

§ 154.398 ZONING AGREEMENTS.

(A) The zoning agreement shall set forth the rezoning offer and shall include those terms necessary to implement the agreement. In addition, the zoning agreement shall include the following acknowledgments and understandings that:

(1) The zoning agreement and the rezoning offer were proposed voluntarily by the applicant, and that the township relied upon the agreement and may not grant the rezoning without the rezoning offer and terms spelled out in the zoning agreement;

(2) The zoning agreement and its terms and conditions are authorized by all applicable state and federal laws and constitutions, and that the zoning agreement is valid and was entered into on a voluntary basis, and represents a permissible exercise of authority by the township;

(3) The property shall not be developed and/or used in any manner that is not consistent with the zoning agreement;

(4) The approval and the zoning agreement shall be binding upon the property owner and the township, and their respective heirs, successors, assigns, receivers or transferees; and

(5) If a rezoning with a zoning agreement becomes void in accordance with the Zoning Act, being M.C.L.A. §§ 125.3101 et seq., as amended, no development shall take place and no permits shall be issued unless and until a new zoning district classification for the property has been established or a new rezoning with a zoning agreement has been approved.

(B) Each of the requirements and conditions in the zoning agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact or other condition created by the uses, activities or conditions represented in the approved rezoning and zoning agreement, taking into consideration the changed zoning district classification and the specific use(s), structures, activities or conditions authorized.

(C) No part of the zoning agreement shall permit any activity, use, structure or condition that would otherwise violate any requirement or standard that is otherwise applicable in the new zoning district.

(Ord. passed 7-12-2012, § 4.31)

§ 154.399 REZONING OFFER.

(A) The zoning agreement shall specify the rezoning offer and any requirements necessary to implement it. However, the rezoning offer may not authorize uses or developments of greater intensity or density, and/or which are not allowed in the new zoning district; nor may any variances from height, area, setback or similar dimensional requirements in this chapter be allowed unless a variance has been previously granted by the ZBA pursuant to the requirements of §§ 154.440 through 154.449 of this chapter.

(B) Any uses proposed as part of a zoning agreement that would otherwise require approval of a special use permit and/or site plan shall be approved as required in this chapter prior to establishment of or commencement of development of the use.

(Ord. passed 7-12-2012, § 4.31)

§ 154.400 APPLICATION, REVIEW AND APPROVAL.

(A) An application for rezoning shall be the same as specified in the Zoning Act, being M.C.L.A. § 125.3101 et seq. In

addition to the required materials listed, a zoning agreement in a recordable format acceptable to the township shall be submitted, along with any plans necessary to illustrate the rezoning offer.

(B) The application may be amended during the process of township consideration; provided that, any amended or additional rezoning offers are entered voluntarily by the applicant.

(C) (1) The zoning agreement shall be reviewed by the Township Attorney prior to the required Planning Commission public hearing. See § 154.424 of this chapter.

(2) The Township Attorney shall determine that the zoning agreement conforms to the requirements of this section and the Zoning Act, being M.C.L.A. §§ 125.3101 et seq., as amended, and shall confirm that the zoning agreement is an a form acceptable for recording with the county's Register of Deeds.

(D) An escrow fee deposit may be required by the township to cover any and all costs incurred for addressing the zoning agreement request.

(Ord. passed 7-12-2012, § 4.31)

§ 154.401 APPROVAL.

(A) If the rezoning and zoning agreement are approved, the zoning classification of the rezoned property shall consist of the district to which the property has been rezoned, plus a reference to the zoning agreement. The zoning map shall specify the new district, plus a small letter "a" to indicate that the property is subject to a zoning agreement (in other words, "Ala"). The Township Clerk shall maintain a listing of all properties subject to zoning agreements and shall provide copies of the agreements upon request.

(B) Upon rezoning, the use of the property in question shall conform to all of the requirements regulating use and development within the new zoning district as well as the zoning agreement; however, the more restrictive requirements of the zoning agreement shall apply, and the zoning agreement shall supersede all inconsistent regulations otherwise applicable under this chapter.

(C) The approved zoning agreement shall be recorded with the county's Register of Deeds by the applicant with proof of recording provided to the township.

(D) Prior to development, a site plan shall be approved in accordance with this chapter, if otherwise required.

(Ord. passed 7-12-2012, § 4.31)

§ 154.402 CONTINUATION.

