

MERRILL TOWNSHIP VS. YATES TOWNSHIP ZONING ORDINANCE CROSSWALK
ARTICLE 3 ~ GENERAL PROVISIONS

| Merrill Township | Yates Township |
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| <p data-bbox="50 342 449 370">Section 3.01 Purpose; Conflict</p> <p data-bbox="50 423 1079 537">General regulations apply to all zoning districts and properties except as otherwise expressly noted herein. Where requirements of a general provision and a zoning district regulation differ, the more restrictive requirement shall prevail.</p> | <p data-bbox="1108 342 1415 370">§ 154.001 PURPOSE.</p> <p data-bbox="1108 415 2045 813">An ordinance to promote the public health, safety, morals and general welfare, to establish zoning districts in the unincorporated portions of the township within which districts the use of land for agriculture, forestry, recreation, residence, industry, trade, migratory labor camps, soil conservation and additional uses of land, may be encouraged, regulated or prohibited and for the purposes dividing the unincorporated portion of the township into districts of the number, shape and area as deemed best suited to carry out the provisions of this chapter; and for each district designating or limiting the location, the height, number of stories and size of dwellings, buildings and structures that may be altered; and</p> <p data-bbox="1108 854 1226 881">2022 S-1</p> |

Section 3.02 Accessory Buildings (See also Section 3.45)

- A. One (1) accessory building for residential use (*i.e.*, not commercial, business, office, or industrial use) without the presence of a principal residential dwelling on the same lot is permitted in all zoning districts, provided that all of the following requirements are met:
1. Shall be located on a lot 1 acre or greater in size.
 2. Shall have a floor area no greater than 2,000 square feet.
 3. Shall comply with all side, rear, and front yard requirements pertaining to this type of construction specified in this Ordinance.
 4. Shall meet all adopted Township building codes and shall comply with all state and local regulations to inhibit or otherwise discourage unlawful entry.
- B. Accessory buildings of 120 square feet or less shall be allowed on lots of 5,000 square feet or greater and shall maintain a 4-foot minimum side yard setback.
- C. Accessory buildings are permitted in front yards provided the parcel is at least 5 acres in size, the accessory building is located at least 300 feet away from the road and screening or evergreen trees must be planted and maintained.
- D. Accessory buildings in rear yards must be at least 10 feet from any lot line except in Lake Residential where accessory buildings must be at least 7 feet from any lot line, and 50 feet from the water line.
- E. No accessory building shall be located closer than 5 feet to any other accessory building and 10 feet to the principal building.
- F. No accessory building shall be used for dwelling purposes. A mobile home cannot be used for an accessory use, for by definition, a mobile home when used as a dwelling would be subject to all regulations in this Ordinance for dwellings:
- G. In the Lake Residential zoning district, where the owner has a lot directly across a street right-of-way from the owner's dwelling, one accessory building may be allowed with special land use approval and both lots must always be in common ownership.
- H. The use of semi-trailers, mobile homes, campers, buses, boxcars, tanks, shipping containers and the like for storage is prohibited except as a temporary use for construction projects if approved by the Zoning Administrator.

§ 154.004 ACCESSORY STRUCTURES AND BUILDINGS.

The following requirements shall be met:

- (A) No accessory structure may be built on any lot on which there is no principal building;
- (B) Accessory buildings are prohibited in front yards except as otherwise provided in this chapter;
- (C) Accessory buildings in side yards shall meet side yard provisions;
- (D) Accessory buildings in rear yards must be at least three feet from any lot line and must meet the side yard requirements wherever a rear lot line abuts the side lot line of an adjacent lot; and
- (E) No accessory building may be closer than ten feet to another accessory building or principal building.
(Ord. passed 5-2-1972)

Section 3.03 Adult Foster Care Home

- A. Adult Foster Care Homes must be licensed by the state pursuant to Public Acts 218 of 1979, as amended.
- B. Adult Foster Care Family homes, Adult Foster Care Small Group Homes, and Adult Foster Care Large Group Homes may be allowed in all districts except in lake and river overlay districts.

§ 154.021 INSTITUTIONAL USES. (Maybe?)

- (A) The Planning Commission shall review and approve a site development plan prior to the issuance of building permits.
- (B) Institutional uses may be located in any district if a site development plan is approved.
(Ord. passed 5-2-1972)

Section 3.04 Animal Enclosures for Nonfarm Animals

No fenced area, enclosure, or similar arrangement shall be utilized or constructed for deer, elk, wild boar, reindeer, caribou, wild turkey or other normally wild animals unless a special land approval is obtained from the Planning Commission. Fences for such uses exceeding 6 feet in height can be installed and utilized only if a special land use approval is obtained from the Planning Commission.

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§ 154.010 DOMESTIC ANIMALS AND FOWL.**

- (A) *Residential districts.* No animals or fowl other than customary household pets, shall be housed in residential districts, within 50 feet of any adjoining property. The animals shall be kept under sanitary conditions and in sanitary enclosures.
- (B) *Required permits.* No animal or fowl, other than customary household pets, may be kept in any district on parcels of land of less than four acres unless a permit for the keeping is first obtained from the Building Inspector. The Building Inspector shall not issue a permit unless the premises upon which the animals are to be kept are found to be sanitary.
- (C) *Revocation.* The Building Inspector may inspect the premises at any reasonable time. The Building Inspector may revoke the permit if he or she is not permitted to inspect the premises or if the premises become unsanitary or if objectionable odors emanate from the premises.
- (D) *Restoration of permit.* The Building Inspector may upon application, restore a revoked permit if he or she determines that the premises have been made unsanitary.
(Ord. passed 5-2-1972) Penalty, see § 154.999

Section 3.05 Area or Space Required

No lot, yard, court, parking area, or other space shall be reduced to less than the minimum required under this Ordinance. No lot or other area shall be further reduced if already less than the minimum. Property under a road right-of-way or easement and property and bottomlands located under a lake, river, creek, or stream shall be excluded from lot area or dimension calculations for purposes of determining minimum lot area and other dimension requirements pursuant to this Ordinance. Setbacks shall be measured from the nearest line of the public street right-of-way, private road easement or access easement or right-of-way.

§ 154.005 AREA OR SPACE REQUIRED.

(A) No lot, yard, court, parking area or other space shall be reduced to less than the minimum required under this chapter.

(B) No lot or other area shall be further reduced if already less than the minimum.

(Ord. passed 5-2-1972) Penalty, see § 154.999

Section 3.06 Basement Dwellings (see also Section 3.48)

The use of any basement as a dwelling is prohibited. Any dwelling without a full floor above grade level shall be considered a basement dwelling. An underground home approved as a special land use is not considered a basement dwelling.

§ 154.006 BASEMENT DWELLINGS.

The use of any basement as a dwelling is prohibited.

(Ord. passed 5-2-1972) Penalty, see § 154.999

Note: See 3.48, as well.

Section 3.07 Camping (see also Section 3.38)

Camping shall be subject to the following:

- A. In no case shall there be more than four (4) recreational vehicles for camping per lot or parcel
- B. On properties that are less than a half (1/2) acre in size, one (1) annual permitted recreational vehicle for camping not to exceed fourteen (14) calendar days in any thirty (30) day period is permitted. On properties that are a half (1/2) acre and less than one (1) acre in size, two (2) annually permitted recreation vehicles are permitted for camping and one (1) additional tent or recreation vehicle for camping not to exceed fourteen (14) calendar days in any thirty (30) day period is permitted. On properties that are one (1) acre and less than two (2) acres in size, two (2) annually permitted recreation vehicles are permitted for camping and two (2) additional tents or recreational vehicles for camping not to exceed fourteen (14) calendar days in any thirty (30) day period are permitted. On properties that are two (2) acres or more in size, four (4) annually permitted recreational vehicles

Ord 22-01 Under review

are permitted for camping and four (4) tents or recreational vehicles for camping not to exceed fourteen (14) calendar days in any thirty (30) day period are permitted. Provided that the total number of all recreational vehicles for camping does not exceed more than provided for in one (1) above.

C. All campers shall comply with the following rules:

1. Quiet hours shall be maintained between the hours of 11:00p.m. and 7 a.m.
2. Camping permit must be obtained prior to camping activity. Annual camping permit(s) shall be issued to or renewed by the property owner.
3. No annual camping permits shall be issued to individuals under eighteen (18) years of age.
4. Upon termination of camping all equipment and supplies must be removed.
5. Sewage storage and disposal shall be in accordance with the regulations of the Newaygo County Health Department.
6. Garbage and refuse build-up on the premises is prohibited and must be removed after each stay.
7. Areas used for camping must be kept in a neat, clean and sanitary condition.
8. Campers shall be maintained in good and mobile condition.
9. Dilapidated campers shall be removed from the property.
10. All recreational vehicles and related camping activities, with the exception of campfires, shall maintain a setback of fifteen (15) feet for side yards, and fifty (50) feet from the ordinary high-water mark of any water body.
11. In-ground septic facility, water well, and electricity shall be permitted on a lot without a principal structure
12. Recreational campfire areas shall be contained by a fire ring. Burning permits shall be obtained when required and fires shall be adequately monitored and contained. The campfire shall not constitute a nuisance to neighboring properties due to the size or location of the fire, excessive smoke, or noxious items being burned.
13. Camping activities shall not be a nuisance to surrounding property.
14. All campers and recreational vehicles must be road legal and licensed.

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| <p>D. All complaints related to camping must be submitted on the Merrill Township Complaint Form.</p> <p>E. Failure to comply with the requirements of this Section is a violation of the Zoning Ordinance and is subject to enforcement regulations.</p> | |
| <p>Section 3.08 Channelization</p> <p>No channel, canal or similar waterway or devise shall be dug, constructed, dredged, enlarged, or created out of or that connects to any lake, river, creek, or stream in the Township. Nor shall the size, location, or surface area of any lake, river, creek, or stream be increased or altered by digging, dredging, or excavation upland from the ordinary high-water mark of the lake, river, creek, or stream; provided, however, that this section shall not apply to the following:</p> <p>A. Any lawful dredging occurring on existing lake bottomlands that are lake ward of the ordinary high-water mark of the lake;</p> <p>B. The lawful creation or enlargement of a pond that does not abut or connect into an existing lake; or</p> <p>C. The lawful dredging of an existing canal or channel pursuant to applicable state laws and permit requirements, so long as such existing channel or canal is not enlarged or expanded.</p> | <p>Not in Yates document</p> |
| <p>Section 3.09 Clear Vision Corners</p> <p>All intersections of public streets shall be provided and maintained with a clear unobstructed vision corner extending not less than 20 feet from all right-of-way line intersections along said right-of-way line in the form of an isosceles triangle, within which no vehicle parking or obscuring structures, storage, growth or displays shall be located or allowed.</p> | <p>§ 154.034 TRAFFIC VISIBILITY ACROSS CORNERS.</p> <p>No fence, structure or planting over 30 inches in height shall be planted or erected on the street side of a line drawn between two points each being 20 feet from the intersection of the rights-of-way of two interesting streets.</p> <p>(Ord. passed 5-2-1972) Penalty, see § 154.999</p> |

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| <p>Section 3.10 Corner Lots</p> <p>Any yard that abuts a street right-of-way shall meet the front yard requirements of the zoning district in which it is located for each street.</p> | <p>Not in Yates document</p> |
| <p>Section 3.11 Construction Time Limits (see also Section 3.57)</p> <p>Once construction or installation has begun regarding a building or structure, such building or structure shall be expeditiously finished, and an occupancy permit shall be issued, in accordance with all other applicable Township ordinances and permit requirements.</p> | |
| <p>Section 3.12 Driveways</p> <p>An approved driveway permit shall be obtained from the state Highway Department or the Newaygo County Road Commission and submitted to the Building Inspector prior to the issuance of a building permit.</p> | <p>§ 154.011 DRIVEWAYS.</p> <p>An approved driveway permit shall be obtained from the State Highway Department or the County Road Commission and submitted to the Building Inspector prior to the issuance of a building permit. (Ord. passed 5-2-1972)</p> |
| <p>Section 3.13 Dwellings on More Than One Lot</p> <p>If a structure is to be located on a property containing two or more lots under single ownership, the entire parcel shall be considered "a lot" for the purposes of this Ordinance and shall be permanently legally combined as one lot.</p> | <p>§ 154.013 EXISTING PLATTED LOTS. ?</p> <p>(A) A one-family dwelling is permitted upon an existing residentially zoned platted lot of an area of not less than 90% of the requirements of the district in which it is located. However in all cases, the side yard requirements of the district must be met.</p> <p>(B) An existing platted residentially-zoned lot in single ownership of less than 90% of the requirements of the district in which it is located may be utilized for a one-family use. The required side yards may be reduced by the same percentage that area of the lot bears to the requirements of the district. Side yards shall be at least five feet each. Off-street parking requirements shall be met.</p> |

(C) Two or more adjacent lots in a single ownership upon the adoption of this chapter of less than 90% of the requirements of the district shall be combined to meet the requirements of this chapter.

(D) In any case, the Board of Appeals may permit the use of existing residentially-zoned platted lots not meeting the area requirements of the district in which they are located upon making all of the following determinations:

- (1) The lots are in single ownership;
 - (2) There is no practical possibility of obtaining more land;
 - (3) The proposed use will not adversely affect the character of the neighborhood;
 - (4) Side yards of at least five feet will be provided; and
 - (5) Off-street parking requirements will be met.
- (Ord. passed 5-2-1972)

Section 3.14 Dwelling Units

- A. All dwelling units shall have a minimum first floor area of 840 square feet.
- B. All dwelling units shall provide a minimum height between the floor and ceiling of 7 feet.
- C. The linkage or placement of more than one manufactured home, or prefabricated, separate, independent dwellings shall not be permitted.
- D. All dwelling units are to be connected to a public water and sewer, if available, or to such private facilities as are approved by the County Health Department.
- E. Sanitary Waste and Subsoil Drainage Systems:
 - 1. Septic and/or drainage systems are not permitted closer than 100 feet from the ordinary high-water mark of any inland lake or stream.
 - 2. All septic systems, drainage systems, and sewage storage and delivery systems must be well-maintained at all times and also must meet all regulations as provided by law.
- F. Storage of abandoned or unusable personal property shall not occur outside of the dwelling unit, garage, or accessory buildings.
- G. Chimneys for furnaces, fireplaces, or wood burning stoves shall be constructed of underwriters' approved construction.
- H. Every dwelling unit must comply with all pertinent building and fire codes. In case the dwelling is a mobile home, all construction, plumbing, electrical apparatus and insulation within and connected to said mobile home shall conform to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development (HUD), being 24 CFR 2380, and as from time to time such standards are amended. Additionally, all dwellings shall meet or exceed all roof snow load requirements.
- I. In the event a dwelling unit is a singlewide mobile home or

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§ 154.014 FLOOR AREA.

(A) There shall be a minimum floor area of 720 square feet for each new one-story single family dwelling erected, other than mobile homes. Any two levels of bi-level, tri-level or split-level single family dwellings shall be considered as one-story dwellings. The combined levels shall be not less than 1,200 square feet.

(B) Mobile homes shall provide a minimum floor area of 600 square feet.

(C) Multiple family dwellings shall have a minimum average floor area of 600 square feet per dwelling unit but, in no case shall a single dwelling unit contain less than 400 square feet.

(D) Seasonal dwellings shall have a minimum floor area of 720 square feet.

(Ord. passed 5-2-1972)

doublewide, the mobile home must be installed with wheels removed, and anchored to a cement slab as required by the building code covering the entire length and width of the mobile home. Skirting shall be installed that is compatible with the existing materials of the mobile home according to manufacturer's specifications. This shall take place within 60 days of the home being placed on any lot.

- J. No mobile home will be occupied until a temporary or Certificate of Occupancy is received from the Building Inspector.
- K. All construction required herein shall commence only after zoning and building permits have been obtained.
- L. Every dwelling's minimum width shall be at least 22 feet wide for at least 75 percent of the dwelling's length, measured between the exterior part of the walls having the greatest length. It shall also comply in all respects with the Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are more restrictive than those imposed by the Building Code, then, and in that event, such federal or state standards or regulations shall apply. Any exterior addition shall be of the same construction and materials as the original structure.

Section 3.15 Flood Plain Areas

No dwelling shall be erected, or hereafter occupied if vacant, in flood plain areas. The flood plain areas of lakes, rivers and streams shall be determined by an engineer or agency designated by the Newaygo County Board of Commissioners and information kept at the Newaygo County Drain Commissioner's office.

Not in Yates document

Section 3.16 Essential Public Services

It shall be lawful for public utilities, departments or commissions to erect, construct, alter or maintain underground or overhead gas, electrical, water distribution, transmission systems or collection, communication supply or disposal systems, including poles, towers, drains, sewers, pipes, conduits, wire cables and accessories for the furnishing of adequate services by public or municipal departments for health, safety and general welfare, in any zoning district in Merrill Township. Related buildings shall be subject to the approval of the Planning Commission as listed below.

The Planning Commission is hereby granted the power to approve as a special land use the erection of any building for a private or public utility. This is provided that the Planning Commission shall find that such use, height, area, buildings or structure is designed, erected and landscaped to conform to the zoning district in which it is located; and that the advantage of the proposed location to the utility is not outweighed by the detriment to the locality, and that a different location is not readily available. A zoning permit also shall be required before installation.

§ 154.012 ESSENTIAL SERVICES.

(A) Underground essentials services or the customary placing of utility poles in public rights-of-way may be installed in any district upon approval by the Township Board.

(B) Essential services which require the erection or construction of other above ground structures may be permitted as exceptional uses by the Board of Appeals under special conditions as are deemed necessary by the Board to preserve the value of adjacent uses and to preserve and ensure an attractive environment for the surrounding area.
(Ord. passed 5-2-1972)

Section 3.17 Front Yard

The front yard of a lot must abut a lawful street right-of-way, private road, shared driveway, or easement for a distance equal to or greater than the minimum required lot width. However, on waterfront lots (excluding creeks or streams that are not lot boundaries), the rear yard must abut on a lawful street right-of-way, private road, shared driveway, or easement. Also, on waterfront lots (excluding creeks or streams that are not lot boundaries), the waterside yard is the front yard.

§ 154.015 YARD REQUIREMENTS; BASIS OF DETERMINING.

Front yards shall be measured from the proposed right-of-way line, as indicated by the County Road Commission, to the nearest portion of the structure. However, measurements of yard requirements on waterfront lots shall be made from the high water mark to the nearest portion of the structure.
(Ord. passed 5-2-1972)

Section 3.18 Front Yards - Basis for Determining

Front yards shall be measured from the road right-of-way, private road, shared driveway, or easement to the nearest portion of the structure.