(A) Provided that, all development and/or use of the property in question is in compliance with the zoning agreement, a use or development authorized under the agreement may continue indefinitely; provided that, all terms of the rezoning offer and the zoning agreement continue to be adhered to.

(B) Failure to comply with the zoning agreement at any time after approval may constitute a breach of agreement and further use of the property may be subject to legal remedies available to the township.

(Ord. passed 7-12-2012, § 4.31)

§ 154.403 AMENDMENT.

(A) During the initial two-year period, or during any extension granted by the township as permitted above, the township shall not add to or alter the rezoning offer in the zoning agreement.

(B) The zoning agreement may be amended after the expiration of the initial two-year period and any extensions, in the same manner as was prescribed for the original rezoning and zoning agreement.

(Ord. passed 7-12-2012, § 4.31)

ADMINISTRATION AND ENFORCEMENT

§ 154.415 ZONING ADMINISTRATOR; DUTIES.

(A) This chapter shall be administered and enforced by the Zoning Administrator, who is appointed by the Township Board.

(Ord. passed 7-12-2012, § 14.1)

(B) It shall be the responsibility of the Zoning Administrator to enforce the provisions of this chapter and, in so doing, shall perform the following duties.

(1) *Issue permits.* All applications for zoning permits shall be submitted to the Zoning Administrator, who may issue such permits and certificates of occupancy when all applicable provisions of this chapter (and other applicable township ordinances) have been met and approval has been granted by the proper body or official.

(2) *Record applications.* The Zoning Administrator shall maintain and keep in an orderly, accessible manner files of all

applications for all of the above permits and for variances, and shall keep records of all such permits and variances issued. These shall be filed at the township 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.

(3) *Inspections.* The Zoning Administrator shall be empowered to make inspections of buildings or premises in order to properly carry out the enforcement of this chapter.

(4) *Cancellation of zoning permits, 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 chapter, or in case of any false statement or misrepresentation made in the application, the provisions of § 154.999(A) of this chapter, violations shall be invoked. Upon such revocation, all further construction activities and usage shall cease upon the site, other than for the purpose of correcting the violation.

(5) *Changes.* Under no circumstances is the Zoning Administrator permitted to make changes to this chapter, nor to vary the terms of this chapter 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 chapter.

(6) *Authorization.* The Zoning Administrator is authorized to pursue enforcement actions that include, but are not limited to, issuing and pursuing municipal civil infraction citations/tickets.

(Ord. passed 7-12-2012, § 14.3)

§ 154.416 FLOODPLAIN MANAGEMENT ADMINISTRATIVE DUTIES.

(A) With regard to the National Flood Insurance Program, and the regulation of development within the Flood Hazard Area Zone, as prescribed in §§ 154.120 through 154.129 of this chapter, the duties of the Zoning Administrator shall include, but are not limited to:

(1) Notification to adjacent communities and the Department of Natural Resources of the proposed alteration or relocation of any watercourse and the submission of such notifications to the Federal Insurance Administration;

(2) Verification and recording of the actual elevation in relation to mean sea level of the lowest floor, including basement, of all new or substantially improved structures constructed within the flood hazard area and, in the case of flood-proofed structures, the elevation to which the structure was flood-proofed; and

(3) Recording of all certificates of flood-proofing and written notification to all applicants to whom variances are granted in a Flood Hazard Area Zone indicating the terms of the variance, the increased danger to life and property, and that the cost of flood insurance will increase commensurate with the increased flood risk, and may reach amounts in an amount determined by the township from time to time of insurance coverage per year. A record of all variance notifications and variance actions shall be maintained together with the justification for each variance.

(B) All records and maps pertaining to the National Flood Insurance Program shall be maintained in the office of the Zoning Administrator and shall be open for public inspection.

(C) It shall be the responsibility of the Zoning Administrator to obtain and utilize the best available flood hazard data for purposes of administering this chapter in the absence of data from the Federal Insurance Administration.

(Ord. passed 7-12-2012, § 14.3)

§ 154.417 APPLICATION PROCEDURES FOR ZONING PERMIT.

Prior to the construction, physical development or razing of a proposed new or expanded use, structure or building, or the moving of any structure, or the restoration and structural improvement (other than normal repairs and minor improvements) of any existing use or structure, or the conversion from one use to any other use, a zoning permit shall first be obtained from the township. An application for a required zoning permit must be made to the Zoning Administrator.