§ 154.015 YARD REQUIREMENTS; BASIS OF DETERMINING.

Front yards shall be measured from the proposed right-of-way line, as indicated by the County Road Commission, to the nearest portion of the structure. However, measurements of yard requirements on waterfront lots shall be made from the high water mark to the nearest portion of the structure.
(Ord. passed 5-2-1972)

Section 3.19 Greenbelts

A greenbelt shall be required in the side and/or rear yards of any commercial or industrial use that abuts a residential district. Greenbelts shall always be maintained. The greenbelt may be part of the side or rear yard. Adjacent residential property owners may waive the greenbelt requirement or request a solid fence in place of the greenbelt. Such waivers or requests shall be in writing and be presented to the Planning Commission prior to issuing permits.

§ 154.018 GREENBELTS.

- (A) A greenbelt shall be required in the side and/or rear yards of any commercial or industrial use which abuts a residential district.
- (B) The greenbelt may be a part of the side or rear yard. Adjacent residential property owners may request a fence in place of the greenbelt. The requests shall be in writing.
(Ord. passed 5-2-1972)

Section 3.20 Height Exceptions:

- A. All Zoning Districts: Height requirements may be exceeded by chimney, silos, farm barns and storages, TV towers and radio antennas (where otherwise regulated by this Ordinance), cupolas, silos, spires, ornamental projections, or water towers provided they are located not less than the same distance as their height from any adjoining property line.
- B. Industrial Uses: Chimneys, cooling and fire towers, elevator building and bulkheads, roof storage tanks and other necessary accessory structures are permitted provided they are located not less than the same distance of their height from any adjoining property line.

§ 154.020 HEIGHT EXCEPTIONS.

- (A) *All districts.* The heights requirements of all districts, may be exceeded by parapet walls not more than four feet in height, chimneys, silos and barns for farm usage, and storages, roof-mounted television antennas, cupolas, spires, ornamental projections or water towers.
- (B) *Industrial districts.* In the industrial districts, chimneys, cooling and fire towers, elevator buildings and bulkheads, roof storage tanks and other accessory necessary structures are permitted provided they are adjoining property.
(Ord. passed 5-2-1972)

Section 3.21 Home Occupations and Cottage Industries (see 14.13)

Any use customarily conducted entirely within a single-family residential dwelling and carried on by the inhabitants thereof without being evident in any way from the street or from neighboring premises. In order to preserve the residential character of the neighborhood and/or the residential uses of existing homes, and to maintain segregation between the areas that are characterized as residential and those characterized as commercial and industrial, the following is applicable:

A. **Home Occupations** – All home occupations shall meet all of the following restrictions and regulations:

1. The home occupation shall be subject to site plan review and approval by the Zoning Administrator.
2. The home occupation shall be conducted entirely within the dwelling (and not within an accessory building) and only by two (2) persons who are residents of that dwelling; except that not more than one (1) person may be employed who is not a resident of the dwelling.
3. All motors and equipment used in the conduct of any home occupation shall be shielded so as not to cause radio or television interference or to be audible from off-site.
4. There shall be no exterior alteration in the residential character of the premises in connection with such home occupation and no more than twenty-five percent (25%) of the living area of the dwelling shall be devoted to such home occupation. The home occupation shall be conducted entirely within the dwelling and no portion of the use shall occur outdoors or within an accessory building.
5. No merchandise or articles for sale shall be displayed for advertising purposes so as to be viewable from outside the dwelling and no sign or device relative to the sale of such merchandise shall be displayed on the premises.
6. All articles and materials used in connection with such home occupation shall be stored in the dwelling. No outside storage is permitted.
7. The use shall not generate more than eight (8) client trips to the home during the hours of 8:00 AM to 8:00 PM. Clients shall not be received during other hours. The parking need generated by the conduct of such

§ 154.019 HOME OCCUPATIONS.

(A) Home occupations are permitted in residential districts.

(B) A home occupation is any use which meets all of the following requirements:

(1) Is conducted entirely within a dwelling without being evident from the street or from neighboring premises;

(2) Does not change the character of the building in which it is conducted;

(3) Is carried on only by the residents of the dwelling plus not more than one non-resident;

(4) Employs only mechanical equipment which is similar in power and type to that used for household purposes and which does not affect the insurance rates on the premises;

(5) Small signs which relate to such home occupations may be displayed;

(6) Devotes not more than 25% of the floor area of one floor to the home occupation; and

(7) Does not involve keeping a stock in trade, the sale of commodities on the premises, and does not constitute a retail business. (Ord. passed 5-2-1972)

home occupation shall be provided off the street and not within the required front yard.

8. There shall be no sale of products or services except as are produced on the lot by such home occupation, except that products not produced on the lot that are incidental to services being performed as a part of the home occupation may be sold in limited quantities.
9. The home occupation shall comply with all applicable Building Code requirements.
10. The home occupation shall be permitted one (1) unlighted wall sign, not to exceed four (4) square feet in size. Such sign shall be attached to the dwelling.
11. The use shall not include deliveries by trucks greater than normal U.S. Postal or United Parcel Service step type vans.
12. Instruction in craft or fine art within a dwelling by a resident member of the family residing in the dwelling shall be considered a home occupation and shall be subject to the requirements for a home occupation.

The allowance of a home occupation by the Township, subject to the regulations of this Ordinance, shall not in any way or manner constitute an acceptance of, or give validity to, the introduction of nonresidential uses into any residential district.

B. **Cottage Industry** - An occupation that does not meet the above standards for a home occupation, may be considered by the Township as a Cottage Industry subject to all of the following:

1. Cottage Industry shall require a special land use approval.
2. Included with the special land use application shall be detail on the nature of the proposed home Industry including:
 - a. Type of business
 - b. Hours of operation
 - c. Number of employees
 - d. Amount and type of waste (material and effluent) to be generated and the method of handling and disposing of all wastes.
 - e. Anticipated levels of noise, odor, glare, dust, fumes, and related impacts.
- a. Anticipated traffic levels (customer, delivery vehicles, etc.).

3. No more than two (2) persons who are not residents of the dwelling and two (2) persons that are residents of the dwelling shall be employed on the lot at which the Cottage Industry is conducted.
4. Any need for parking generated by the conduct of such Cottage Industry shall be provided off the street and not within the required front yard.
5. The Cottage Industry shall be conducted entirely within the dwelling or one approved accessory building. The Cottage Industry shall not occupy more than twenty-five (25) percent of the gross floor area of the dwelling. An accessory building used for the Cottage Business shall not exceed one thousand (1,000) square feet in size.
6. The Cottage Industry shall not result in the alteration of the dwelling, nor the construction of an accessory building, that is not customary to dwellings and residential accessory buildings. Special building code requirements such as automatic fire suppression systems, explosion proof construction, paint booths, hazardous waste containment systems (except for the containment of small quantities of motor oil, lubricants, and anti-freeze), and other such systems shall not be permitted.
7. In addition to meeting the standards of this section and the special land use standards for approval, it shall be demonstrated that the Cottage Industry will not be detrimental to the commercial viability of the Township's (or adjoining municipalities') commercially zoned districts.
8. No part of the Cottage Industry shall occur outdoors.
9. No Cottage Industry shall be approved if it is either inconsistent with the area or zoning district within which it would be located or there is available land within the Township zoned for commercial or industrial use.

Section 3.22 Institutional and Public Uses

Institutional and public uses may be allowed in any district if approved as a special land use by the Planning Commission as provided in this Ordinance.

§ 154.021 INSTITUTIONAL USES.

(A) The Planning Commission shall review and approve a site development plan prior to the issuance of building permits.

(B) Institutional uses may be located in any district if a site development plan is approved.
(Ord. passed 5-2-1972)

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| <p>Section 3.23 Keyhole Development (Funneling):</p> <p>A. In all zoning districts, there shall be at least one hundred (100) feet frontage on a lake, river, creek or stream, as measured along the ordinary high water mark of the lake, river, creek or stream, for each single-family home, dwelling unit, cottage, lot, condominium unit, site condominium unit or apartment unit utilizing or accessing the lake, river, creek or stream frontage; provided, however, that where the lot width requirement for a given zoning district exceeds 100 feet, a lot in that zoning district shall have frontage on the lake, river, creek or stream equal to or greater than the minimum lot width required in that zoning district.</p> <p>B. In all zoning districts, no lake or river access, boat ramp, shore station, dock, boat launch or shoreline abutting a lake shall be utilized for commercial, business, outdoor recreational (or entertainment) facilities, institutional, nonresidential or nonagricultural uses or purposes unless such use complies with the requirements of the zoning district in which it is located and further such use is also approved as a special land use or planned unit development (PUD).</p> <p>C. The lake, stream, creek, and river access and use regulations contained in this section shall be fully applicable to all planned unit development (PUD) and special land use projects or developments.</p> <p>D. In addition to the above limitations, no easement, private park, common area, or lot or access property abutting or adjoining a lake, creek, stream or river shall be used to permit access to the lake, river, creek or stream for more than one (1) single-family home, dwelling unit, lot, condominium unit, site condominium unit, apartment unit or any other use unless such additional access use is permitted in the zoning district in which it is located and furthermore such use must also be approved as a special land use or planned unit development (PUD).</p> | <p>Districts; Regulations pg90?</p> |
| <p>Section 3.24 Lot Accessibility</p> <p>No lot shall be created, and no dwelling shall be built on a lot unless the lot has frontage (equal to or greater than the minimum width required for the lot involved)</p> | <p>Not in Yates document Gass's Point?</p> |

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| <p>upon an improved public street or a lawful private road that complies with all requirements of this Ordinance.</p> | |
| <p>Section 3.25 Lot Splits and Land Divisions</p> <p>No lot, parcel, or access easement shall be created that does not fully comply with the minimum area, width, frontage, and other requirements of the Merrill Township Zoning Ordinance, as amended. All land divisions, splits, or boundary reconfigurations of platted lots and unplatted parcels shall meet the requirements of the Merrill Township Zoning Ordinance, as amended, and the requirements of the Michigan Land Division Act (MCL 560.101 <i>et seq.</i> \ MSA 26.430(101) <i>et seq.</i>). No land division, lot split, creation of an access easement, or reconfiguration of boundary lines shall occur until and unless a land division permit has been obtained from the Township Zoning Administrator or such other person as may be designated from time to time by resolution of the Township Board. No permit for land division shall be issued until and unless the Township determines that the land division, lot split, access easement, or boundary reconfiguration, as well as the resulting lots, access easements or parcels, fully complies with the requirements of the Township Zoning Ordinance, as amended, and all other applicable Township ordinances. Fees for a land division permit shall be set as determined from time to time by resolution of the Township Board. No land division permit shall be approved or issued unless the application is accompanied by a survey done by a registered land surveyor or engineer showing all resulting lots or parcels, easements (if any), and full legal descriptions. The Township can waive the requirement of a survey in a given case for good cause shown by the applicant. No permit for division of a platted lot or lots, or reconfiguration of boundary lines for a platted lot or lots, shall be issued until and unless such land division is approved by the Township Board.</p> | <p>Not in Yates document</p> |

Section 3.26 Lot Width

- A. The minimum lot width required in each zoning district shall be maintained across the entire length or depth of the lot or parcel, except as provided in subsection B, below.
- B. All lots shall have frontage on a public street or on a private road approved pursuant to this Ordinance for a distance equal to or greater than the minimum lot width specified for the district in which the lot or parcel of land is located. Lots abutting, a cul-de-sac shall be permitted to have less street or road frontage (but in no case less than 33 feet of such frontage), provided however, that a special land use is obtained pursuant to this Ordinance, and further provided that the lot width at the front setback line, (or the rear setback line in the case of waterfront lots) and beyond shall satisfy the minimum lot width requirement of the zoning district in which the lot or parcel of land is located.
- C. For all lots or parcels abutting or having frontage on a lake, river, creek or stream, each lot or parcel shall have frontage on the lake, river creek or stream as measured at the normal high-water mark, equal to or greater than the minimum lot width requirement of the zoning district within which the property is located.

Not in Yates document specifically, see District Regulations

Section 3.27 Lot Width-to-Depth Ratio

In all zoning districts and unless expressly otherwise provided elsewhere in this Ordinance, the depth of all lots created of record after the adoption of this Ordinance shall not exceed four (4) times the width of the lot. For purposes of this section, the measurement for lot width shall be taken along the frontage on the public street or other approved road. The measurement for depth, for purposes of this section, shall be taken from the street or road frontage to the point of the lot located farthest from the street or road frontage.

Not in Yates document

Section 3.28 Lots of Record - Existing Platted or Otherwise

A lot of record shall include a lot that is part of a subdivision, the map of which has been recorded in the office of the Newaygo County Register of Deeds, or a lot described by metes and bounds, the deed to which has been recorded in the office of the Register of Deeds, prior to the effective date of this Ordinance.

§ 154.013 EXISTING PLATTED LOTS. (A) A one-family dwelling is permitted upon an existing residentially zoned platted lot of an area of not less than 90% of the requirements of the district in which it is located. However in all cases, the side yard requirements of the district must be met. (B) An existing platted residentially-zoned lot in single ownership of less than 90% of the requirements of the district in which it is located may be utilized for a one-family use. The required side yards may be reduced by the same percentage that area of the lot bears to the requirements of the district. Side yards shall be at least five feet each. Off-street parking requirements shall be met. (C) Two or more adjacent lots in a single ownership upon the adoption of this chapter of less than 90% of the requirements of the district shall be combined to meet the requirements of this chapter. (D) In any case, the Board of Appeals may permit the use of existing residentially-zoned platted lots not meeting the area requirements of the district in which they are located upon making all of the following determinations: (1) The lots are in single ownership; (2) There is no practical possibility of obtaining more land; (3) The proposed use will not adversely affect the character of the neighborhood; (4) Side yards of at least five feet will be provided; and (5) Off-street parking requirements will be met. (Ord.72-1 passed 5-2-1972)

Section 3.29 Lots of Record – Nonconforming

- A. Lots of record located in zoning districts permitting single-family dwellings must meet current set back provisions for the zoning district in which they are located. Off street parking requirements shall be met. Lot coverage shall not exceed 30%.
- B. The Zoning Administrator may permit a lawful lot of record not meeting the above requirements to have a single-family dwelling built thereon upon the making of the following determinations:
 - 1. The lot is of or in single ownership.
 - 2. There is no practical way of obtaining more land.
 - 3. The proposed use cannot be located on the lot such that the minimum requirements are met.
 - 4. The proposed use will not adversely affect adjacent property values or the character of the neighborhood.
 - 5. Side yards of at least 10 feet each will be provided.
 - 6. The front yard shall be at least 30 feet and the rear yard at least 15 feet.
 - 7. The lot is at least 5,000 square feet in area.
- C. If two (2) 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 Ordinance, or an applicable 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 deemed automatically combined and shall be considered to be an undivided single lot for the purposes of this Ordinance, 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 Ordinance.

Maybe 154.013 as well

Section 3.30 Mobile Homes and Prefabricated Housing

This is a structure designed for use as a dwelling unit that is transportable in one or more sections, built on a permanent chassis, and designed for use with or without a permanent foundation. The term does not include recreational vehicles, travel

Should be in definitions? Sec2

trailers, or recreational units. Mobile home as new construction, or replacement of an existing mobile home, shall comply with current federal regulations.

Section 3.31 Mobile Home Storage and Recreational Vehicle Storage/Use (see 3.38)

- A. It shall be unlawful for any person to park, or cause to be parked, any motor home or recreational vehicle on any street, highway or public place for storage, use as a dwelling or for overnight stops.
- B. No mobile home shall be stored on any land within the Township for a period of longer than 30 days.
- C. Recreational vehicles owned by residents or property owners within the Township shall not be connected to water or sanitary facilities, nor shall they be occupied.
- D. Temporary Dwellings. A singlewide mobile home or recreational vehicle may be used as a temporary dwelling if certain requirements are met. The Zoning Administrator may approve such a use for a period not to exceed 9 months, and the Planning Commission may approve such use for an additional period not to exceed 6 months, provided that the following conditions are met:
 - 1. A building permit has been issued for construction of a permanent single-family dwelling that conforms to the requirements of this Ordinance.
 - 2. The temporary structure must contain at least 75 square feet for each occupant.
 - 3. The temporary structure must be properly connected to water and sanitary facilities approved by the Newaygo County Health Department.
 - 4. The temporary structure must be removed within 30 days of the date of issuance of occupancy permit for the permanent dwelling.
 - 5. The Township may require sufficient monetary security in the form of a cash deposit, bond, letter of credit, or other monetary security to ensure that the temporary structure is removed by the required date.
 - 6. The Township may require that a written agreement be entered into between the Township and the landowner with language approved by the Township.
- E. Temporary Use Permit. To protect and promote the public health, safety and general welfare of the Township residents, travel trailers, motor homes and fifth

§ 154.022 MOBILE HOMES, HOUSE TRAILERS AND CAMPERS. (A) Unlawful. It shall be unlawful for any person to park or cause to be parked any mobile home, house trailer, motor home, travel trailer, truck camper, camping trailer, tent or a similar unit on any street or public place or to use the same as a dwelling, either temporarily or permanently, or for overnight stops outside a licensed mobile home court, except as provided in divisions (B) and (C) below. (B) Guest permits. Except in licensed and approved mobile home courts, no unit specified in division (A) shall be used for dwelling purposes for more than seven consecutive days in any one year without a permit therefore from the Building Inspector. A permit shall be issued only after submission of proof satisfactory to the Building Inspector showing that a proper toilet and sanitary facilities are available for use of the occupants, no fire hazard will be created and that no overcrowding will result from the use at the proposed location. The permit shall be valid only for the location designated thereon and for a period of not to exceed 14 days. A fee of \$5 for each unit shall be paid at the time of application for the permit. The permit may be revoked by the Building Inspector if the above requirements are not maintained. Chapter 154: Zoning Code (C) Limited permit while building. Units, other than tents, specified in division (A) may be used for dwelling purposes during construction of a dwelling only after a permit therefore has been secured from the Building Inspector. No permit shall be issued until plans and specifications have been submitted to the Building Inspector evidencing the intention of the applicant to build a dwelling and a building permit has been issued therefore. The applicant shall comply with all of the requirements of this section. The duration of the temporary dwelling authorization shall be at the discretion of the Building Inspector. (1) All units 20 feet or more in length used for dwellings purposes shall have two exits spaced a sufficient distance apart to ensure a means of escape in case of fire. (2) No unit may be used for dwelling or sleeping

wheelers capable of being duly licensed, will require a Temporary Use Permit, except those in total storage.