(A) *Contents of application.* Among the information to be supplied by the applicant and that shall constitute the application package for a zoning permit, the following shall be included:

(1) Name and address of applicant or applicants;

(2) Location, shape, area and dimension of the lot, and of the proposed structure or improvement (shown on a site plan);

(3) Description of proposed use and of the building (dwelling, structure, barn, garage and the like), structure or improvement;

(4) The proposed number of sleeping rooms, dwelling units, occupants, employees, customers and other users;

(5) The yard, open space and parking space dimensions (as shown on a site plan);

(6) A site plan, where required; and

(7) 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 county's Health Department must be submitted to the township 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.

(B) *Fee.* A fee or fees as may be set by the Township Board shall accompany any plans or applications in order to defray the cost of administration and inspection.

(C) *General procedural steps.*

(1) Upon submission of an application, the Zoning Administrator:

(a) Reviews the application package:

1. To make sure that it is the proper application for the zoning action requested;
2. To see that all required information is submitted; and
3. To determine conformance with zoning 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. Forwards the matter to the appropriate township commission or board for any applicable zoning review or approval; and
3. Makes a site inspection to verify accuracy of the application and to gather additional information.

(2) Upon approval of a zoning action required by a township body and of any additional requirements or conditions that may be needed, the Zoning Administrator shall approve a zoning permit, one copy of the zoning permit shall be returned to the owner or applicant. A performance bond or other security may be required to ensure compliance with any imposed or proposed public improvements, requirements, specifications and conditions.

(D) *Denial of zoning permit.* If the application for a zoning permit is denied by the Zoning Administrator, the reason or cause for denial shall be stated in writing.

(E) *Validity.* A zoning permit shall be valid for one year. A valid zoning permit is eligible for one additional one-year extension granted by the Zoning Administrator as a reasonable length of time within which to begin construction.

(F) *Inspection.* At least one site inspection by the Zoning Administrator must be held before development.

(Ord. passed 7-12-2012, § 14.4)

§ 154.418 FLOOD HAZARD AREA APPLICATION INFORMATION.

In addition to the information required with an application for a zoning compliance permit, special use permit or any other type of development permission required under this chapter the following information shall be submitted as a part of an application for permission to commence any type of development within a Flood Hazard Area Zone:

(A) The elevation in relation to mean sea level of the floor, including basement, of all structures;

(B) Where flood-proofing will be employed, the elevation in relation to mean sea level to which a structure will be flood-proofed;

(C) Where flood-proofing will be employed, a certificate from a registered, professional engineer or architect that the flood-proofing criteria of this chapter will be met;

(D) Where it can be determined that development is proposed within zones A1-30 on the FIRM a certification as required by this chapter; and

(E) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(Ord. passed 7-12-2012, § 14.5)

§ 154.419 APPLICATION PROCEDURES FOR CERTIFICATES OF OCCUPANCY.

(A) (1) 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.

(2) The certificate of occupancy is granted after an inspection and is intended to ensure zoning compliance.

(B) The certificate of occupancy is intended to make sure that:

(1) After construction, the newly developed structure is the one that has been approved;

(2) Before occupancy, a new use is the same as the use that was approved; and

(3) Both structure and use comply with all zoning requirements and any conditions previously imposed.

(Ord. passed 7-12-2012, § 14.6)

§ 154.420 GENERAL PROCEDURAL STEPS.

(A) Upon notification by the applicant to the Zoning Administrator that the structure and/or use is ready for inspection, the Zoning Administrator:

- (1) Shall contact the 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; and
- (3) Inspects for compliance with zoning requirements and with any previously-imposed conditions.

(B) Upon inspection, the Zoning Administrator takes one of the following actions:

- (1) Issues the certificates of occupancy (or refers the matter to the Building Inspector);
- (2) Delays issuance subject to completion of alterations necessary to achieve full compliance and follow-up inspection;

or

(3) Denies the certificate of occupancy in writing based on inspection findings of non-compliance with this chapter and initiates enforcement action pursuant to ordinance requirements.

(Ord. passed 7-12-2012, § 14.7)

§ 154.421 PERFORMANCE BONDING FOR COMPLIANCE (PERFORMANCE GUARANTEE).

(A) *General.* Upon authorizing any zoning permit, PUD approval, site plan approval, special use approval or variance, the body or official that administers the respective request, as designated by this chapter, may require that a cash or surety bond or irrevocable letter of credit be submitted to:

- (1) Ensure compliance with any and all the requirements, specifications and conditions imposed with such permit, approval or variance; and
- (2) To ensure the discontinuance of a temporary use by a stipulated time.