1. A permit from the Newaygo County Health Department will be required prior to a temporary use permit being issued.
2. Temporary use permits will be granted by the Township Zoning Administrator.
3. Temporary use permits are issued annually.
4. Each unit shall display their permit in plain view. A completed informational card shall be on file with the Zoning Administrator containing the following information
5. The name and address of the owner of the unit and/or adult representative plus the telephone number(s) wherein he/she can be reached at all times.
6. All units shall be self-contained as to potable water supply and storage of wastewater the unit must be removed at the end of the permit period.
7. Travel trailers, camper trailers, motor homes, fifth wheelers, boats and boat trailers may be in total storage on the same property as the principle residence, or on lots of record that are adjacent to or in reasonable proximity to the principle residence.
8. The Zoning Administrator may revoke a permit or extension thereof upon finding excessive noise, unsanitary conditions or other nuisances are occurring on the premises subject to the permit.

purposes by a greater number of persons than it is designed to safely accommodate. (3) No unit shall be parked in the front yard of any lot. Any unit parked in a side or rear yard shall observe the yard requirements of this chapter. (4) Except in mobile home courts or where permitted by this section, the units described in division (A) are neither dwelling units nor accessory uses. (Ord.72-1 passed 5-2-1972) Penalty, see § 154.999

Section 3.32 Moving of Structures

The moving of a structure shall be considered the same as the erection of a new structure. All regulations relative to the erection of new structures shall be met.

§ 154.023 MOVING OF STRUCTURES.

The moving of a structure shall be considered the erection of a new structure. All provisions relative to the erection of new structures shall be met. A performance bond of \$1,000 may be required by the Township Board prior to the moving.
(Ord. passed 5-2-1972)

Section 3.33 Multiple Use of Buildings

Where any part of any building is used for residential purposes and the remainder thereof is to be used for any nonresidential purposes, the part used as a dwelling shall conform to all requirements for dwellings in that residential district. Land or buildings

§ 154.024 MULTIPLE USES OF BUILDING. Where any part of any building is used for residential purposes and the remainder thereof is used for any non-residential purposes, the part occupied as a dwelling shall conform to all requirements of the R-L district. Land or buildings used for non-residential purposes shall be

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| <p>used for nonresidential purposes shall be excluded in determining whether the requirements for the residential zoning district are met.</p> | <p>excluded in determining whether the requirements for the residential use are met. (Ord.72-1 passed 5-2-1972)</p> |
| <p>Section 3.34 Parking Vehicles (see sec6)</p> <p>Parking or storage of commercial vehicles exceeding a rated capacity of 1 ½ tons is prohibited in within 150 feet of all lakes, rivers, creeks or streams Lake Residential and other residential zoning districts.</p> | <p>§ 154.025 PARKING VEHICLES.</p> <p>Parking or storage of commercial vehicles exceeding a rated capacity of one and one-half tons is prohibited in all residential districts. (Ord. passed 5-2-1972) Penalty, see § 154.999</p> |
| <p>Section 3.35 Principal Use - One Dwelling Per Lot</p> <p>Only one principal use shall be made of a lot, except as otherwise expressly permitted by this Ordinance. A single-family dwelling shall constitute a principal use.</p> | <p>§ 154.026 PRINCIPAL USE. Only one principal use shall be made of a lot except as otherwise permitted. (Ord.72-1passed 5-2-1972) Penalty, see § 154.999</p> |
| <p>Section 3.36 Private Streets and Shared Driveways</p> <p>A. Purpose: The Township determines that it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, extension, relocation, and use of private streets. These provisions have been enacted to assure that private streets:</p> <ol style="list-style-type: none"> 1. Will not be detrimental to the public health, safety, or general welfare. 2. Will not adversely affect the long term development policies of White River Township. 3. Will be designed and constructed with width, surface, and grade to assure the safe and unimpeded route of travel of private vehicles, police, fire, ambulance, and other safety vehicles. 4. Will be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the township. 5. Will be properly maintained. <p>B. Definitions: For the purposes of this Section, the following definitions shall apply:</p> <ol style="list-style-type: none"> 1. "Driveway" means an undedicated, privately controlled and maintained path, drive, or way located entirely within a lot and it services only that lot. 2. "Frontage" means the continuous linear distance of that portion of a lot or parcel abutting upon a public or approved private street right-of-way. | <p>Not in Yates document</p> |

3. "Safe and unimpeded route of travel" shall mean a roadway of adequate width to accommodate the safe, two-way passage of vehicles, and of sufficient construction to accommodate any fire, police, rescue, or other emergency vehicle which may be utilized by the Township.

C. Frontage and Access:

1. All lots utilizing a private street shall have frontage on the private street for a distance equal to or greater than the minimum lot width required for a lot in the zoning district in which the parcel is located.

2. All private streets shall have direct access to a public street.

D. Permits:

1. No individual, association, corporation, or entity, either public or private, shall create, construct, or extend a private street (or private street easement or right-of-way) after the effective date of this Ordinance without first having obtained a Special Land Use approval and a private street permit from the Township. In addition to the general special land use standards, the Planning Commission shall also consider the following review standards:

a. Whether the private road meets the requirements of this Section.

b. Whether the private street is reasonably necessary to be private, or if it would be in the best interest of the Township for the road to be a public road.

c. Whether the use of such private street has the potential to create conditions which may be detrimental to the health, safety or welfare of persons or property through the creation of hazardous or potentially hazardous situations.

2. The Building Inspector shall not issue a building permit for construction of any building or structure on any lot served by a private street until construction of a private street meeting the requirements of this Ordinance has been completed and inspected.

3. The Zoning Administrator shall have the right to enter upon the property where the private street is, or will be, located to conduct inspections as may be necessary to enforce this Ordinance.

4. A permit for access to any public street shall be obtained from the Newaygo County Road Commission, Michigan Department of Transportation, or other approving authority, as required.

5. A Soil Erosion and Sedimentation Control permit shall be obtained from the appropriate Newaygo County administrative office, as may be required

by Part 91 of the Natural Resources and Environmental Protection Act, Public Act 451 (1994), as amended.

6. All other required State of Michigan permits shall be obtained.
7. The Planning Commission may elect to have all design and construction plans reviewed by the Township's attorney, engineer, or planner prior to consideration of the application for the private street permit.

E. Application: An application for a private street permit shall contain the following:

1. A completed private street permit application and a special land use application, provided by the Township.
2. The name(s) of the owner(s) and any other parties having any legal interest in the private street and the property across which it is to be constructed.
3. A detailed written description of the development to be served by the private street.
4. Sufficient copies of a site plan which comply with the requirements of Article 15 of this Ordinance.
5. Proposed street names, including a letter from the Newaygo County Road Commission approving the name(s).
6. A survey of the right-of-way by a registered land surveyor, together with lot dimensions, frontage and required setback lines for each lot to be served by the private street.
7. The location of all public utility easements, including, but not limited to, water, sewer, telephone, gas, electricity, and television cable to be located within the private street right-of-way or within twenty (20) feet of either side thereof. Copies of the instruments describing and granting easements shall be submitted with the application.
8. The location of any lakes, streams, wetlands, and drains within the proposed right-of-way or within one-hundred (100) feet thereof.
9. The location of any other buildings and structures located, or to be located, within one-hundred (100) feet of the private street right-of-way.
10. A proposed maintenance agreement, as defined in this Section.

F. Design Requirements: A private street shall be located within a private street easement. The easement shall have a minimum width as prescribed in this Section. At a dead-end of such easement, the easement shall widen such that there is a minimum radius of sixty (60) feet for a residential use and seventy-five (75) feet for a nonresidential use.

1. A private street shall connect to a public street. The location, angle, elevation and approach of the connection shall be approved by the Newaygo County Road Commission.
2. A private street (or more than one private street which form a connected private street system) shall not contain more than two thousand (2,000) lineal feet of roadway unless the private street or private street system provides a second means of ingress and egress to a public road which meets the standards of this Ordinance. The measurement shall be made from the point where the private street 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 street.
3. The plans for road construction must be approved by the Township Fire Chief, Engineer, and Planner. A private street shall also meet the following minimum requirements:

| Lots Served | 1 - 2 | 3 - 6 | over 6 |
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| Right of Way (ROW) or easement width | 66 ft. | 66 ft. | 66 ft. |
| Width of traveled surface (centered within ROW) | 12 ft. | 20 ft. | 22 ft. |
| Grade width | 20 ft. | 30 ft. | 30 ft. |
| Subbase | 6 inches of 95% compacted MDOT Class II granular material, to extend full width across grade | 12 inches of 95% compacted MDOT Class II granular material, to extend full width across grade | 12 inches of 95% compacted MDOT Class II granular material, to extend full width across grade |
| Base | Minimum, 4 inches of compacted sand | Minimum, 4 inches of 98% compacted MDOT 22A aggregate | 6 inches of 98% compacted MDOT 22A aggregate |

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| Surface | Compacted gravel | Compacted gravel | Bituminous mixture No. 13A, 2-1/2 inches thick, 275 #/s yd |
| Shoulder width | 2 ft. each side | 4 ft. each side | 4 ft. each side |
| Maximum length | 2,000 ft. | 2,000 ft. | 2,000 ft. |
| Maximum grade | 8% | 8% | 8% |
| Minimum drainage slope from center of traveled surface to edge of grade width | 5% | 5% | 2.5% |

4. The layout of a private street and the intersections of a private street with either public or private street shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is assured, as determined by the Township engineer.
5. The minimum distance between intersections of public and/or private street rights-of-way shall not be less than three-hundred (300) feet, as measured along the right-of-way line thereof.
6. The private street shall be constructed with stormwater runoff, culverts, and drainage contours as is required by the Township to ensure adequate drainage and runoff.
7. The method and construction technique to be used in the crossing of any natural stream, wetland, or drainage course shall satisfy the requirements of the Township engineer and any other agency having jurisdiction thereof.
8. The private street shall be given a name and street signs shall be installed in accordance with the standards and approval of the Newaygo County Road Commission prior to the issuance of any building permits for structures to be served by the private street.
9. The private street addresses shall be posted in a conspicuous place at the entrance to the private street (at the intersection with the public road) in letters at least three (3) inches high. Private streets shall have a standard stop sign where the private street abuts the public road.

10. Upon completion of construction of the private street, the applicant(s)/owner(s) shall remove and properly dispose of, any and all trees, shrubs, construction debris, and rubbish.

- G. Existing private streets: A private street existing on the effective date of this Ordinance may continue in existence and be maintained and used, although it may not comply with the provisions of this Section. An existing private street shall not be expanded (or new lots or parcels be created thereon) except in compliance with this Section. Any private street shall be continuously maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
- H. For any private street existing on the effective date of this Ordinance to which one (1) or more additional lots or parcels are created or otherwise permitted access, the entire length of the existing private street shall be upgraded to comply with the applicable requirements of this Section.
- I. Review standards; modification of certain requirements: Prior to approving a special land use for a private street and private street permit application, the Planning Commission shall determine that all of the following are met (in addition to the other special land use standards):
1. The proposed private street will not be detrimental to the public health, safety, or general welfare.
 2. The proposed private street will not adversely affect the use of land.
 3. That the private street is constructed to assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
 4. That the private street is constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the township.
 5. The construction of the private street will conform to the requirements of this Section.
 6. The Planning Commission may require that the applicant comply with reasonable conditions relative to the design and construction of the private street.
 7. An authorization that if repairs and maintenance are not made, the Township may exercise a special assessment district to bring the road up to the design standards specified in this Ordinance and assess owners of parcels on the private road for the improvements, plus an administrative fee.
 8. The other general special land use standards are met.

- J. Modifications: Upon application, the Planning Commission may modify any of the private street requirements of this Section after finding that all of the following conditions exist:
1. Topography, soils, and/or other significant natural features physically preclude or prevent compliance with the requirements of this Section without substantial alteration of such natural features. These natural features shall be clearly identified and described in the application of any such modification.
 2. The justification of a modification is not due solely to financial considerations which, upon approval of the requested modification would provide a financial benefit.
 3. That no other reasonable private street design alternatives are available that would comply with the requirements of this Section.
 4. That the request for modification was reviewed by the Township Engineer, Fire Chief or Township Planner, or any other person or official designated by the Township Board.
- K. Disclosure: The following statement shall be put in a deed restriction and recorded for any parcels serviced by a private street, before each parcel is sold: "This property does not abut or front on a public road. If a public road or street does not abut or service the property, it is private and is not required to be maintained by any governmental unit."
- L. Maintenance and Repairs: The applicant(s)/owner(s) of the proposed private street right-of-way or private street shall provide the Township with a recordable private street maintenance or restrictive covenant agreement between the owner(s) of the private street right-of-way and any other parties having any interest therein, or other documentation satisfactory to the Township which shall provide for and assure that the private street shall be regularly maintained, repaired, and snow plowed so as to assure that the private street is safe for travel at all times and the cost thereof paid. The private street maintenance agreement (as approved by the Township) shall be recorded with the Newaygo County Register of Deeds records before construction commences on a private street and after it has been approved by the Township. The private street maintenance agreement must be approved by the Township after consultation with the Township Attorney and shall address:
1. That the private street shall be maintained in a manner that complies with the provisions of this Section.
 2. All driveways and private streets shall be continuously maintained to not constitute a danger to the health, safety, and welfare of the inhabitants of the township and to assure a safe and unimpeded route of travel for motor

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| <p>vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.</p> <p>3. All costs for maintenance and repair of the private street shall be the responsibility of the property owners or any property owners association served by the private street.</p> <p>M. Performance Guarantee: The Planning Commission may, as a condition of the private street construction permit, require that the applicant provide a performance guarantee, in accordance with the provisions of the Zoning Act and this Ordinance.</p> <p>N. Inspections/Certificate of Compliance:</p> <ol style="list-style-type: none"> 1. The Zoning Administrator or his/her designee shall have the right to enter upon the property where the private street is, or will be, located to conduct such inspections as may be necessary to enforce this Section. 2. The applicant(s), at the applicant(s)'s expense, shall provide the Township with a set of "as built" drawings bearing a certificate and statement from a registered engineer certifying that the private street has been completed in accordance with the requirements of the permit and the Road Commission. 3. If the completed private street does not satisfy the requirements of the permit, special land use approval or this Ordinance, the applicant(s) shall be notified of the noncompliance in writing and shall be given a reasonable period of time within which to correct the deficiencies. Failure to correct the deficiencies within the time provided shall constitute a violation of this Ordinance. 4. Fees for the permits required hereunder shall be set by the Township Board from time to time by resolution. Additionally, the Township Board may require that the applicant(s) put sufficient funds in escrow to cover the costs of having the Township attorney, engineer, planner, or other professional review the private street plans, specifications, and maintenance agreements, to do the necessary inspections and for other work done by the Township. | |
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| <p>Section 3.37 Razing of Buildings</p> <p>No building shall be razed until a permit has been issued by the Building Inspector. A cash bond or irrevocable letter of credit in the amount established by the Township may be required. The applicant must complete the razing within 6 months. The applicant shall comply with such reasonable conditions as to health and safety as the</p> | <p>§ 154.027 RAZING OF BUILDINGS.</p> <p>No building shall be razed until a permit has been issued by the Building Inspector. A performance bond in an amount not to exceed \$1,000 for each 1,000 square feet of floor area or fraction thereof may be required. The applicant shall complete the razing within a reasonable</p> |
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| <p>Building Inspector may require. Such conditions shall include but may not be limited to, the filling of holes and the proper disconnection of utilities.</p> | <p>time which shall be prescribed in the permit. The applicant shall comply with such reasonable conditions as to health and safety as the Building Inspector may require. Those conditions shall include, but are not limited to, the filling of holes and the proper disconnection of utilities. (Ord. passed 5-2-1972) Penalty, see § 154.999</p> |
| <p>Section 3.38 Recreational Vehicle (see 3.31)</p> <p>No campers, tents, travel trailers or vehicles designed primarily for temporary living or sleeping shall be placed in Merrill Township other than in approved parks or campgrounds without first obtaining a permit from the Zoning Administrator and must comply with Newaygo County Health Department standards. Provided, however, recreational vehicles owned by the owner of record on parcels containing a permanent dwelling is permitted and does not require an annual permit. For purposes of this provision, the term “storage” means placement of a portable dwelling upon a parcel for an indefinite period of time for purposes of safekeeping or preservation. During such time, said unit is not to be utilized for recreational or sleeping purposes. Storage shall not occur in required front yard area, unless at least 300 feet from the road right of way.</p> | <p>§ 154.022 MOBILE HOMES, HOUSE TRAILERS AND CAMPERS. (A) Unlawful. It shall be unlawful for any person to park or cause to be parked any mobile home, house trailer, motor home, travel trailer, truck camper, camping trailer, tent or a similar unit on any street or public place or to use the same as a dwelling, either temporarily or permanently, or for overnight stops outside a licensed mobile home court, except as provided in divisions (B) and (C) below. (B) Guest permits. Except in licensed and approved mobile home courts, no unit specified in division (A) shall be used for dwelling purposes for more than seven consecutive days in any one year without a permit therefore from the Building Inspector. A permit shall be issued only after submission of proof satisfactory to the Building Inspector showing that a proper toilet and sanitary facilities are available for use of the occupants, no fire hazard will be created and that no overcrowding will result from the use at the proposed location. The permit shall be valid only for the location designated thereon and for a period of not to exceed 14 days. A fee of \$5 for each unit shall be paid at the time of application for the permit. The permit may be revoked by the Building Inspector if the above requirements are not maintained. Chapter 154: Zoning Code (C) Limited permit while building. Units, other than tents, specified in division (A) may be used for dwelling purposes during construction of a dwelling only after a permit therefore has been secured from the Building Inspector. No permit shall be issued until plans and specifications have been submitted to the Building Inspector evidencing the intention of the applicant to build a dwelling and a building permit has been issued therefore. The applicant shall comply with all of the requirements of this section. The duration of the temporary dwelling authorization shall be at the discretion of the Building Inspector. (1) All units 20 feet or more in length used for dwellings purposes shall have two exits spaced a sufficient distance apart to ensure a means of escape in case of fire. (2) No unit may be</p> |

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| | <p>used for dwelling or sleeping purposes by a greater number of persons than it is designed to safely accommodate. (3) No unit shall be parked in the front yard of any lot. Any unit parked in a side or rear yard shall observe the yard requirements of this chapter. (4) Except in mobile home courts or where permitted by this section, the units described in division (A) are neither dwelling units nor accessory uses. (Ord.72-1 passed 5-2-1972) Penalty, see § 154.999</p> |
| <p>Section 3.39 Required Yards and Lots</p> <p>A. Minimum Requirements - All lots, yards, parking areas or other spaces created after the effective date of this Ordinance shall comply with the minimum requirements of the zoning district in which they are located and all other applicable provisions of this Ordinance.</p> <p>B. Exclusion of Private Street Easements, Public Right-of-Way, and Bottomlands in Computing Lot Area and Width - Computations for minimum lot area and width shall not include lands or areas used for private easements granted to other properties for purposes of establishing or maintaining a private street, land located under or comprising a public road right-of-way, or land or bottomlands located under a lake, stream, or river.</p> <p>C. Dwellings on More Than One (1) Lot - If a building or structure is to be located on two (2) or more adjoining lots under single ownership, the entire parcel (all lots) shall be considered a lot for purposes of this Ordinance and the lots or parcels shall be legally and automatically combined into one (1) individual lot.</p> | <p>§ 154.015 YARD REQUIREMENTS; BASIS OF DETERMINING.</p> <p>Front yards shall be measured from the proposed right-of-way line, as indicated by the County Road Commission, to the nearest portion of the structure. However, measurements of yard requirements on waterfront lots shall be made from the high water mark to the nearest portion of the structure.</p> |
| <p>Section 3.40 Residential Uses in Commercial Districts</p> <p>Residential uses are not allowed in the commercial district; provided, however, that a residential use or a combined residential-commercial use may be allowed in the commercial district if a special land use is approved by the Planning Commission under the terms of Article 16. If such a special land use is approved, all use (other than the residential use prohibition), dimension, sign and other applicable requirements of the commercial district shall apply to the residential use or the combined residential-commercial use.</p> | <p>Not in Yates document</p> |

Section 3.41 Swimming Pools

Swimming pools may be installed *as* an accessory use in zoning district as an accessory use. All pools must meet all of the following conditions:

- A. Pools may be installed in the side or rear yards of a lot. Motels and hotels may install pools in the front yard.
- B. Pools shall not be erected closer than 10 feet from the rear and side property lines of the lot. In the case of a corner lot, the pool shall not be located closer than 20 feet from any property line abutting a street.
- C. Pools shall not occupy more than 40% of the area of the yard. In computing such area, all other accessory structures shall be excluded.
- D. A fence not less than 4 feet in height shall be required. The support posts thereof shall be constructed in a permanent manner and in such a way as to last as long as the pool. Such posts shall be spaced at intervals of not more than 8 feet. The fence shall entirely enclose the pool.
- E. The fence and every gate or other opening in the fence shall be designed and maintained in good condition at all times to prevent entry of persons except as permitted by the owner.
- F. The inlet of the water supply system shall be above the overflow level of the pool and be fitted with an anti-siphon device.

§ 154.032 SWIMMING POOLS.

Swimming pools may be installed in any district as an accessory use. All pools must meet the following conditions.

(A) Pools may be installed in the side or rear yards of a lot in residential and agricultural districts. Motels and hotels may install pools in the front yard in addition. All yard requirements shall be met, except as provided in division (D) below.

(B) Every swimming pool in the township shall be completely surrounded by a fence or wall not less than six feet in height, which shall be constructed as to not have openings, holes, or gaps larger than four inches in any dimension, except for doors and gates; and if a picket fence is erected and maintained, the horizontal dimension shall not exceed four inches. A dwelling house or accessory building may be used as part of the enclosure. All gates or doors opening through the enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door or any dwelling which forms part of the enclosure need not be so equipped. This requirement shall be applicable to all new swimming pools which have a depth of 18 inches or more of water at any point and shall apply to all existing pools which have a depth of 18 inches or more of water at any point. No person in possession of land within the township, either as owner, proprietor, possessor, lessee, tenant, licensee, or renter, upon which is situated a swimming pool having a depth of 18 inches or more of water at any point shall fail to provide and maintain the fence or wall as herein provided within 20 days after the effective date of this subchapter.

(C) Every gate or other opening in the fence shall be designed and maintained to prevent entry of persons except as permitted by the owner.

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Yates Township - Land Usage

(D) Pools shall not be erected closer than five feet from the rear and side property lines of the lot. In the case of corner lots, the pool

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| | <p>shall not be located closer than ten feet from any property line abutting any street.</p> <p>(E) Pools may not occupy more than 40% of the area of the yard. In computing the area, all other accessory structures shall be excluded.</p> <p>(F) If a public water supply system is available, only public water shall be used to supply water for the pool.</p> <p>(G) The inlet of the water supply system shall be above the overflow level of the pool and fitted with an anti-siphon device.</p> <p>(H) The pool shall be chemically treated in a manner sufficient to maintain bacterial standards established by the provisions of the Department of Health relating to public swimming pools. (Ord. passed 5-2-1972) Penalty, see § 154.999</p> |
| <p>Section 3.42 Temporary Buildings</p> <p>Temporary accessory structures for uses incidental to construction work may be allowed by permit by the Zoning Administrator after issuance of a building permit for the proposed structure. The Zoning Administrator may attach reasonable conditions to a permit. The temporary permit shall specify the location of the temporary accessory structures and shall terminate 6 months after the date of its issuance. The permit may be renewed if the Zoning Administrator finds that construction of the principal structure has been progressing in a reasonable manner. In any event, the temporary structure and all debris shall be removed within 15 days after the completion or abandonment of work.</p> | <p>§ 154.033 TEMPORARY BUILDINGS.</p> <p>Temporary buildings for use incidental to construction work and all debris shall be removed within 15 days after completion or abandonment of the work. (Ord. passed 5-2-1972) Penalty, see § 154.999</p> |
| <p>Section 3.43 Topsoil</p> <p>Topsoil shall not be removed from the lot on which it originated except when it is in surplus amounts in connection with construction operations.</p> | <p>§ 154.072 EXCEPTIONAL USES.</p> <p>(A) <i>Removal of natural resources.</i> The removal of natural resources as sand, gravel or minerals or the alteration of land is permitted to prepare or render land suitable for uses permitted in the district in which the land is located.</p> <p>(1) The following provisions shall be met.</p> |

(2) Procedure for permit: no building permit shall be issued until an application for a temporary occupancy permit has been approved by the Board of Appeals. The application shall include the following:

(a) A fee of \$5 for each acre of land to be affected;

(b) A map of the land to be altered depicting all buildings, streets, drainage and natural features within 300 feet of the property involved. The map shall depict contour elevations at five-foot intervals of the property;

(c) A two-foot interval contour map of the proposed final elevations, the location of temporary structures, drives, parking areas, loading equipment, drainage facilities and the extent of the first year's operations; and

(d) A written statement describing the equipment to be used, the processes involved, and estimate of the time the removal will require and a description of the proposed use of the premises after the alteration.

(B) *Required conditions.*

(1) Final grades shall be harmonious with surrounding grades and shall not exceed 5% unless necessary for the ultimate proposed use of the land. No top soil shall be removed unless necessary for the ultimate proposed use. All top soil shall be properly redistributed upon termination of the building permit. The Board of Appeals may require the applicant to post a corporate surety bond to insure that final grades and the requirements will be met upon the expiration of any building permit.

Section 3.44 Unwholesome Substances

- A. No unwholesome substance, as hereinafter defined, shall be deposited, buried, stored, dumped or accumulated by any person in any body of water or on or under any land, private or public, in the Township, unless such place has been designated as a public dumping ground by the Township, or unless such substance is housed in a completely enclosed building and in a safe and sanitary manner. For purposes of this Section only, the term "unwholesome substance" shall be defined to mean any trash, garbage, tin can, automobile body, junk vehicle, trailer body, junk, hazardous compounds, waste, offal, refuse, rubbish, food containers, bottles, crockery or utensils, stoves, oil, hazardous or harmful substances, industrial byproducts or waste, flammable matter or substances, debris, or any other material that constitutes a threat or menace to the health, safety or general welfare of the public. For the purposes of this Section only, the term "automobile body" shall be defined to mean any vehicle that (1) is unable to be driven upon a street under its own power and/or (2) that lacks all of the necessary component parts to make it operable and serviceable as a vehicle. For purposes of this Section only, the term "trailer body" shall be defined to mean any boat trailer, utility trailer, horse or animal trailer, truck trailer, travel trailer or any type of trailer or device used for hauling or moving things that lacks all of the necessary component parts to make it operative and serviceable as a trailer to be pulled as such on a street. The provisions of this Section shall not be deemed to prohibit the storing or spreading of manure, fertilizers, or other soil conditioners as part of a bona fide farm operation.
- B. No sewage, waste water or water containing foreign substances shall be deposited or drained onto any land or deposited or drained into any open ditch, creek, stream, lake, pond or other body of water unless the same has been first approved by the Michigan Department of Health and the Newaygo County Health Department.
- C. No boxes, barrels, waste wood, scrap metal, automobile body, or other materials shall be accumulated by any person so as to provide insect, rat, or rodent harborage.

Not in Yates document

Section 3.45 Use and Construction of Accessory Buildings

Accessory buildings shall be stick-built or the equivalent of new building construction. No mobile home, tank, junk object, or salvage materials, trailer, vehicle or similar item shall be utilized as an accessory building or storage structure; provided, however, that such requirement shall not be applicable to bona fide agricultural storage or activities, or to tool sheds or similar temporary storage structures utilized pursuant to the construction of a building, so long as the period of construction does not exceed one (1) year and the structure is approved by the Zoning Administrator.

?? § 154.004 ACCESSORY STRUCTURES AND BUILDINGS.

The following requirements shall be met:

- (A) No accessory structure may be built on any lot on which there is no principal building;
- (B) Accessory buildings are prohibited in front yards except as otherwise provided in this chapter;
- (C) Accessory buildings in side yards shall meet side yard provisions;
- (D) Accessory buildings in rear yards must be at least three feet from any lot line and must meet the side yard requirements wherever a rear lot line abuts the side lot line of an adjacent lot; and
- (E) No accessory building may be closer than ten feet to another accessory building or principal building.
(Ord. passed 5-2-1972)

Section 3.46 Vehicles - Storage of

Storage or parking of inoperable or unlicensed vehicles (except operable farm equipment) in any zoning district is prohibited unless contained within a junkyard or a fully enclosed structure.

Chapter 90: Junk Vehicles

Section 3.47 Walls and Fences

Retaining walls and fences not more than 4 feet in height and not more than 25% in density are permitted in all districts; height restrictions may be exceeded for farm operations. Solid walls and fences not more than 6 feet in height are permitted only in the side or rear yards in any district, provided that the yard does not abut a street right-of-way (see Clear Vision Corners). Solid walls and fences greater than 6 feet in

§ 154.036 WALLS AND FENCES.

- (A) Fences not more than three feet in height and retaining walls are permitted in the yards of all zones except as provided in § 154.032(B), provided the fences are not more than 60% solid.
- (B) Solid non-retaining walls and solid fences of not more than six feet in height are permitted only in side or rear yards in any district.

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| <p>height or in a side or rear yard that do not meet the minimum regulations of the district in which they are located, may be permitted as a special land use.</p> | <p>(C) A well-maintained wire protective fence is permitted in the front yard in the C-H and I districts. (Ord. passed 5-2-1972) Penalty, see § 154.999</p> |
| <p>Section 3.48 Use of Basement for Dwelling Purposes (see 3.06)</p> <p>The use of any unfinished basement or finished basement without a direct outside access shall be prohibited for use as a dwelling unit. Any dwelling without a full floor above grade shall be considered a basement dwelling.</p> | <p>§ 154.006 BASEMENT DWELLINGS.</p> <p>The use of any basement as a dwelling is prohibited. (Ord. passed 5-2-1972) Penalty, see § 154.999</p> |

Section 3.49 Temporary Uses or Structures

A. Temporary Offices.

1. Upon application, the Zoning Administrator may issue a permit for a temporary office building or yard for construction materials and/or equipment that is both incidental and necessary to construction at the site where located. The Zoning Administrator may attach reasonable conditions to such a permit. Each permit shall be valid for a period of not more than twelve (12) calendar months and may be renewed by the Zoning Administrator for one (1) additional successive period of six (6) calendar months or less at the same location if such building or yard is still incidental and necessary to construction at the site where located.
2. Upon application, the Zoning Administrator may issue a permit for a temporary sales office that is both incidental and necessary for the sale or rental of real property in a new subdivision or housing project. Each permit shall specify the location of the office and shall be valid for a period of not more than twelve (12) calendar months and may be renewed by the Zoning Administrator for three (3) additional successive periods of twelve (12) calendar months or less at the same location if such office is still incidental and necessary for the sale or rental of real property in a new subdivision or housing project.

B. Mobile Homes/Travel Trailers/Fifth (5th) Wheels as Temporary Residences.

1. The Zoning Administrator may issue a permit to an individual to park and occupy a mobile home, trailer, or 5th wheel trailer as a temporary residence for a temporary period of time in any District provided that the Zoning Administrator makes the following determinations:
 - a. The mobile home/travel trailer/5th wheel trailer will be used only as a temporary use on the same lot while the individual is constructing a permanent residence.
 - b. A Building Permit has been issued for the construction of a permanent residence to the individual applying for the temporary mobile home permit.
 - c. The mobile home dwelling meets the requirements of the Newaygo County Health Department and all applicable Township ordinances.

§ 154.033 TEMPORARY BUILDINGS. ??

Temporary buildings for use incidental to construction work and all debris shall be removed within 15 days after completion or abandonment of the work.

(Ord. passed 5-2-1972) Penalty, see § 154.999

2. Upon applying for a temporary residence permit, the applicant shall pay a fee to the Township as determined by the Township Board. The permit fee shall be remitted to the Township Treasurer. The original temporary mobile home permit shall be limited to a period of twelve (12) months. If the permanent residence is not approximately fifty percent (50%) complete, as determined by the Zoning Administrator, within the twelve (12) month period, a six (6) month extension or less may be permitted by the Zoning Administrator only for the purpose of completing the residence. The Zoning Administrator may attach reasonable conditions to such a permit.
3. Upon the filing of an application for "continuation" of any temporary residence permit, the applicant shall pay an additional fee, as determined by the Township Board; and such fee shall be remitted to the Township Treasurer. Such fee shall be for the consideration of such application, and no refund shall be made in the event of denial.
4. In addition to the original application fee, the applicant shall post with the Township a bond, cash deposit, or other security in a form and amount acceptable to the Township Board, as a guarantee that a temporary residence will be removed within thirty (30) days after expiration of the temporary residence permit. In the event the temporary residence is not removed as required, the Township may use any or all of the guarantee to have the temporary residence removed and stored. Any portion of the guarantee not used by the Township for the above stated removal and storage shall be returned to the applicant.
5. The Township shall also have the discretion to require the applicant to enter into a signed agreement with the Township to implement the temporary residence permit.

C. Standards for Temporary Uses and Structures - In considering authorization for all temporary uses or structures, the Zoning Administrator shall consider the following standards:

1. That the use or structure does not have an unreasonable detrimental effect upon adjacent properties;
2. That the use or structure is reasonably necessary for the convenience and safety of the construction proposed;

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| <p>3. That the use or structure generally conforms to the placement standards of permanent uses and structures;</p> <p>4. That the use or structure does not negatively impact the surrounding neighborhood.</p> <p>D. Conditions - The Zoning Administrator may attach reasonable conditions to permits for temporary uses or structures to ensure that the standards of this Section are met.</p> | |
| <p>Section 3.50 Governmental Improvements</p> <p>Unless preempted by statute, the provisions of this Ordinance shall be applicable to and enforceable against the Township itself and all other governmental agencies and units, federal, state, county, and local.</p> | <p>Not in Yates document</p> |

Section 3.51 Site Condominiums

Pursuant to the authority of Section 141 of the Condominium Act, Public Act 59 of 1978, as amended, all site condominium subdivisions shall meet the following requirements and procedures:

- A. All site condominium subdivisions shall require site plan review and approval by the Planning Commission. In addition to the information required along with a site plan review, the following information shall also be included:
 - 1. A condominium subdivision plan as required in Section 66 of the Condominium Act.
 - 2. If in effect, all information required by the Merrill Township Subdivision Regulations.
 - 3. Documented proof of review by the Newaygo County Road Commission, Drain Commissioner, Health Department, Michigan Department of Transportation and Michigan Department of Natural/Environmental Quality.
- B. All site condominium subdivisions shall meet the requirements of the district in which it is located, including minimum lot size, minimum setbacks and minimum floor area.
- C. Private roads meeting the requirements of this Ordinance shall be permitted, provided, however, the review and approval of private roads shall require a special land use permit.
- D. The Merrill Township Clerk and Zoning Administrator shall be furnished with a copy of the recorded master deed, as defined in Section 8 of the Condominium Act. The master deed must ensure that Merrill Township will not be responsible for maintenance or liability of the non-dedicated portions of the subdivision and that all private roads will be properly maintained by the landowners. Snow removal will be provided by the landowners and there is adequate access and turnaround for emergency vehicles. Responsibility for maintenance of storm water retention areas, drainage easements, drainage structures, lawn cutting and other general maintenance of common areas must be clearly stated.
- E. The Zoning Administrator shall be furnished with nine (9) copies of all proposed "as-built" drawings for review for compliance.