(B) *Amount of bond.* The amount of security to be submitted by the applicant to the township shall be equal to the total estimated cost of all required improvements and conditions of site plan and zoning approval, including contingencies. If development is staged or phased over time, separate security for each phase shall be submitted at the beginning of each phase as a prerequisite. All improvements and conditions shall be satisfactorily completed prior to issuance of a certificate of occupancy. However, one nine-month extension beyond issuance of a certificate of occupancy may be permitted by the Zoning Administrator.

(C) *Return of performance and rebates.* During project development, as specific improvements and conditions of site plan and zoning approval are satisfactorily completed, as attested to by the Zoning Administrator, the Zoning Administrator shall direct the Township Clerk to return or rebate a portion of the cash or surety bond equal to the cost of the specific improvement or condition complied with.

(D) *Withholding and partial withholding of performance bonds.* Upon the failure to comply with any or all of the requirements of this chapter, an approved site plan, or with any or all conditions of zoning approval, the security, or portion thereof, shall be forfeited by the applicant. The Township Board shall determine the cost of the zoning and site plan requirement to be completed according to the most current construction prices, including the cost of administration. The amount determined shall be the amount of security forfeited and applied toward zoning enforcement upon the site, and/or toward completing the necessary improvements, requirements or conditions of zoning approval upon the site.

(E) *Performance bond for razing of building.* The Zoning Administrator shall require a letter of credit or cash deposit prior to the razing or demolition of principal structures and accessory structures having more than 144 square feet of floor area. Said security shall be conditioned on the applicant completing the razing within such reasonable period as shall be prescribed in the permit and complying with such regulations as to health and safety as the Zoning Administrator, Fire Inspector or the Township Board might from time to time prescribe, including filling of excavation and proper termination of utility connections.

(Ord. passed 7-12-2012, § 14.8)

§ 154.422 SCHEDULE OF FEES.

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

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

township employees (except when authorized under appropriate provisions of the Freedom of Information Act) or for incidental costs and expenses, but may charge or assess the applicant for all other reasonable costs and expenses incurred by the township during and in connection with the review process and other related proceedings, whether or not the application is granted either in whole or in part.

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

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

(Ord. passed 7-12-2012, § 14.9)

§ 154.423 STOP WORK ORDER.

(A) Upon notice from the Zoning Administrator that any use is being conducted or that any work on any building or structure is proceeding contrary to the provisions of this chapter, such work or use shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to owner's agent or to the person doing the work and shall state the conditions, if any conditions, under which work or the use will be permitted to resume.

(B) Any person who shall continue to work in or about the structure, land or building or use it after having been served with a stop work order, except work that the person is directed by the Zoning Administrator to perform to remove a violation, shall be in violation of this chapter.

(Ord. passed 7-12-2012, § 14.12)

§ 154.424 NOTICE AND HEARINGS.

Except where expressly stated otherwise in this chapter, whenever a public hearing on a zoning application or matter is required by this chapter or by the Zoning Act (for example, where a rezoning, ordinance amendment, special use, PUD or ZBA matter is involved), notice of the public hearing shall be published and delivered in accordance with the requirements of this section and the Zoning Act.

(A) The notice of public hearing shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the township.

(B) (1) For applications involving the rezoning of ten or fewer adjacent properties; for applications to the ZBA; and for all planned unit development and special use applications, a notice of public hearing shall be mailed by way of U.S. first class mail or be personally delivered to the following persons, at least 15 days prior to the date of the public hearing:

(a) The applicant;

(b) All persons to whom real property is assessed for property tax purposes within 300 feet of the property that is the subject to the application;

(c) The occupants of all dwellings within 300 feet of the property that is the subject of the application; and

(d) All neighborhood organizations, public utility companies, railroads and other persons that have requested to receive notice.

(2) If the above-described 300-foot radius extends outside of the township's boundaries, then notice must also be provided outside of the township boundaries, within the 300-foot radius, to all persons in the above-stated categories.

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

(1) A description of the nature of the application or request;

(2) An identification of the property that is the subject of the application or request. The notice shall also include a listing of all existing street addresses within the property; provided, however, that, street addresses do not need to be created and listed if no such addresses currently exist within the property; and, provided further that, street addresses do not need to be listed if 11 or more adjacent properties are being proposed for rezoning;

(3) A statement of where and when the application or request will be considered; and

(4) Indicate where and when written comments will be received concerning the application or request.