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| <p>Section 3.52 Division of Parcels or Lots</p> <p>No lot or parcel (platted or unplatted) shall be divided, split, or subdivided unless said action meets this Ordinance and all other applicable Township ordinances.</p> | <p>Not in Yates document</p> |
| <p>Section 3.53 Grade and Grade Modifications</p> <p>A grade modification shall not result in significant negative impacts on surrounding property, local streets and roads, sidewalks, and other public infrastructure. Such impacts include, but are not limited to, increase in the off-site discharge of surface water unless said increase is based on an approved site plan in which the discharge of surface water has been permitted based on appropriate engineering studies, elimination of natural views through a site, traffic and other safety hazards, and the like.</p> | <p>§ 154.017 GRADE LEVELS.</p> <p>(A) All dwellings and business places shall conform to all established and determined grade levels, except as provided in division (B), and except in the R-L District where the natural terrain shall determine the grade's level. In areas where there are two or more structures in any block, the average grad level thereof shall determine the grade level for that block.</p> <p>(B) A grade level shall first be determined by the County Road Commission in all areas where no grade level has been determined or established by buildings before any building or structure shall be erected.</p> <p>(C) The foundation or basement walls of structures shall not be more than 24 inches above the established or determined grade level.</p> <p>(D) In all cases, the established grade level may be raised in the proportion of one foot of grade level for each additional 15 feet of front yard for buildings exceeding the required front yard. (Ord. passed 5-2-1972)</p> |
| <p>Section 3.54 Representations and Promises of Developers and Property Owners</p> <p>If, pursuant to any zoning approval (including, but not limited to, the granting of a zoning permit or variance or the approval of a rezoning, special land use, PUD, site plan, or other zoning approval), the property owner or applicant makes any representation, promise, or offer of a condition or voluntary restriction should the zoning approval be approved or granted, such promise, condition, or representation shall be deemed to be an enforceable condition of any such zoning approval in writing,</p> | <p>Not in Yates document</p> |

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| <p>and whether or not it is reflected in the zoning approval motion, resolution, permit, or other Township approval document) if the Township deems such promise, representation, or condition to have been a consideration by the official or Township body which granted the zoning approval and the Township also deems such promise, representation, or condition to be consistent with the zoning approval. In such case, the promise, condition, or representation shall be deemed an express and enforceable condition of the zoning approval.</p> | |
| <p>Section 3.55 Grade Limits</p> <p>Sand, dirt and similar materials shall not be used to build up or add to the natural grade of the land in connection with the installation, building, or expansion of a building or structure if such alteration would, in the opinion of the Zoning Administrator, do any of the following:</p> <p>A. Unreasonably increase water runoff or drainage onto one or more adjoining properties due to the amount, concentration, or flowage rate of runoff waters; or</p> <p>B. Increase the height of a building or structure so as to unreasonably decrease the view on one or more adjoining properties of a lake, stream or natural vista or create a situation that is incompatible with the surrounding uses. Any party aggrieved by the decision of the Zoning Administrator under this section may appeal that determination to the Zoning Board of Appeals within the time limits and procedures specified in this Ordinance.</p> | <p>§ 154.017 GRADE LEVELS.</p> <p>(A) All dwellings and business places shall conform to all established and determined grade levels, except as provided in division (B), and except in the R-L District where the natural terrain shall determine the grade's level. In areas where there are two or more structures in any block, the average grad level thereof shall determine the grade level for that block.</p> <p>(B) A grade level shall first be determined by the County Road Commission in all areas where no grade level has been determined or established by buildings before any building or structure shall be erected.</p> <p>(C) The foundation or basement walls of structures shall not be more than 24 inches above the established or determined grade level.</p> <p>(D) In all cases, the established grade level may be raised in the proportion of one foot of grade level for each additional 15 feet of front yard for buildings exceeding the required front yard. (Ord. passed 5-2-1972)</p> |
| <p>Section 3.56 Lots Partially Outside Township Boundaries</p> <p>In cases where a lot lies partially outside of the Township's boundaries, if a proposed lot, building, structure, or use would not satisfy the minimum area, dimensional, and street frontage provisions of this Ordinance with respect to that part of the lot located</p> | <p>Not in Yates document</p> |

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| <p>within the Township, then the minimum provisions of this Ordinance shall be applied with respect to the lot, building, structure, or use as if the entire lot were located within the Township, provided, however, that the entire lot shall comply with the minimum area, width, and frontage requirements of this Ordinance, and provided further that if access to the lot is provided at a location outside the Township boundaries, then such access shall be subject to the approval of the Planning Commission prior to the issuance of a zoning permit or Building Permit by the Township. For purposes of this section, the Township boundaries shall not be deemed to be a lot line.</p> | |
| <p>Section 3.57 Construction Time Limits</p> <p>Once construction or installation has begun regarding a building or structure, such building or structure shall be finished, and an occupancy permit shall be issued in accordance with all other applicable Township ordinances. If a permit has no time limit specified therein, a time limit of one (1) year shall apply unless the Zoning Administrator grants time extensions.</p> | <p>Not in Yates document, see Lake County Building Dept</p> |
| <p>Section 3.58 Nonwaiver; Rule of Non-estoppel</p> <p>If any provision of this Ordinance is not enforced against a particular lot, parcel, or property or throughout the Township in general, that shall not be deemed to be a waiver (or constitute laches) regarding the ability of the Township to enforce that provision (or any other provision) of this Ordinance against a particular lot, parcel, or property involved or throughout the Township in general. Furthermore, should any Township official, body, board, or commission render any zoning approval or opinion, or undertake (or not undertake) any other action pursuant to this Ordinance, and it is determined that any such opinion, interpretation, approval, action or inaction was done in error or in an <i>ultra vires</i> or other mistaken fashion, that shall not preclude the Township from reversing, revoking, or revising any such zoning approval, interpretation, opinion, action, or inaction which was done in error and to thereafter enforce the provision or provisions of this Ordinance involved. The Michigan common</p> | <p>Not in Yates document</p> |

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| <p>law "rule of municipal non-estoppel" shall benefit the Township, as well as its officials, officers, bodies and commissions.</p> | |
| <p>Section 3.59 Adult Uses/Adult-Oriented Businesses</p> <p>A. Location and Approval. An adult use or adult-oriented business shall be allowed only as a special land use and only if all of the following standards are satisfied:</p> <ol style="list-style-type: none">1. Adult-oriented businesses shall be allowed only within the C-Commercial zoning district and if approved as a special land use.2. No adult-oriented business shall be located within five hundred (500) feet of another adult-oriented business. For purposes of this subsection 2, and subsections 3 and 4 below, the distance between a proposed adult-oriented business and (A) another adult-oriented business, (B) the boundary of any land in the agricultural or any residential zoning district or approved as a planned unit development for residential purposes, or (C) land used for any single-family, two-family or multiple-family dwelling; Township, county or state park; school; library; licensed childcare facility; playground; church or place of worship, shall be measured in a straight line from the nearest property line of the parcel of land upon which the proposed adult-oriented business is to be located to (i) the nearest property line of the parcel of land used for the other adult-oriented business, (ii) 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 (iii) the nearest property line of the parcel of land used for a single-family, two-family or multiple-family dwelling; Township, county or state park; school; library; licensed childcare facility; playground; church or place of worship.3. No adult-oriented business shall be located on a parcel or lot that is within five hundred (500) feet of the boundary of any land in the agricultural or any residential zoning district or approved as a planned unit development for residential purposes.4. No adult-oriented business shall be located on a parcel or lot within five hundred (500) feet of any single-family, two-family or multiple-family | <p>Not in Yates document</p> |

dwelling; any Township, county or state park; school; library; licensed child care facility; playground; church or place of worship.

5. No adult-oriented business shall be located within any principal or accessory building or structure already containing another adult-oriented business.
6. The proposed use shall conform to all requirements of the zoning district in which it is located.
7. The proposed use shall be in compliance with all other ordinances of the Township and with all statutes, laws, rules and regulations of the county, state and federal government and, to the extent required, all governmental approvals must be obtained.
8. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from neighboring properties or the adjacent right-of-way of a public street or private street.
9. Any sign or signs proposed for the adult-oriented business shall comply with the provisions of this Ordinance; may not otherwise include photographs, silhouettes, drawings, or pictorial representations of specified anatomical areas, specified sexual activities or obscene representations of the human form; and may not include animated or flashing illumination.
10. Entrances to the proposed adult-oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using clearly marked lettering no less than two (2) inches in height stating that: (a) "Persons under the age of 18 are not permitted to enter the premises," and (b) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
11. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible by a person of normal visual acuity from the nearest adjoining right-of-way of a public street or private street or a neighboring property.

12. Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m., Monday through Saturday. All adult-oriented businesses shall remain closed on Sundays and legal holidays.

13. All off-street parking areas shall comply with this Ordinance and shall be illuminated after sunset during all hours of operation of the adult-oriented business, and until one (1) hour after the business closes. The illumination shall be designed to provide a minimum level of brightness of one (1) foot candle, with a 3:1 uniformity ratio. The illumination shall not reflect-on and shall be screened from adjoining properties.

14. Any booth, room or cubicle available in any adult-oriented business, except an adult motel, that is used by patrons for the viewing of any entertainment characterized by the showing of specified anatomical areas or specified sexual activities shall:

- a. Be handicap accessible to the extent required by law;
- b. Be unobstructed by any floor, lock or other entrance and exit control device;
- c. Have at least one (1) side totally open to a public, lighted aisle so that there is an unobstructed view of any occupant at all times from the adjoining aisle;
- d. Be illuminated such that a person of normal visual acuity can, by looking into the booth, room or cubicle from its entrance adjoining the public lighted aisle, clearly determine the number of people within; and
- e. Have no holes or openings in any side or rear walls not relating to utility, ventilation or temperature control services or otherwise required by any governmental building code authority.

B. **Special Land Use Process.** Any special land use application for an adult-oriented business shall be processed under the provisions of Article 16 of this Ordinance.

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

1. *Adult cabaret* means a nightclub, restaurant, or other establishment that regularly features or displays:

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

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

3. *Adult motel* means a hotel, motel, or similar establishment that:
 - a. Offers accommodation to the public for any form of consideration and provides patrons with close-circuit television (as distinguished from commercial cable services), transmissions, films, motion pictures, video cassettes, DVDs, slides, computer displays, other photographic reproductions or visual media that are characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area; or
 - b. Offers a sleeping room for rent or allows a tenant or occupant of a sleeping room to sub-rent the room, for a period of time that is less than ten (10) hours, if the rental of such rooms accounts for more than ten percent (10%) of the establishment's gross revenues.
4. *Adult-oriented business* means a business or commercial establishment engaging in one or more of the following enterprises, uses, or activities: (a) adult cabaret; (b) adult merchandise store; (c) adult motel; (d) adult theater; (e) escort agency; (f) nude or semi-nude model studio; or (g) sexual encounter center.
5. *Adult theater* means a theater, concert hall, auditorium, or similar establishment that regularly features live performances predominantly characterized by an emphasis on the exposure of any specified anatomical area or by any specified sexual activity or that 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 that offer individual viewing booths.
6. *Employee* means a person who performs any service for any consideration on the premises of an adult-oriented business on a full-time, part-time, or contract basis, whether or not the person is denominated as an employee, independent contractor, agent, or otherwise, and whether or not said person is paid a salary, wage, or other compensation by the operator of

said adult-oriented business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises or for the delivery of goods to the premises.

7. *Escort* means a person who, for any form of consideration and regardless of who pays that consideration, agrees to act or offers to act as a companion or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
8. *Escort agency* means a person or entity that 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 (a) a request for an escort is received, or (b) the escort and the person requesting the escort are together.
9. *Material* means anything tangible, whether through the medium of reading, observation, viewing, sound, or in any other manner, including, but not limited to, anything printed or written, any book, magazine, newspaper, pamphlet, picture, drawing, pictorial representation, motion picture, photograph, video tape, video disk, DVD, film, computer display, transparency, slide, audiotape, audio disk, computer tape, holographic images, or any other medium used to electronically produce or reproduce images, or any mechanical, chemical, or electronic reproduction. Material includes undeveloped photographs, molds, printing plates, and other latent representational objects whether or not processing or other acts are required to make the content of the material apparent. This definition is intended to include material that is the product of any technology, whether that technology is available on the effective date of the ordinance that added this definition or becomes available after that date.
10. *Merchandise* means material, products, and novelties.
11. *Novelty* means any instrument, device, or paraphernalia that depicts or describes any specific anatomical area or any specific sexual act, or that is designed for use, or commonly used, in connection with specific sexual activities, excluding condoms and other birth control and disease prevention products.
12. *Nudity, Nude, or State of Nudity* means the knowing or intentional live display of a human genital organ or anus with less than a fully opaque

covering or a female's breast with less than a fully opaque covering of the nipple and areola. Nudity, as used in this Section does not include a woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.

13. *Nude or semi-nude model studio* means any place where a person who displays any specified anatomical area is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by any other person who pays money or any form of consideration, but does not include the following:
 - a. An educational institution funded, chartered, or recognized by the state of Michigan; or
 - b. Any modeling session for a local, 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.
14. *Operate or Cause to Operate* shall mean to cause to function or to put or keep in a state of doing business. *Operator* means any person on the premises of an adult-oriented business who exercises overall operational control of the business or a part of the business, who can open or close the business to the public, or who causes to function or who puts or keeps the business open or in operation. A person may be found to be operating or causing to be operated an adult-oriented business regardless of whether that person is an owner or part owner of the business.
15. *Patron* means a customer of the adult-oriented business or a person from the general public, not an "employee" of the business, who is on the premises to obtain, receive, or view the products, services, or performances offered by the business.
16. *Regularly* mean recurring, attending, or functioning at fixed or uniform intervals.
17. *Semi-Nudity or Semi-Nude or in a Semi-Nude Condition* means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing

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| <p>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.</p> <p>18. <i>Sexual encounter center</i> means an establishment, except that which is part of the practice of and under the supervision and control of a physician, psychologist, or psychiatrist licensed to practice in Michigan, that offers:</p> <ul style="list-style-type: none"> a. Activities between male and female persons and/or persons of the same sex when one or more of the persons exposes or displays any specified anatomical area; or b. The matching and/or exchanging of persons for any specified sexual activities. <p>19. <i>Specified anatomical area</i> means any or more of the following:</p> <ul style="list-style-type: none"> a. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast at or below the top of the areola; or b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered. <p>20. <i>Specified sexual activity</i> means any of the following:</p> <ul style="list-style-type: none"> a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast; or b. A sex act, actual or simulated, including intercourse, oral copulation, or sodomy; or c. Masturbation, actual or simulated; or d. Excretory functions as part of or in connection with any of activities set forth in (a), (b) or (c) above. <p>D. Each adult-oriented business shall comply with all applicable Township ordinances and codes.</p> | |
| <p>Section 3.60 Wind Energy Conversion System ("WECS")</p> <p>A. Intent. It is the intent of this section to regulate the safe, effective, and efficient use of small wind energy conversion systems (WECS) installed to reduce or replace</p> | <p>Not in Yates document</p> |

the on-site consumption of electricity supplied by utility companies for the property on which they are located to suit the needs of the home, farm or small business.

B. Definitions:

1. Fall Zone. The potential fall area for the WECS. It shall be measured by using 110% of the total height as the radius around the center point of the base of the tower.
2. Tower. The monopole or guyed monopole structure that supports a wind turbine.
3. Total Height. The vertical distance from ground level to the tip of the wind turbine blade when it is at its highest point.
4. Tower Height. The height above grade of the fixed portion of the tower, excluding the wind turbine.
5. Wind Turbine. The blades and associated mechanical and electrical conversion components mounted on top of the tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate energy.

C. Permitted Locations. WECS shall be permitted as an accessory structure in every zoning district provided that they comply with the standards and requirements of this section. Where two or more abutting lots are held under single ownership, the owner may install a WECS on the abutting but separate lot from that on which the principal building is located.

D. Procedure for Review:

1. Approval. No WECS shall be erected, constructed, installed or modified without first receiving a standard building permit.
2. Prior to the issuance of a building permit, a site plan for a WECS shall be submitted to the Planning Commission for review. The site plan shall include at a minimum:
 - a. Property lines and physical dimensions of the applicant's property.
 - b. Location, dimensions, and types of existing major structures on the property.
 - c. Location of the proposed WECS, foundations, guy anchors and associated equipment.

- d. Setback as required by this Ordinance.
 - e. The right-of-way of any public road that is contiguous with the property.
 - f. Any overhead utility lines.
 - g. WECS specifications, including manufacturer, model, rotor diameter, tower height, tower type (freestanding or guyed).
 - h. If the WECS will be connected to the power grid, documentation shall be provided regarding the notification of the intent with the utility regarding the applicant's installation of a WECS.
 - i. Tower foundation blueprints or drawings.
 - j. Tower blueprints or drawings.
 - k. Sound level analysis prepared by the manufacturer or qualified engineer.
3. Additional Turbines. A WECS may include more than one turbine and/or tower on any non-residentially zoned property provided that all other requirements of this Ordinance are met, and provided that the total of all turbines on any one parcel or site does not exceed 10 kilowatts (kW) rating.

E. Height/ Towers:

1. The height of any WECS shall not exceed 50 feet.
2. The height of a WECS shall be measured from the ground level to the rotor (the center point of the blades), or the top of the tower, whichever is higher. Ground level shall be the average grade measured within 25 feet of the base of the tower or supporting structure.
3. The minimum required ground clearance between the lowest point of the blades and the average grade shall be a minimum of 20 feet.
4. The applicant shall provide written proof to the Township that the proposed tower height does not exceed the height recommended by the wind turbine manufacturer.
5. Towers and supporting structures shall either maintain a galvanized steel finish, or, subject to any applicable standards of the FA A, be painted and maintain a neutral color intended to reduce visual obtrusiveness to the greatest extent feasible.

6. A tower must have a fall zone contained entirely on the lot where it is located or an abutting lot if under same ownership.

F. Setbacks:

1. The base of the tower shall be setback from all property at least *110% of the total height*.
2. No component of a WECS, including tower, guy wires and/or anchors etc., may be located in the required front setback area for the zoning district in which the WECS is located.
3. No component of a WECS, including guy wires and anchors, may extend over or beyond the property lines on which the WECS is located.
4. The setback shall be measured to the center of the tower's base.

G. Noise. When in operation, the noise from a WECS shall not exceed 55 decibels using the A scale (DBA), as measured at the property line, except during short-term events such as severe windstorms and utility outages.

H. Certification Required. In order to be constructed, erected, used, or installed in Merrill Township, a WECS must be approved by a certification program recognized by the U. S. Department of Energy or the American Wind Energy Association (AWEA).

I. Compliance with Michigan Building Code and Michigan Electric Code. Building and electrical permits are required for each WECS.

J. FAA Compliance. Each WECS shall comply with all applicable Federal Aviation Administration (FAA) regulations.

~~K.~~ Lighting. The towers and other structures associated with a WECS shall not be artificially lighted by any means or in any fashion unless required by the Federal Aviation Administration (FAA)

L. Utility Interconnection. No WECS shall be installed until written evidence is provided to the Township proving that the utility company has approved the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

M. Abandonment. Any WECS that remains non-functional or inoperative for a period of at least 365 continuous days shall be deemed abandoned, and the Zoning Administrator may order the removal of the turbine, tower and any associated equipment (and such removal shall occur).