(Ord. passed 7-12-2012, § 14.13)

§ 154.425 TIME LIMITS.

If a zoning approval or permit under this chapter has been granted with a specific time limit and the use has not

commenced or substantial construction has not begun pursuant to that approval within the time limit specified, the zoning approval or permit shall automatically expire (and be void) at the end of that time limit. If a zoning approval or permit is silent with regard to a time limitation, the time limitation shall be deemed to be one year, and the zoning approval or permit shall expire (and be void) after one year if the use has not been commenced or substantial construction has not begun within said one-year time limitation. The Zoning Administrator may grant a time extension (at the discretion of the Zoning Administrator) of up to one year in total.

(Ord. passed 7-12-2012, § 14.14)

§ 154.426 PROOF OF OWNERSHIP.

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

(Ord. passed 7-12-2012, § 14.15)

§ 154.427 SURVEYS.

The Zoning Administrator or Building Inspector shall have the authority to require that an applicant or property owner provide the township with a current survey by a registered surveyor or engineer for one or more boundary or property lines of the lot or parcel involved (including providing a sealed survey drawing by such professional surveyor or engineer and with property boundaries staked by such professional) if the Zoning Administrator or Building Inspector determines that it is reasonably necessary in order for the township to determine whether the zoning setback, area and other applicable requirements are met. The Zoning Administrator or Building Inspector may also require that the professional surveyor or engineer place stakes at specified relevant areas along the property line(s) and any setback lines or building envelopes. All such surveying costs shall be paid for by the applicant or property owner.

(Ord. passed 7-12-2012, § 14.16)

§ 154.428 REVOCATION OR TERMINATION OF ZONING APPROVALS.

If a property owner or applicant violates any of the conditions or requirements attached to a zoning approval or zoning compliance permit, then the township body, board or official that granted the zoning approval or permit may terminate the zoning approval or zoning compliance permit. Where a special use, PUD, variance or site plan approval was involved, no such revocation shall occur until and unless the property owner or applicant has been given reasonable notice and a public hearing has been held regarding the revocation.

(Ord. passed 7-12-2012, § 14.17)

§ 154.429 AMENDMENTS.

The Township Board may from time to time on its own motion or on petition or on recommendation of the Planning Commission or other body affected, amend, supplement or repeal the regulations and provisions of this chapter after public notice and hearing. Every such proposed amendment or change shall be enacted in conformance with the provisions of the Zoning Act, being M.C.L.A. §§ 125.3101 et seq., as amended, and shall follow the same procedures used for the enforcement of this chapter.

(Ord. passed 7-12-2012, § 16.1)

ZONING BOARD OF APPEALS

§ 154.440 AUTHORIZATION.

A Zoning Board of Appeals (ZBA) is hereby authorized in accordance with the Zoning Enabling Act of the state, as amended, to carry out the responsibilities provided therein and those delegated herein.

(Ord. passed 7-12-2012, § 15.1)

§ 154.441 MEMBERSHIP.

(A) Membership to the Zoning Board of Appeals (ZBA) shall consist of five 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, fourth and fifth members, and the two alternate members described below 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 the various interests located in the township.

(B) No elected official shall serve as Chairperson.

(C) No employees or contractors to the Township Board may serve on or be hired by the Zoning Board of Appeals.

(D) 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.

(E) Successive members shall be appointed within one month after the preceding member's expiration date.

(F) The Zoning Board of Appeals is authorized to prepare an annual budget.

(G) Members may be removed by the Township Board for misfeasance, malfeasance or non-feasance in office, based on written charges and after a public hearing.

(H) Where member conflicts of interest exist, such member shall disqualify himself or herself from voting. Failure to do so constitutes malfeasance in office.

(I) The Township Board shall appoint two alternate members to the Zoning Board of Appeals. Each alternate member shall be appointed for a term of three years except that upon the appointment of the first such alternate members, one such alternate member shall be appointed to a term of two years. Thereafter all alternate members shall be appointed to a term of three years. The Chairperson of the Zoning Board of Appeals or in the absence or incapacity of the Chairperson, then the Vice Chairperson or the Secretary of the Zoning Board of Appeals may call either of the alternate members to serve as a regular member whenever:

(1) A regular member is absent from or will be unable to attend one or more meetings of the Zoning Board of Appeals; or

(2) A regular member has abstained for reason of a conflict of interest.