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| <p>N. Any WECS not expressly permitted by this section is prohibited within the Township.</p> | |
| <p>Section 3.61 Prohibition on Exotic and Dangerous Animals</p> <p>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 (3) 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, spiders, scorpions or reptiles.</p> | <p>Not in Yates document</p> |
| <p>Section 3.62 Categories or Businesses or Uses not Expressly Designated; Unlawful Uses</p> <p>Any use, use of land, activity, building, structure, or development activity not expressly allowed by this Ordinance is prohibited, unless the Zoning Administrator finds that the proposed use is identical in character to a use or item listed in this Ordinance. Uses, activities, enterprises, or purposes that are contrary to, or violate federal, state, or county laws or regulations, this Ordinance, or other Township ordinances are prohibited. An individual may apply to the Planning Commission for consideration of an amendment to the Zoning Ordinance to include a proposed use in one (1) or more of the zoning districts of this Ordinance, either as a Permitted Use or a Special Land Use. At their option and discretion, the Planning Commission and Township Board may consider an appropriate amendment to the Zoning Ordinance but are not required to do so.</p> | <p>Not in Yates document</p> |

Section 3.63 Outdoor Heating Units

The following shall be applicable to all outdoor heating units within the Township:

- A. No outdoor heating unit shall be installed, modified, maintained or utilized within Merrill Township unless a zoning permit has been issued for the same.
- B. No outdoor heating unit shall be located within a front yard, unless at least 300 feet from the road right of way, and every outdoor heating unit must comply with all setback requirements applicable to structures or buildings.
- C. Any outdoor heating unit installed or located within 1,320 feet of a dwelling (other than a dwelling on the lot or parcel where the outdoor heating unit is located) must have a certification from the Federal Environmental Protection Agency (or successor agency) and must be presented to the Township before a zoning permit will be issued.
- D. Every owner of an outdoor heating unit shall be responsible for complying with all applicable fire code and other code requirements, as well as any and all insurance standards and requirements. Every owner of an outdoor heating unit must also comply with all applicable mechanical and electrical codes.
- E. The height of the smokestack or chimney for each outdoor heating unit shall be at least fifteen (15) feet tall. Each outdoor heating unit shall have a working smokestack or chimney.
- F. Any building or structure built around an outdoor heating unit shall have at least three open sides and shall comply with all applicable fire code, mechanical code and other codes or ordinance requirements.
- G. None of the following items or materials shall be burned or incinerated in an outdoor heating unit:

- Animal carcasses
- Asphalt product
- Chemicals
- Coal
- Paint
- Paint thinner
- Particle board
- Petroleum

Not in Yates document

- Construction materials
- Demolition debris
- Feces
- Garbage or trash
- Manure
- Plastic
- Plywood
- Rubber
- Tires

Section 3.64 No Approval for Illegal Uses

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 Michigan law or Township ordinance.

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Section 3.65 No Zoning Applications, Approvals or Permits for a Property that is in Violation of this Ordinance or a Court Order or Judgment

Should a parcel or lot be in material or substantial violation of any provision of this Ordinance (or a court order or judgment regarding this Ordinance or the use of the land), then the Township shall not accept, process or approve any request or application by the landowner(s) of the lot or parcel in violation (or anyone else with an interest in the property in violation) unless and until the existing violation or violations of this Ordinance (or the violation or violations of a court order or judgment regarding this Ordinance or the use of the land) have been fully corrected and the parcel or lot complies fully with this Ordinance (and any applicable court order or judgment). The prohibition contained in this Section shall also apply to any zoning request, application or petition, including requests for a zoning approval, rezoning, variance, special land use, temporary use, site plan, permit or other approval that is unrelated to the violation or violations of this Ordinance (or of any applicable court order or judgment) on the lot or parcel involved. The prohibition contained in this Section shall be in addition to (and not exclusive of) any other remedies available to the Township for the enforcement or administration of this Ordinance (or any court order or judgment) and shall be in addition to any other penalties, sanctions or proceedings available at law or equity against the landowner(s) or any other person, firm or entity in violation of this Ordinance (or any court order or judgment).

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Section 3.66 Solar Panels, Photovoltaic Panels and Similar Items.

In all zoning districts, solar panels, photovoltaic panels and similar electric or heat generating items (collectively, "solar panels") are allowed outdoors and on the exterior of buildings or structures so long as such solar panels, photovoltaic panels or similar items do not comprise more than 20,000 square feet of surface area. All other solar panels, photovoltaic panels and similar items are allowed (i.e. where not mounted on a building) if the Planning Commission approves a special land use for such solar panels, photovoltaic panels or other similar items. Reasonable conditions may be attached by the Planning Commission to any special land use approval for such solar panels, photovoltaic panels or other similar items. No solar panel, photovoltaic panels or similar item approved via a special land use approval shall be located within 600 feet of any house or residential dwelling located on a lot or parcel other than where the solar panels, photovoltaic panels or similar items are located. No solar panels, photovoltaic panels or similar items shall cover more than 20% of the lot or parcel where such items are located. Every solar panel, photovoltaic panel and similar item which is not mounted on a building shall be at least 15 feet away from any side lot line, 25 feet from the rear lot line and not be located within the front yard setback area.

Not in Yates document

Section 4.01 Intent

- A. It is recognized that there exist certain buildings, structures, uses, and lots that were lawful before this Ordinance was adopted (or amended), and which were legally established, but would be prohibited, unlawful, regulated, or restricted under the current regulations of this Ordinance. It is the intent of this Ordinance to allow lawful nonconforming lots, buildings and structures, and uses to continue until they are removed or abandoned, but not to encourage their survival, expansion, enlargement or extension.
- B. Nonconforming lots, buildings, structures, and uses are hereby declared by this Ordinance to be incompatible with this Ordinance and the zoning districts in which they are located. It is the intent of this Ordinance that, unless otherwise expressly permitted, nonconformities 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 Ordinance.

NON-CONFORMING USES AND STRUCTURES

§ 154.050 BUILDINGS UNDER CONSTRUCTION.

A structure lawfully under construction immediately prior to the times of the adoption of this chapter or any amendment thereto may be completed.
(Ord. passed 5-2-1972)

§ 154.051 CHANGE OF NON-CONFORMING USE.

(A) Whenever a district is amended, any lawful use may be continued, notwithstanding the fact that the use becomes non-conforming provided all other requirements are met.

(B) Whenever a non-conforming use is changed to a more restricted or conforming use, the use shall not thereafter revert to a non-conforming use.
(Ord. passed 5-2-1972)

§ 154.052 CONTINUATION OF USE.

The lawful use of any premises existing at the time of the adoption of this chapter may be continued. If a non-conforming use is discontinued for a period of one year, it may not thereafter be continued.
(Ord. passed 5-2-1972)

§ 154.053 EXPANSION.

(A) Parking:

(1) Only parking and loading facilities may be extended, enlarged, modernized or otherwise altered with

respect to uses non-conforming as to height or area;

(2) No alteration shall be made unless the Building Inspector determines that the alteration will not substantially extend the life of any non-conforming structure; and

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(3) Upon alteration of the parking or loading facilities as provided in subsection (1), no further enlargement or extension of the principal use shall be permitted.

(B) A non-conforming use may be expanded throughout the structure which it is conducted.

(1) Non-conforming uses which are not located within a building or structure may not be expanded to land not actually in use at the time of the adoption of this chapter or any amendment thereto.

(2) Non-conforming uses having multiple buildings or structure shall not be expanded by construction or an additional building or structure.

(3) Non-conforming buildings or structures lawfully in the process of completion at the time of the adoption of this chapter may be completed.

(4) The term “process of completion” includes the completed construction of footings and the pouring of concrete therefor. The preparation of architectural plans and drawings; purchase of land, leases or materials, or the moving of earth are excluded from that term. The Board of Appeals shall determine procedures specified in § 154.085.

(C) No structural alterations shall be made unless required by law or in furtherance of the public health, safety and general welfare.

(Ord. passed 5-2-1972)

§ 154.054 RESTORATION AND REPAIR.

(A) Only repairs and maintenance work required to keep non-conforming structures in sound condition may be made.

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(B) Structure damaged by the elements, public enemy or other casualty may be rebuilt or restored. The cost of rebuilding may not exceed one-half the value of the structure, before damage. The Building Inspector and Township Supervisor shall make the determination.

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| | <p>(C) No non-conforming structure shall be rebuilt or reconstructed if the cost thereof exceeds the formula established in division (B) until the Board of Appeals has made the following determination:</p> <p>(1) The rebuilding or restoration will not substantially extend the probable duration of the non-conforming use; or</p> <p>(2) The circumstances are such that the structure previously occupied by the non-conforming use cannot then be advantageously used for a use permitted in the district in which it is situated.</p> <p>(D) All repairs shall be commenced within one year from the time of the casualty. A building permit shall be first obtained. (Ord. passed 5-2-1972)</p> |
| <p>Section 4.02 General Requirements</p> <p>A. No building, sign, structure, or part thereof shall be constructed, erected, moved, placed, maintained, rebuilt or 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 the requirements of this Ordinance.</p> <p>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 Ordinance.</p> <p>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 Ordinance.</p> <p>D. Nothing in this Ordinance 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</p> | |

construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance 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 sixty (60) days after the date of issuance and shall be completed within one (1) year of the issuance date.

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

Section 4.03 Nonconforming Uses

- A. If a nonconforming use is abandoned or does not occur for any reason for a period of twelve (12) consecutive months or longer, all nonconforming use rights automatically end, and any subsequent use shall fully conform to all of the requirements of this Ordinance. Any nonconforming use that is expanded, enlarged or intensified without Township approval shall be deemed abandoned and null and void.
- B. A nonconforming use shall be considered abandoned if one (1) or more of the following conditions exists, and shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
 - 1. Utilities, such as water, gas and electricity to the property, have been disconnected;
 - 2. The property, buildings, or grounds have fallen into disrepair or are decrepit or broken down;
 - 3. Signs, structures, or other indications of the existence of the nonconforming use have been removed;
 - 4. Removal of equipment or fixtures that are necessary for the operation of the nonconforming 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 nonconforming use.
- C. Uses that are nonconforming solely because of height, area, parking or loading provisions but where the use itself is lawful and conforming may be expanded provided that the Zoning Administrator determines that all of the following are applicable:
 - 1. For the purposes of this subsection, 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 nonconforming use by reason of parking and loading provisions; and
 4. The nonconforming use is made more conforming or less nonconforming by the addition of parking and/or loading space. Thereafter any subsequent expansion of the nonconforming use or change in use will not be allowed if it requires even greater parking and/or loading space.
- D. A nonconforming use not addressed in subparagraph 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 twenty-five percent (25%) of the area devoted to a nonconforming use at the effective date of this Ordinance or relevant amendment thereto.
 2. Any building used for the nonconforming use shall not be nonconforming or require a variance to effectuate the enlargement of the nonconforming use.
 3. That the expansion does not create, or make worse, any adverse effect on surrounding properties or the neighborhood.
 4. That the expansion does not intensify the use or unreasonably extend its probable duration.
 5. That expansion is necessary for the reasonable use of the lot involved.
- E. An existing nonconforming use may be changed to another nonconforming 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 nonconforming use.
 2. The proposed nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land

than the previous nonconforming use, except as may otherwise allowed by this section.

3. That appropriate conditions and safeguards are provided that will ensure compliance with the intent and purpose of this Ordinance.
4. Once returned to a conforming use, the previous nonconforming use shall be considered abandoned and may not be reestablished. Subsequent uses shall all conform to the requirements of the zoning district.

Section 4.04 Nonconforming Buildings and Structures

- A. Any building or structure existing and lawful at the time of enactment of this Ordinance, or relevant amendments thereto, may be continued although the structure does not conform to the current provisions of this Ordinance.
- B. Such repairs and maintenance work may be done as are required to keep a nonconforming building or structure in a sound condition.
- C. In the event fire, wind or an act of God or the public enemy damages any nonconforming building(s) or structure(s), it may be rebuilt or restored provided it meets the zoning district requirements and the total costs of repair or restoration shall not exceed fifty percent (50%) of the taxable value of the building or structure before the building was damaged. The Building Inspector or Zoning Administrator shall determine the cost of reconstruction.
- D. A nonconforming building or structure shall not be extended, expanded or enlarged in any manner that increases its nonconforming condition. However, it may be expanded or enlarged in other dimensions, provided that it is otherwise in full conformance with this Ordinance.

Section 4.05 Nonconforming Lots

- A. If a nonconforming lot has less than the minimum required area, frontage, width or other dimension required for the zoning district in which it is located, the area, frontage, or width may be maintained, unless regulated by subsection C, below, but shall not be made more nonconforming or less conforming.
- B. Where a nonconforming commercial or industrial lot can provide the side and front yard requirements of its zoning district, 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 Ordinance 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 zoning district in which the lot is located, provided that the lot meets at least eighty (80) percent of the required lot area, lot width, dimension, and side yard required by that zoning district and further provided that any building or structure constructed on the lot complies with all other yard setback requirements.
- D. If two (2) 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 Ordinance, 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 Ordinance, 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 Ordinance.
- E. Where two (2) or more nonconforming 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 nonconforming 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.

Section 4.06 Nonconforming Signs

- A. Every permanent sign in lawful existence at the time of adoption of this Ordinance that does not conform to the height, size, area, location, or other requirements of this Ordinance is deemed nonconforming.
- B. Nonconforming signs may not be expanded, moved, structurally altered, rebuilt, enlarged, or extended, but they may be maintained and repaired (but not structurally changed) as allowed by this Ordinance so as to continue their useful life.
- C. A nonconforming 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 nonconforming sign. However, no nonconforming or other sign may be converted into a digital, tri-vision, LED, or similar sign.
- D. Any nonconforming sign in existence in any zoning district at the date of enactment of this Ordinance shall, at the expiration of ten (10) years from such date, become a prohibited and unlawful use and shall be discontinued and removed.
- E. Abandonment or destruction: If a sign loses its lawful nonconforming designation or status, the sign (and all portions thereof) shall be removed immediately and shall not be repaired, replaced or rebuilt unless it fully complies with all requirements of this Ordinance. A nonconforming sign shall lose its lawful nonconforming designation and status if the Zoning Administrator determines that any of the following is applicable:
 - 1. The sign is relocated, moved, rebuilt or replaced.
 - 2. The sign is destroyed. A sign shall be deemed destroyed if any of the following occurs:
 - a. The sign is torn down or demolished;
 - b. The sign is wrecked or ruined;
 - c. 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

- d. More than 50% of the face of the sign has been shattered, or a portion of the sign face touches the ground.

If a sign is destroyed, subsection F hereof (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 subsection F, below, the sign shall be deemed to have lost its legal nonconforming status and it shall be removed.
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.
7. The sign is abandoned.

- F. Repair. This subsection F shall not apply if a lawful nonconforming sign has been destroyed, since a destroyed sign automatically loses its legal nonconforming designation and status. If a lawful nonconforming sign suffers 50% or more damage, destruction, or deterioration, it must be brought into full compliance with this Ordinance or be removed. In order to determine whether or not a sign has been damaged or has deteriorated by 50% or more, the costs of physically repairing the sign shall be compared to the costs of physically replacing the sign and whichever cost is less shall govern. If less than 50% damage or deterioration has

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| <p>occurred pursuant to such comparison, the sign may be repaired to its exact original state.</p> | |
| <p>Section 4.07 Burden of Proof</p> <p>The burden of proof for establishing or proving the existence or any aspect of a lawful nonconforming structure, lot or use (as well as the size, scope, intensity, and extent thereof) is on the owner of the property involved.</p> | |

MERRILL TOWNSHIP VS. YATES TOWNSHIP ZONING ORDINANCE CROSSWALK
ARTICLE 5 ~ SIGNS

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| <p>Section 5.01 Signs - Intent</p> <p>This Article is intended to regulate the type, number, physical dimensions, erection, placement, and maintenance of signs in the Township. Its purpose and intent are to:</p> <ul style="list-style-type: none"> A. Protect, promote, and further the public peace, health, and safety of residents, property owners, and visitors; B. Prevent, eliminate, or minimize traffic hazards and pedestrian accidents caused by signage that obstructs vision or views, | <p>§ 154.031 SIGNS AND BILLBOARDS.</p> <p style="padding-left: 40px;">(A) <i>Permitted signs and billboards.</i></p> <p style="padding-left: 80px;">(1) <i>All districts.</i></p> <p style="padding-left: 120px;">(a) Directional and other official signs are permitted in all districts.</p> <p style="padding-left: 120px;">(b) The signs shall include, but are not limited to signs pertaining to natural wonders, scenic and historical</p> |
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distracts or confuses motorists, or is improperly secured or constructed

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

attractions which are required or authorized by law, and which comply with the requirements of this chapter.

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Yates Township - Land Usage

(c) Temporary signs are permitted for a maximum of 70 consecutive days per sign, and a total of no more than 140 days per year. A temporary sign is a sign designed to be moved easily and not permanently affixed to the ground, structure, building, including but not limited to signs attached to or painted on vehicles parked and visible from the public right-of-way, and signs affixed to the ground by use of wires or posts that are not intended for permanent use. Temporary signs do not include real estate signs, which are signs indicated that the property upon which the sign is located is for sale, rent or lease.

(2) *Commercial and industrial districts.* One sign pertaining to the permitted use.

(a) The total area of each sign shall not exceed 15% of the area of the face of the building to which it is attached. No sign shall be wider than 90% of the width of that face of the building.

(b) Signs attached to buildings shall be flush with the wall thereof.

(c) That portion of a free standing sign used for advertisements shall be at least eight feet above ground level.

(d) The Board of Appeals shall approve the type, height and location of all pylon signs in the interests of the public health, safety and general welfare.

(e) Flashing signs are prohibited. Lighting shall be shielded from vehicular traffic.

(3) *Residential districts.*

(a) One free standing sign identifying each residential area and listing the names of its residents. All those signs must be approved by the Board of Appeals upon recommendation of the Planning Commission.

(b) House number, name plaques and “for rent” or “for sale”.

(c) Newly-platted areas.

(d) One sign advertising a new plat may be erected thereon. The sign shall not exceed 70 square feet. It shall be removed when 75% of the lots in the plat are sold.

(e) In addition, two signs advertising a new plat, may be erected where two or more streets within the plat enter a public street. The signs shall be removed when 75% of the lots in the plat are sold.

(f) No more than three signs advertising a pat shall be erected. All signs shall be maintained in good condition.

(g) No electrical signs are permitted. All signs must be located at least 20 feet from any front line.

Zoning Code 39

(h) Billboards shall be permitted along an interstate or federal aid primary highway as defined in M.C.L.A. §§ 252.301 et seq., under the following conditions:

(4) *Billboards.* Billboards shall be permitted along an interstate of federal aid primary highway as defined in M.C.L.A. §§ 252.301 et seq., under the following conditions.

(a) Billboards are allowed only in districts in which they are a permitted use.

(b) All billboards shall have a minimum size of 54 square feet and a maximum size of 300 feet (square). Border, trim and uprights are excluded in computing the size.

(c) No billboard shall be lighted by flashing or intermittent illumination. Lighting sources shall be shielded from vehicular traffic.

(d) No billboard shall be located within 1,320 feet of another billboard or sign on the same side of a highway.

(e) Billboards shall meet all height and area requirements of the district in which they are located.

(f) No billboard shall be within 30 feet of the boundary line of property on which dwelling is located unless written approval of the owner of the property is obtained.

(g) Billboards shall not be stacked or placed one above the other. Only one billboard shall be permitted on a single location. Double-faced billboards are also permitted.

(B) Application requirements pertaining to all billboards and signs.

(1) Sign and billboard erected or relocated any sign or billboard without first obtaining a sign erection permit. No person shall repair, alter or cause to be repaired or altered any sign or billboard without obtaining a sign erection permit if two-thirds of the replacement value of the sign or billboard will be exceeded.

(2) Procedure to obtain a permit.

(a) Application for a sign erection permit shall be

made upon forms provided by the Building Inspector and shall contain at least the following.

1. Name, address and telephone number of the applicant and that of the owner of the premises upon which the sign or billboard is to be erected.

2. Location of the building, structure or lot to which or upon which the sign or billboard is to be attached or erected.

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Yates Township - Land Usage

3. Position of the sign or billboard in relation to nearby buildings, structures, signs or billboards. A scale drawing containing that information shall be submitted.

4. Two blueprints or ink drawings of the plan and specification and the method of construction and attachment to a structure or ground.

5. A copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction of not less than 30 pounds per square foot.

6. Name of the person, firm, corporation erecting the sign or billboard.

7. The written consent of the owner of the structure or land upon which the sign or billboard is to be erected.

8. Any required electrical permit.

9. A certificate of insurance as required in division (B)(2)(g) of this section.

10. Payment of the appropriate fee.

(b) *Illuminated signs and billboards.* Prior to submission of the application to the Building Inspector, the application for a sign erection permit shall be submitted to the Electrical Inspector if the sign is to be illuminated. The Electrical Inspector shall examine the plans and specifications respecting all wiring and connections to determine whether the same complies with any Township Building Code and the customary safe practices followed by the electrical profession. He or she shall approve the permit if the plans and specifications comply with any such code and practices.

(c) *Issuance of permit.* The Building Inspector shall, upon the filing of an application for a sign erection permit, examine the plans, specifications, other data and the premises upon which it is proposed to erect the sign or billboard. If the proposed structure complies with the requirements of this chapter, the provisions of any Township Building Code and state law, he or she shall then issue a sign erection permit. The permit shall be void if the work authorized under a sign erection permit has not been completed within six months from the date of issuance.

(d) *Permit fees.* Each applicant shall pay permit fees established by the Township Board.

(e) *Information to be included on signs.* Every sign or billboard hereafter erected shall have painted in a conspicuous place thereon in letters not less than one inch in height the date of erection, the permit number and the voltage of any electrical apparatus used in connection therewith.

(f) *Paint.* The owner of any sign or billboard shall paint all parts of the sign at least once every two years unless the same are galvanized or otherwise treated to prevent rust or deterioration.

(g) *Insurance requirement.*

1. Every applicant for a sign erection permit shall file with the application for permit a certificate of insurance, certifying that the applicant is insured against casualties to person or property arising out of the erection, maintenance, repair and replacement of the sign.

2. The insurance shall be in the following amounts:

a. Bodily injury: \$100,000 each person, \$300,000 each accident; and

b. Property damage: \$50,000.

(C) *Certificate of insurance.* A current certificate of insurance meeting the above requirements shall be filed with the Township Board as long as the sign or

Section 5.02 Signs – Definitions

- A. Awning: A retractable or fixed shelter constructed of non-rigid materials on a supporting framework that projects from the exterior wall of a building.
- B. Awning sign: A sign affixed flat against the surface of an awning.
- C. Balloon sign: A sign composed of a nonporous bag of material and inflated.
- D. Banner sign: A fabric, plastic, or other sign made of non-rigid material without an enclosing structural framework.
- E. Billboard: A sign that advertises an establishment, product, service, or activity not available on the lot on which the sign is located. Also, a sign that advertises or designates an establishment, service, merchandise, use, entertainment, activity, produce, or message that is not conducted, sold, produced, manufactured, or furnished upon the parcel or lot where the sign is located (*e.g.*, billboard, off-premise direction signs).
- F. Construction Sign: A sign that identifies the owners, financiers, contractors, architects, and engineers of a project under construction.
- G. Directional Sign: A sign that gives directions, instructions, or facility information for the use on the lot on which the sign is located, such as parking or exit and entrance signs.
- H. Freestanding Sign: A sign supported on poles, posts, or structures not attached to a building or wall.
- I. Government Sign: A temporary or permanent sign erected by Merrill Township, Newaygo County, or the state or federal government.
- J. Marquee: A permanent structure constructed of rigid materials that projects from the exterior wall of a building.
- K. Marquee Sign: A sign affixed flat against the surface of a marquee.
- L. Mural: A design or representation painted or drawn on a wall that does not advertise an establishment, product, service, or activity.

- M. Placard: A sign not exceeding two (2) square feet that provides notices of a public nature, such as "No Trespassing" or "No Hunting" signs.
- N. Political Sign: A temporary sign used in connection with an official Merrill Township, school district, county, state, or federal election or referendum.
- O. Portable Sign: A sign designed to be moved easily and not permanently attached to the ground, a structure, or a building.
- P. Projecting Sign: A double-faced sign attached to a building or wall that extends more than twelve (12) inches but not more than thirty-six (36) inches from the face of the building or wall.
- Q. Reader Board: A portion of a sign on which copy is changed manually.
- R. Real Estate Sign: A sign advertising the real estate upon which the sign is located as being for sale, rent, or lease.
- S. Roof Line: The top edge of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.
- T. Roof Sign: A sign erected above the roofline of a building.
- U. Sign: A device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service, or activity. Also, a device, structure, painting, fixture, or placard using color, graphics, symbols, and/or written copy designed and/or utilized for the purpose of advertising or identifying an event, establishment, product, good, service, or displaying or depicting other information

Section 5.03 General Sign Provisions

- A. No person shall erect, alter, move, expand, place, or permit to be placed, or replace any sign without first obtaining a sign permit from the Township, provided that the following signs shall not require a sign permit:
 - 1. Directional signs of six (6) square feet in size or less.
 - 2. Government signs.
 - 3. Placards.
 - 4. Temporary sale signs of four (4) square feet in size or less.
 - 5. Window signs.
 - 6. Political signs.
- B. Signs shall be kept in good condition and repair at all times and shall be maintained free of peeling paint or paper, fading, staining, rust, or other condition that impairs legibility or intelligibility.
- C. Sign supports, braces, guys and anchors shall be maintained in such a manner as not to cause a hazard.
- D. Signs may be internally illuminated. If externally illuminated, except for home occupation signs that shall not be illuminated, the source of the light shall be enclosed and directed to prevent the source of light from shining directly onto traffic or residential property.
- E. No sign shall be placed in, upon or over any public right-of-way, alley, or other public place, except as may be otherwise permitted by this Article.
- F. No light pole, utility pole, or other supporting member shall be used for the placement of any sign unless specifically designed and approved for such use.
- G. No sign shall be erected in any place where it may, by reason of its position, shape, color, or other characteristic, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance per se.

- H. No commercial vehicle, which, in the opinion of the Zoning Administrator has the intended function of acting as a sign, shall be parked in any area abutting the street, unless no other parking area is available.
- I. No sign shall employ any flashing, moving, oscillating, strobe, blinking, or variable intensity light, provided variable time-temperature signs may be permitted.
- J. No sign shall contain any moving or animated parts nor have the appearance of having any moving or animated parts.
- K. Balloons, strings of light bulbs, pennants, streamers, or flags (other than those of a governmental nature not used for the purpose of commercial advertisement) hung overhead to draw attention to a business or its merchandise on display are prohibited.
- L. No wall sign shall extend beyond the edge of the wall to which it is affixed, and no wall sign shall extend above the roofline of a building.
- M. No sign attached to a building shall be erected above the roofline of that building.
- N. All signs shall pertain only to the business or activity conducted on the premises, with the exception of lawful billboards, political signs, and special event signs.
- O. Any sign not expressly allowed by this Article is prohibited.
- P. Billboards are prohibited.
- Q. Digital, LED, and tri-vision billboards and signs are prohibited.

Section 5.04 Exempted Signs

- A. The following signs shall be exempt from the provisions of this Ordinance, except as otherwise provided in this Ordinance.
1. Government signs.
 2. Historical markers
 3. Window signs
 4. Memorial signs or tablets
 5. Murals
 6. Signs not visible from any street or adjoining property.
 7. Signs for essential services.
 8. No trespassing signs of less than two (2) square feet.
 9. Signs with address, owner, or occupant name, of up to two (2) square feet in area attached to a mailbox, light fixture, or exterior wall.
 10. Flags or insignia of any nation, state, Merrill Townships, community organization, or educational institution

**Section 5.05 Nonconforming Signs, Illegal Signs, and Signs
Accessory to Nonconforming Uses**

- A. Every permanent sign that does not conform to the height, size, area, or location requirements of this Article but was fully lawful as of the date of the adoption of this Ordinance is hereby deemed to be lawfully nonconforming.
- B. Lawfully nonconforming signs may not be altered, expanded, moved, enlarged, or extended; however, lawfully nonconforming signs may be maintained and repaired so as to continue the useful life of the sign. Any lawfully nonconforming sign that is altered, expanded, moved, enlarged, or extended automatically loses its lawful nonconforming status and must be removed immediately.
- C. For the purposes of this Article, a lawfully nonconforming sign may be diminished in size or dimension or the copy of the sign amended or changed without jeopardizing the privilege of lawfully nonconforming use.
- D. Any sign that for a period of one (1) year or more no longer advertises a bona fide business conducted or product sold shall be removed by the owner of the building, structure, or property upon which such sign is located, within thirty (30) days of receipt of written notice by the Zoning Administrator.
- E. A sign accessory to a lawful nonconforming use may be erected in the Township in accordance with the sign regulations for the zoning district in which the property is located.

Section 5.06 Signs - Units of Measurement

- A. The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure that encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together

with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.

- B. The area of a freestanding, ground, or projecting sign that has two (2) or more faces shall be measured by including the area of all sign faces, except if two (2) such faces are placed back-to-back and are of equal size, the area of the two (2) back-to-back faces shall be counted as one face. If the two (2) back-to-back faces are of unequal size, the larger of the two (2) sign faces shall be counted as the one (1) face.
- C. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the average grade of the ground immediately beneath the sign, whichever is less.
- D. For buildings with multiple tenants, the sign areas for wall signs, projecting signs and awning signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing sign requirements for that portion of the total wall.

Section 5.07 Sign Regulations Applicable to All Zoning Districts
[except as otherwise noted]

- A. The following sign regulations are applicable to all zoning districts, except as noted:
1. Billboards are prohibited.
 2. Any sign, including awnings to which signs are affixed or displayed, not resting directly on the ground shall maintain a minimum clear space of eight (8) feet from the bottom of the sign to the ground.
 3. Political signs shall be removed within ten (10) days after the official election or referendum to which such sign pertains.
 4. Real estate signs shall be removed within thirty (30) days after completion of the sale or lease of the property.
 5. Construction signs are permitted within any zoning district, subject to the following restrictions:
 - a. Construction signs shall be no larger than thirty-two (32) square feet and not exceed eight (8) feet in height.
 - b. Construction signs will not be erected until a Building Permit has been issued for the project that is the subject of the proposed sign and construction activity has begun.
 - c. Construction signs shall be removed immediately upon the issuance of any Occupancy Permit for the building or structure that is the subject of the construction sign.
 6. Special event signs, including banner signs, are permitted in any zoning district, subject to the following restrictions:

- a. No more than five (5) such signs shall be displayed for each special event. Such signs may be located either on or off the lot on which the special event is held.
- b. The display of such signs shall be limited to the twenty-one (21) days immediately preceding the special event that is being advertised.
- c. Such signs shall have a maximum size of thirty-two (32) square feet in area, and a maximum height of five (5) feet and shall be set back from any side or rear property line a minimum of fifteen (15) feet.
- d. Such signs shall be removed within forty-eight (48) hours of the conclusion of the special event that is being advertised.

B. Directional signs are permitted subject to the following restrictions:

- a. A directional sign may contain a logo of an on-premise establishment, but no advertising copy.
- b. No such sign shall exceed six (6) square feet in area or four (4) feet in height.
- c. Directional signs shall be limited to traffic control functions only. Garage, estate sale, and roadside stand signs are permitted subject to the following restrictions:

- C. One (1) sign per premises is permitted, located on the premises on which such sale is being conducted, and set back a minimum of fifteen (15) feet from any side or rear property line.
- D. Such sign shall not exceed six (6) square feet in area.
- E. Such sign shall be erected no more than ten (10) days prior to the day(s) of the sale and shall be removed within one (1) day after the completion of the sale.
- F. Portable, temporary, balloon, and other such signs are permitted for a period not to exceed fourteen (14) days per year per

property, provided, however, the Zoning Administrator may permit an addit

- G. ional length of time for the placement of portable signs in the Commercial zoning district not to exceed a total of sixty (60) days per year per property. A permit shall be secured from the Zoning Administrator prior to erection of the sign. Portable, temporary, balloon, and other such signs shall meet applicable building codes. No such sign shall be placed or erected in such a manner that it constitutes a safety hazard.

Section 5.08 Signs in Commercial and Resort Districts

No sign shall be permitted that is not accessory to the business conducted on the same lot.

- A. No business establishment shall have a total of more than 2 signs (of which not more than 1 freestanding sign is allowed) facing upon any one street, provided the total sign area for all signs permitted shall not exceed 12% of the area of the face of the building to which they are attached or stand in front of.
- B. All signs attached to a building shall be flat signs, parallel to the face of the building wall. No sign shall extend farther than 15 inches from the face of the building upon which it is attached, provided however, that where a sign extends more than 3 inches from the face of the wall, the bottom of said sign shall not be closer than 8 feet from the ground level below said sign. The maximum width of any single sign shall not exceed 90% of the width of the wall to which the sign is attached or related.
- C. No sign shall be lighted by flashing or intermittent illumination. All light sources, except for diffused lighting with translucent signs, used for the illumination of signs, business building, or areas surrounding them shall be completely shielded from the view of vehicular traffic using any road abutting such business properties.
- D. Each lot with a business or resort is allowed one (1) freestanding sign and no portion of the sign can exceed 5 feet above the natural ground grade. Such freestanding sign shall be a ground sign.
- E. Pennants and Banners. Temporary pennants or banners may be permitted for a period of not more than 30 days without a permit, provided that they are kept in a state of good repair.

MERRILL TOWNSHIP VS. YATES TOWNSHIP ZONING ORDINANCE CROSSWALK
ARTICLE 6 ~ PARKING AND LOADING SPACES

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| <p>Section 6.01 Residential Off-Street Parking</p> <p>Provision shall be made for at least one garage space or one off-street parking space for each new dwelling unit. Multiple dwelling structures shall provide 1 1/2 off-street parking spaces for each dwelling unit.</p> | <p>§ 154.073 OFF-STREET PARKING AND LOADING.</p> <p>(A) <i>Off-street parking.</i> Residential off-street parking shall be on the same lot with the principal building. Off-street parking for commercial and industrial uses shall be on the same lot or within 300 feet thereof.</p> |
| <p>Section 6.02 Nonresidential Off-Street Parking</p> <p>Provisions shall be made for one square foot of total parking area for each square foot of floor area for all new nonresidential buildings or additions to such buildings in all districts. The conversion of an existing residence to another use shall be deemed as a new use that must meet all provisions in this article.</p> | <p>§ 154.073 OFF-STREET PARKING AND LOADING.</p> <p>(E) <i>Parking in non-residential districts.</i> Every parking area in a C or I district shall meet the following requirements.</p> <p>(1) Parking areas shall be effectively screened on any side which adjoins a residential district by a greenbelt. No parking area shall be closer than 25 feet to any residential property in a residential district or closer than ten feet to any street.</p> <p>(2) Every driveway and parking area shall be surfaced with asphalt or similar durable material. It shall be graded and drained so that all surface water flows to the nearest drain or drainage ditch. No lighting shall shine toward dwellings or streets. All drainage plans shall be approved by the County Road Commission or Drain Commissioner.</p> <p>(3) A site development plan of the parking area, driveways, signs, lighting and landscaping shall be approved by the Planning Commission as provided in § 154.030.</p> <p style="text-align: right;">(4)</p> <p>At least 5% of all parking areas shall be landscaped. A part thereof shall be located at the intersections of all internal</p> |

driveways.

Section 6.03 Mixed Occupancy and Uses Not Specified

In the case of mixed uses the total requirements for off-street parking areas shall be the sum of the requirements of the various uses computed separately. Collective provisions for off-street parking spaces shall not be less than the sum of the requirements for the various uses computed separately. Parking areas for churches, theaters, or other uses in which the primary parking demand occurs out of normal work and business hours may be jointly used where adequate arrangements are made by the Planning Commission to ensure that adequate space is available for each function.

§ 154.073 OFF-STREET PARKING AND LOADING.

(C) Mixed occupancies and joint usage. The total parking area proposed for two joint uses or two distinct uses shall be that proposed for the use generating the greater parking requirement. Before a building permit is issued for the use, the Board of Appeals shall approve agreements between the parties involved to ensure that adequate parking will be available for both uses.

Section 6.04 Size and Access

Each off-street parking space shall have an area of not less than 180 square feet exclusive of access drives or aisles and shall be a minimum of 9 feet in width. There shall be adequate provisions for ingress and egress to all parking spaces. No access or egress to a parking area accessory to a commercial or industrial use shall utilize any residential street unless there is a side street with no residential lots facing upon it. All parking areas with more than 3 spaces shall have such spaces legibly painted on the surface of the parking area

§ 154.073 OFF-STREET PARKING AND LOADING.