(Ord. passed 7-12-2012, § 15.1)

§ 154.442 POWERS AND DUTIES.

The Zoning Board of Appeals (ZBA) shall have all the power and duties prescribed by law and by this chapter that are more particularly specified as follows.

(A) *Hear appeals.* The Zoning Board of Appeals shall hear and decide appeals where it is alleged by a person aggrieved or by an officer, department, board or bureau of the state or local unit of government that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or by any other official in administering or enforcing any provisions of this chapter. Every appeal must be in writing and must be filed with the township within 21 days of the date on which the Zoning Administrator makes his or her decision, interpretation or takes other action. Upon appeal, the Zoning Board of Appeals may reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination, as, in its opinion, ought to be made in the premises, and to the end shall have all the power of the official from whom the appeal is taken, and may direct the issuance of a permit.

(B) *Interpretation.* The Zoning Board of Appeals shall have the power to:

(1) Interpret, upon request, the provisions of this chapter in such a way as to carry out the intent and purpose of this chapter;

(2) Determine the precise location of the boundary lines between zoning districts, where uncertainty exists; and

(3) Classify a use that is not specifically mentioned as part of the use regulations of any zoning district; providing that, it conforms to a comparable permitted or regulated use (in accordance with the purpose and intent of each district), until such time when the unclassified use is properly assigned or classified by amendatory legislation.

(C) *Variations.* The ZBA shall have the power to authorize, upon appeal, non-use variances from the specific requirements of this chapter, such as, lot area and width regulations, building height and other bulk regulations, off-street parking and loading space requirements and the like; provided, all of the conditions listed in § 154.449 of this chapter can be satisfied. The ZBA shall have the power to authorize, upon appeal, use variances provided all of the conditions listed in § 154.449(B) of this chapter can be satisfied.

(D) *Limitations on the power and jurisdiction of the Zoning Board of Appeals.* The ZBA shall not have any power, jurisdiction or authority to grant variances or hear any appeals regarding the following:

(1) The approval or denial by any township body involving a planned unit development, special use and/or site plan. However, if the township body responsible for any such decision expressly authorizes an appeal to the ZBA with regard to an interpretation or a variance of an underlying requirement of this chapter, the ZBA shall have jurisdiction in such limited circumstances and as otherwise limited by the township body that authorized such an appeal; and

(2) Where a zoning regulation, determination or decision involves a planned unit development, special use or site plan review and approval or denial, or any such planned unit development, special use or site plan is potentially available, the ZBA shall generally not have jurisdiction, and a landowner or other aggrieved party shall not be able to file an application with the ZBA to circumvent or avoid the special use, planned unit development or site plan review and approval or denial process. The ZBA shall continue to have jurisdiction with regard to any site plan (or the equivalent) related to a variance request that is lawfully before the ZBA.

(Ord. passed 7-12-2012, § 15.3)

§ 154.443 ORGANIZATION AND CONDUCT OF BUSINESS.

(A) *Rules of procedure and decision-making.* The Zoning Board of Appeals (ZBA) shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The Board shall choose its own Chairperson and, in his or her absence, an acting Chairperson. The ZBA shall formulate decisions based upon the standards and other various provisions of this chapter.

(B) *Meetings.* Meetings shall be held at the call of the Chairperson and at such times as the Zoning Board of Appeals may determine. All meetings by the Board shall be open to the public and conducted in compliance with the Open Meetings Act, Public Act 267 of 1976, being M.C.L.A. §§ 15.261 et seq., of the state. The Board may declare any meeting, or part of any meeting, a study meeting to pursue matters of business without comment or interruption from the public in attendance. The Board shall not conduct business unless a majority of the regular members of the Board are present.

(C) *Records.* Minutes shall be recorded of all proceedings that shall contain the evidence received, the findings of fact and data relevant to every case considered, together with the votes of the members and the final disposition of each case. Such minutes shall be filed with the Township Clerk and shall be made available to the general public in compliance with the Freedom of Information Act, Public Act 442 of 1976, of the state.

(D) *Hearings.* All appeals and requests before the ZBA shall require public hearing with proper notification. See § 154.424 of this chapter.

(E) *Decisions (voting).* A concurring vote of a majority of the members of the Zoning Board of Appeals is necessary in order to take any action on a matter before the ZBA; provided, however, that, a concurring vote of two-thirds of the members is necessary to approve a use variance.

(Ord. passed 7-12-2012, § 15.4)

§ 154.444 CONDITIONS OF ZBA APPROVAL.

(A) Reasonable conditions may be required with the approval of a variance by the Zoning Board of Appeals. 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 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 that are affected by the proposed use or activity; and

(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 special use shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the Zoning Board of Appeals shall maintain a record of conditions that are changed.

(C) In the event the Zoning Board of Appeals grants a variance, the individual or his successor in interest shall not use the property in question such that it would exceed those rights given the zoning ordinance or the variance, or fail to follow any conditions placed thereon by said Zoning Board of Appeals. In the event the use of the property exceeds those rights given by the zoning ordinance or the variance, or fails to follow the conditions placed upon the variance, the variance shall immediately terminate and it shall be deemed a violation of this chapter.

(Ord. passed 7-12-2012, § 15.5)

§ 154.445 TIME LIMIT ON DECISION OF ZBA.

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

(Ord. passed 7-12-2012, § 15.6)

§ 154.446 FINAL ACTION ON APPEALS.

The decision of the Zoning Board of Appeals shall be final, and any party aggrieved by any such decision may appeal to the Circuit Court for the county. The records of the Zoning Board of Appeals shall be made available for the court's review.

(Ord. passed 7-12-2012, § 15.7)

§ 154.447 EFFECT OF APPEALS PROCEEDINGS (STAY OF PROCEEDINGS).

An appeal to the Board of Appeals shall stay all proceedings in furtherance of the action appealed from, unless the officer or body from whom the appeal is taken certifies to the Board of Appeals (after the notice of appeal shall have been filed with that officer or body), that by reason of facts stated in the certificate, a stay would cause immediate peril of life or property, in which case proceedings may be stayed by a restraining order issued by the Board of Appeals or a circuit court.

(Ord. passed 7-12-2012, § 15.8)

§ 154.448 APPLICATION PROCEDURE FOR APPEALS/VARIANCES; DECISION PROCESS.

(A) General.

(1) When any order, requirement, decision or determination is subsequently appealed to the Zoning Board of Appeals or when a variance is requested, as provided for in this chapter, the appellant shall file a notice of appeal with fee to the Zoning Administrator who shall forward all records and materials to the Zoning Board of Appeals.

(2) If appealing a determination or order, the Zoning Administrator shall also send copies of all materials to the official or body of officials from whom the appeal is taken.

(3) Such body or official shall also make all records available to the ZBA for review.

(B) General procedural steps by ZBA.

(1) The ZBA reviews the appeal form to make sure that it is the proper form for the action requested and to see that all required information is submitted.

(2) The Township Clerk shall place said appeal form on the calendar for hearing at the next meeting of the ZBA and shall cause notice to be published and sent as set forth below. The notices shall be given not less than 15 days before the date of the hearing on an appeal. See § 154.424 of this chapter.

(a) The ZBA shall publish notice of a public hearing for an appeal in a newspaper that circulates in the township. The notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the township.

(b) The notice shall include:

1. The nature of the request;
2. The property(ies) for which the appeal has been made;
3. A listing of all existing street addresses within the property(ies) that is(are) subject of the appeal. Street addresses do not need to be created and listed if no such addresses currently exist. If there are no street addresses, another means of identification may be used;
4. The location where the request can be viewed and copied prior to the hearing date;
5. The date, time and location of when the hearing before the Appeals Board will take place; and
6. The address at which written comments should be directed prior to the hearing.

(c) At the hearing, rules and procedures for the conduct of the hearing as may be established in the by-laws of the ZBA shall be followed:

1. Any party may be heard in person or by agent or attorney; and
2. The ZBA may adjourn the hearing in order to permit the obtaining of additional information or to cause such further notice as it deems proper to be served upon such other property owners as it decides may be interested in said application or appeal. If the hearing is adjourned, persons previously notified and persons already heard, need to be notified of the time of resumption of said hearing.

(d) Following the hearing, the ZBA shall formulate its decision.

1. The ZBA shall consider the merits of the individual application or appeal within the context of any and all standards and considerations established in this chapter. In the case of variances, the standards of § 154.449 of this chapter shall control.

2. The Zoning Board of Appeals may reverse or affirm, wholly or part, or may modify the order, requirement, decision or determination of issue, as in its opinion ought to be made, and, to that end, shall have all the powers of the official or body of officials from whom the appeal was taken and may direct the issuance of a permit.

3. The written decision of the ZBA shall not be final until five days after it is made unless the ZBA shall find the immediate effect of such order is necessary for the preservation of property or personal rights and shall certify on the record. In the written decision on the application or appeal, the ZBA must include the reasons for decision and facts supporting such reasons.

(Ord. passed 7-12-2012, § 15.9)

§ 154.449 VARIANCES; STANDARDS.

(A) *Non-use variances.* The Zoning Board of Appeals shall have the authority to grant non-use variances relating to the construction, structural changes or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other non-use-related standard in this chapter, only when all of the following conditions exist:

- (1) The need for the requested variance is due to practical difficulties in carrying out the strict letter of the zoning ordinance arising from unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water or topography;
- (2) The asserted difficulty is not due to the applicant's personal or economic difficulty. Increased financial return alone shall not be deemed sufficient to warrant a variance;
- (3) The need for the requested variance is not the result of actions of the property owner or previous property owners;
- (4) Strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for permitted purposes or will render conformity with those regulations unnecessarily burdensome;
- (5) The requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district;
- (6) The requested variance will not cause an adverse impact on surrounding property, property values or the use and enjoyment of property in the neighborhood or zoning district; and
- (7) The need for the requested variance is not based primarily on non-conforming use(s) of nearby lands, structures or buildings.

(B) *Use variances.* A use variance may be granted by the Zoning Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that unnecessary hardship exists by showing all of the following:

- (1) The property cannot be reasonably used for any of the uses permitted in the zoning district in which it is located;
- (2) The need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water or topography;
- (3) That the need for the variance is not due to the applicant's personal or economic hardship;
- (4) Such unique circumstances or physical conditions of the property are not so general or recurrent in nature so as to make it reasonably practicable to address them by amending this chapter;
- (5) The proposed use will not alter the essential character of the neighborhood;
- (6) The need for the requested variance is not the result of actions of the property owner or previous property owners (self-created);
- (7) The authorizing of such variance will not be of substantial detriment to the adjacent and nearby properties; and
- (8) The need for the requested variance is not based primarily on non-conforming use(s) of nearby lands, structures or buildings.

(Ord. passed 7-12-2012, § 15.10)

§ 154.999 PENALTY.

(A) *Violations; nuisance per se; municipal civil infractions.*

(1) Any building erected, moved, altered, razed or converted, or any use of land that is begun or changed subsequent to the effective date of this chapter, or its amendment, that is in violation of any provision of this chapter or the requirements thereof or any condition or requirement of a zoning permit, occupancy permit, site plan, PUD, special use approval, decision of the ZBA or a variance or other approval granted under this chapter, is hereby declared to be a nuisance per se, and shall be abated by any court of competent jurisdiction.

(2) Any person, corporation, firm or other entity who violates, disobeys, omits, neglects or refuses to comply with any provision of this chapter or any condition or requirement of a zoning permit, occupancy permit, site plan, special use approval, PUD, decision of the ZBA, or a variance or other approval granted under this chapter is responsible for a municipal civil infraction, subject to payment of a civil fine, in an amount determined by the township from time to time, plus costs and other sanctions, for each violation, as authorized by § 10.99 of this code of ordinances and other applicable laws. Repeat offenses under this chapter shall be subject to increased fines in the amounts as provided by § 10.99 of this code of ordinances.

(3) Each day on which any violation of this chapter occurs or continues constitutes a separate offense subject to separate sanctions.

(Ord. passed 7-12-2012, § 14.10)

(B) *Cumulative.* The remedies provided by this chapter are cumulative. In addition to any remedies available at law, the

township may bring an action for an injunction or other process against any person to restrain, prevent or abate any violation of this chapter. Further, the imposition of any fine or sanction shall not exempt an offender from compliance with the provisions of this chapter.

(Ord. passed 7-12-2012, § 14.11)

APPENDIX A: TABLE OF USE REGULATIONS

Section

A-1 Table of permitted uses

§ A-1 TABLE OF PERMITTED USES.

[CLICK TO VIEW TABLE IN PDF FORMAT](#)

APPENDIX B: TABLE OF GENERAL BULK REGULATIONS

Section

B-1 Table of permitted uses

§ B-1 TABLE OF PERMITTED USES.

[CLICK TO VIEW TABLE IN PDF FORMAT](#)