(B) Requirements. The Planning Commission shall determine that there is adequate parking area before any building permit is issued or before any premises are used for commercial or industrial purposes. Parking area shall conform to the approved plan before any premises are used. The Board of Appeals may include reasonable conditions to safeguard the public health, safety or general welfare.

| <i>District</i> | <i>Required Parking</i> |
|-----------------|---|
| A | 1 space for each dwelling unit |
| R-R | 1 space for each dwelling unit |
| R-L | 1 space for each dwelling unit |
| R-C | 1 space for each dwelling unit |
| C-N | 1 square foot per square foot of floor area |

| | |
|-----|---|
| C-H | 3 square feet per square foot of floor area |
| I | 3 square feet per square foot of floor area |

(D) *Size and access.*

- (1) The following provisions shall apply.
- (2) Except for one- and two-family dwellings each off-street parking area shall be connected to a driveway at least 20 feet in width.
- (3) Each off-street parking space shall be at least nine feet in width and 18 feet in length.
- (4) All paved parking spaces shall be legibly marked.
- (5) In non-residential districts, driveways shall connect adjacent properties in the same district to provide safe and harmonious traffic circulation and to limit the number of driveways onto streets.
- (6) Driveways opening into major streets shall not be closer than 60 feet to an intersection. No driveway shall be closer than 25 feet to any minor street corner. No driveway shall be wider than 24 feet.
- (7) No parking or loading space shall be directly accessible to a street except by an approved driveway.

Section 6.05 Units of Measurement

For the purpose of the section "floor area shall mean the gross floor area of all floors of a building or an addition to an existing building, excluding basements and those areas used exclusively for storage of

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| <p>goods or supplies. The total parking area excludes access drives within the parking area.</p> | |
| <p>Section 6.06 Location</p> <p>Required off-street parking facilities shall be located on the same lot as the principal use in residential and agricultural districts. In commercial districts additional off-street parking is permitted as a principal use on a separate lot</p> | |
| <p>Section 6.07 Community Parking</p> <p>The provisions of this Article may be met by financial participation in a municipal or community-parking program designed to serve a larger area and approved by the County Planning Commission and Township Board.</p> | |
| <p>Section 6.08 Standards for Parking in Nonresidential Districts</p> <p>Every parcel of land hereafter established as a parking area in a nonresidential district shall be developed and maintained in accordance with the following requirements:</p> <ul style="list-style-type: none">A. Parking areas shall be effectively screened on any side that abuts a residential district with a greenbelt as defined in this Ordinance. If owners of the adjacent residential properties agree, the screening may be a solid, uniformly painted fence or wall. No part of any parking area or access drive shall be closer than 5 feet to any property line unless connected to another adjoining parking area by driveways. No access drive shall be less than 20 feet from any residentially zoned lot or intersecting street right-of-way lines.B. Every parking area shall be surfaced with asphalt or similar durable surface, provided that where access to the parking area is from an unpaved roadway a durable dustless surface may be permitted. Lighting shall be arranged to reflect light away from | |

any adjoining residential buildings or street. All drainage and surfacing plans shall be approved by the Road Commission, or the Michigan Department of Transportation (MDOT) if along M-37.

- C. Parking areas and their driveways, signs, lighting and landscaping shall be reviewed and approved by the Planning Commission as a special land use and require a site plan prior to issuance of a building permit to ensure its adequacy in relation to traffic safety and protection of adjacent property.

Section 6.09 Parking Areas in Residential Districts

Any person desiring to establish a parking area as an accessory use in a residential district other than for a one-family structure or a farm use shall be considered a special land use and a site plan must be submitted to the Planning Commission for review and approval. Plans must show size, design, landscaping, curb cuts, and other features of the parking lot. Such parking areas may be authorized subject to the following conditions:

- A. All parking areas shall be landscaped, screened, surfaced, and drained as provided in
- B. All parking areas shall be used solely for the parking of passenger automobiles, and no commercial work, sales or service of any kind shall be conducted thereon. No sign, other than entrance, exit, and other condition of use signs shall be maintained.
- C. Each entrance to and exit from a parking area shall be at least 25 feet distant from any adjacent property located in any residential district and not be wider than 20 feet. The Planning Commission shall ascertain that the proposed parking area is safely related to traffic, street intersections, buildings and pedestrian walkways and that surrounding properties are fully protected from detrimental effects.

§ 154.073 OFF-STREET PARKING AND LOADING.

(F) *Parking in residential and agricultural districts.* Parking areas for more than four automobiles in residential and agricultural districts shall be permitted if the following conditions are met.

- (1) All parking areas shall be landscaped, screened, surfaced and drained as provided in division (E)(2) above. No parking area shall be closer than five feet to an adjacent property or extend into the front yard. All areas not occupied by parking areas or driveways shall be landscaped.
- (2) All parking areas shall be used solely for the parking of automobiles.
- (3) An approved site development plan shall be submitted.
- (4) Each entrance and exit shall be 20 feet in width.

Section 6.10 Required Off-Street Loading and Unloading Space

In any district where any building to be erected that is to be occupied by any commercial or other designated special land use shall provide, if needed, and maintain an off-street loading space on the same premises. This shall be part of the site plan submitted to the Planning Commission. Each loading space shall be at least 12 feet in width, 22 feet in length and have a clearing of 14 feet above, grade. Such space may occupy all or any part of the required side or rear yard.

§ 154.073 OFF-STREET PARKING AND LOADING.

(G) *Off-street loading.* In C and I districts, paved off-street loading spaces shall be provided to accommodate the needs of the use. The spaces shall be part of an off-street parking area and shall meet the requirements thereof.

(H) *Off-street loading.* The Planning Commission may approve a site development plan with a lesser area if the following are shown:

- (1) The parking requirement is shown to be excessive;
- (2) The use does not attract or provide services for the general public;
- (3) The maximum number of employees is shown on the site development plan;
- (4) The signed agreement to provide additional parking when necessary is presented;
- (5) The paved or improved parking area will be sufficient to accommodate one automobile for each employee or visitor plus 10% more parking than the number; and
- (6) An open landscaped area encompassing the additional required area is reserved for future parking use.

Section 6.11 Parking Variation

Where it can be demonstrated that the parking requirements of this article would provide an excessive amount of parking area for the needs of a particular use, a plan with lesser area may be approved and permitted provided all the following conditions are met.

- A. The maximum number of employees and visitors during any one eight-hour period can be demonstrated to be less than the parking space requirements of this Ordinance.
- B. A written agreement to provide additional parking if an increase in employees or visitors shall occur at a future time shall be made part of the Site Plan.
- C. An open landscaped area meeting the requirements of this section is shown reserved for future parking.
- D. Plan approval shall be valid, for the stated use only. Any expansion or redesigning of said lot must go through the original site plan review process.

Section 6.12 Building Additions

Whenever an addition is made to an existing building, the parking area shall be increased sufficiently to meet the requirements of this article.

Section 6.13 Permits

No parking area may be constructed, enlarged, or altered before a site plan has been submitted and approved by the Planning Commission. See Article 17. Upon receipt of approval of the plan, the Building Inspector will issue a building permit. No parking area shall be occupied or used as a parking area prior to the issuance of an occupancy permit. Whenever the requirements of the Ordinance and/or site plan are not being met, use of the parking shall cease within 60 days after the revocation of an occupancy permit.

§ 154.073 OFF-STREET PARKING AND LOADING.

(1) *Permits.* The following permits are required for all parking areas.

(1) A building permit shall be obtained before a parking area may be constructed or enlarged. A site development plan approved by the Planning Commission in accordance with the provisions of § 154.030 shall be submitted to the Building Inspector before issuance of a building permit.

(2) A certificate of occupancy shall be obtained before any parking area is used or upon revocation of the permit. The Building Inspector may revoke a certificate of occupancy whenever the conditions of this chapter are violated. The use shall cease within 60 days following the revocation.

(3) The Building Inspector may issue a temporary occupancy permit when the full development of a parking area would not be warranted due to adverse weather, settling ground or for other reasonable grounds.
(Ord. passed 5-2-1972)

**MERRILL TOWNSHIP VS. YATES TOWNSHIP ZONING ORDINANCE CROSSWALK
ARTICLE 7 ~ZONING DISTRICTS**

Section 7.01 Zoning Districts

The following are the zoning districts for the Township:

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| "R-R" Rural Residential District | Article 8 |
| "L-R" Lake Residential District | Article 9 |
| "W-O" Wilderness Overlay | Article 10 |
| "C" Commercial District | Article 11 |

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| "RC-O" River/Creek Overlay | Article 12 | |
| "PUD" Planned Use Development District | Article 13 | |
| <p>Section 7.02 Erection, Alteration and Use of Buildings</p> <p>Except as otherwise expressly provided herein, no structure or building shall be erected or altered, nor shall any building, structure, or lot be used for any purpose or activity other than is expressly allowed in the use, dimension, area, or height sections in the zoning district within which it is located.</p> | | |
| <p>Section 7.03 Provision for Official Zoning Map</p> <p>For the purpose of this Ordinance, the zoning districts as provided herein are bound and defined as shown on a map entitled "Official Zoning Map of Merrill Township." The Official Zoning Map, with all explanatory matter thereon, is hereby made a part of (and incorporated into) this Ordinance.</p> | | <p>§ 154.003 ZONING MAPS.</p> <p>A zoning map of the township has been adopted by the Township Board, but has not been published. The map and Zoning Ordinance are available for examination at the Clerk's office in the Township Hall Monday, Tuesday, Wednesday and Friday between the hours of 10:00 a.m. and 2:00 p.m. (Ord. passed 5-2-1972)</p> |
| <p>Section 7.04 Identification of the Official Zoning Map</p> <p>The Official Zoning Map shall be identified by the signature of the Township Supervisor, attested to by the Township Clerk and bear the following words: "This is to certify that this is the Official Zoning Map referred to in the Merrill Township Zoning Ordinance together with the effective date of this Ordinance.</p> | | <p>§ 154.003 ZONING MAPS.</p> <p>A zoning map of the township has been adopted by the Township Board, but has not been published. The map and Zoning Ordinance are available for examination at the Clerk's office in the Township Hall Monday, Tuesday, Wednesday and Friday between the hours of 10:00 a.m. and 2:00 p.m. (Ord. passed 5-2-1972)</p> |
| <p>Section 7.05 Authority of the Official Zoning Map</p> <p>Regardless of the existence of purported copies of the Official Zoning Map that may from time to time be made or published, the Official</p> | | |

Zoning Map, which shall be located in the offices of the Township and open to public inspection, shall be the final authority as to the current zoning status of any land, parcel, lot, district, use, building or structure in the Township.

Section 7.06 Interpretation

- A. The locations and boundaries of the zoning districts are hereby established as shown on a map, as the same may be amended from time to time, entitled "The Official Zoning Map of Merrill Township, Newaygo County, Michigan," that accompanies and is hereby made a part of this Ordinance. Where uncertainty exists as to the boundaries of zoning districts as shown on the zoning map, the following rules of construction and interpretation shall apply.
1. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.
 2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
 3. Boundaries indicated as approximately following Township boundaries shall be construed as following Township boundaries.
 4. Boundaries indicated as approximately following property lines, section lines or other lines of a government survey shall be construed as following such property lines, section lines or other lines of a government survey as they exist as of the effective date of this Ordinance or applicable amendment thereto.
- B. Whenever all or part of a street or other public way is vacated, it shall automatically become a part of the zoning district to which it attaches. If a vacated area is bordered by two different zoning districts, the area shall be divided along a line halfway between them according to the adjacent zoning district, unless the Township Board shall otherwise designate.

MERRILL TOWNSHIP VS. YATES TOWNSHIP ZONING ORDINANCE CROSSWALK
ARTICLE 8 ~ "R-R" RURAL RESIDENTIAL ZONING DISTRICT

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| <p>Section 8.01 Purpose</p> <p>This zoning district is primarily intended for single-family dwellings in a rural setting.</p> | <p>§ 154.066 R RURAL RESIDENTIAL DISTRICT. A) <i>Description and purpose.</i> This district is intended for low-density residential use.</p> |
| <p>Section 8.02 Permitted Uses</p> <p>Only the following uses are permitted:</p> <ul style="list-style-type: none"> A. Single-family dwelling. B. Agricultural C. Parks, playgrounds, community centers and other public buildings owned, and operated by a governmental agency or a nonprofit neighborhood group. | <p>§ 154.066 R RURAL RESIDENTIAL DISTRICT. (B) <i>Uses permitted.</i> The following uses are permitted:</p> <ul style="list-style-type: none"> (1) One-family homes; (2) General and specialized farming, together with dwelling and customary accessory structures; and (3) Essential services and institutional or public uses as otherwise regulated by this chapter. |
| <p>Section 8.02 Special Land Uses</p> <p>The following uses are allowed if approved by the Planning Commission as a special land use:</p> <ul style="list-style-type: none"> A. Institutional uses. B. Mining and mineral extraction. C. Cottage Industries D. Home Occupations E. Communication towers. | <p>§ 154.066 R RURAL RESIDENTIAL DISTRICT.</p> |
| <p>Section 8.04 Height regulations</p> | <p>§ 154.066 R RURAL RESIDENTIAL DISTRICT. (C) <i>Height and area.</i> The following requirements shall be met:</p> |

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| <p>No building shall exceed thirty-five (35) feet, or two and one-half stories in height, whichever is less.</p> | <p>(1) <i>Height</i>. No principal building shall exceed a height of two and one-half stories or 35 feet, whichever is lesser. No accessory building shall exceed a height of 16 feet.</p> <p>(2) <i>Front yard</i>. There shall be a front yard of at least 40 feet for a dwelling. For other permitted uses a front yard of not less than 60 feet shall be required.</p> <p>(3) <i>Side yard</i>. There shall be two side yards of not less than 20 feet each. No non-residential structure shall be closer to a side lot line than a distance equal to its height.</p> <p>(4) <i>Rear yard</i>. There shall be a rear yard of at least 60 feet.</p> <p>(5) <i>Lot area</i>. There shall be a lot area of not less than 32,000 square feet, for residential uses. For all other uses, there shall be a lot area of not less than 64,000 square feet.</p> <p>(6) <i>Lot width</i>. Every lot shall have an average width of not less than 150 feet.</p> |
| <p>Section 8.05 Area and Dimension Regulations</p> <p>No lot shall be created or used and no building or structure shall hereafter be erected, used, altered, or enlarged unless all of the following yard, lot area, and other dimensional requirements 'are met and maintained in connection with such lot creation and use or building or structure erection, alteration, or enlargement.</p> <p>A. Front Yard (i.e. front setback): There shall be a front yard of at least 30 feet from the edge of a street right-of-way or easement provided. However, accessory buildings for agricultural uses must be at least 30 feet from any street easement or right-of-way.</p> <p>B. Side Yard (i.e. side setback): There shall be a side yard of not less than 30 feet on each side of the dwelling or accessory building.</p> | <p>See above.</p> |

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| <p>C. Rear Yard (i.e. rear setback): There shall be a rear yard of at least 30 feet. Lot Area:</p> <p>D. No lot shall be created or utilized that is not at least 2 acres in size.</p> <p>E. Lot width: Every lot shall have a minimum width of 165 feet.</p> <p>F. Length/Width Ratio: The length or depth of any lot shall not be longer than four times the width of the lot.</p> | |
| <p>Section 8.06 Minimum Floor Area</p> <p>The minimum floor area for all residential uses shall meet the minimum floor areas set forth in Section 3.14 regarding Dwelling Units.</p> | <p>§ 154.066 R RURAL RESIDENTIAL DISTRICT. (D) <i>Minimum floor area.</i> Residential uses shall meet the minimum floor areas set forth in § 154.014. (Ord. passed 5-2-1972)</p> |
| <p>Section 8.07 Large Scale Residential Developments</p> <p>No land division, plat, mobile home park, site condominium or development establishing or involving 11 or more lots, parcels, mobile home or trailer sites or site condominium units shall occur or be developed unless approved as a planned unit development.</p> | |

MERRILL TOWNSHIP VS. YATES TOWNSHIP ZONING ORDINANCE CROSSWALK
ARTICLE 9 ~ "L-R" LAKE RESIDENTIAL ZONING DISTRICT

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| <p>Section 9.01 Purpose</p> <p>A. Encourage the proper development of land abutting lakes.</p> <p>B. Avoid Pollution</p> <p>C. Preserve lakes and waterways for the highest and best use of land.</p> | <p>§ 154.067 R-L LAKE RESIDENTIAL DISTRICT.</p> <p>(A) <i>Description and purpose.</i> This district is intended to:</p> <p>(1) Encourage the proper development of land abutting lakes and waterways;</p> <p>(2) Avoid pollution; and</p> <p>(3) Preserve the recreational values and natural features of lakes and waterways.</p> |
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| <p>Section 9.02 Uses Permitted</p> <p>A. One single-family dwelling.</p> <p>B. An existing lawful mobile home may be replaced or upgraded provided that the replacement home meets all other requirements of this Ordinance.</p> | <p>§ 154.067 R-L LAKE RESIDENTIAL DISTRICT.</p> <p>(B) <i>Uses permitted.</i> The following uses are permitted: one-family dwellings and seasonal dwellings.</p> |
| <p>Section 9.03 Area and Dimension Regulations:</p> <p>No lot shall be created or used and no building or structure shall hereafter be erected, used, altered, or enlarged unless all of the following yard, lot area, and other dimensional requirements are met and maintained in connection with such lot creation and use or building or structure erection, alteration, or enlargement.</p> <p>A. Front Yard (i.e. front setback): There shall be a front yard of at least 30 feet provided.</p> <p>B. Side Yard (i.e. side setback): There shall be two side yards of at least 15 feet each.</p> <p>C. Rear Yard (i.e. rear setback): There shall be a rear yard of at least 30 feet. Accessory garages and storage structures may be located to the rear of the dwelling provided such structure is at least 30 feet from the street right-of-way or easement on all conforming and newly-created lots.</p> <p>D. Lot Area: No lot shall be created or utilized unless it is at least 3 acres in size. The minimum width of all lots shall be not less than 75 feet. If a lot has any frontage on a lake, creek, it shall have at least 75 feet of frontage on that body of water.</p> <p>E. Lot Coverage: Lot coverage shall not exceed 45 percent of the total lot area.</p> | <p>§ 154.067 R-L LAKE RESIDENTIAL DISTRICT.</p> <p>(C) <i>Height and area.</i></p> <p>(1) <i>Height.</i> No principal building shall exceed a height of two and one-half stories or 35 feet, whichever is lesser. No accessory building shall exceed a height of 16 feet.</p> <p>(2) <i>Front yard.</i> There shall be a front yard of at least 20 feet. Accessory garages, sewage disposal systems and storage structures may be located in front of a principal building provided the structures are at least 20 feet from a street right-of-way.</p> <p>(3) <i>Side yard.</i> There shall be two side yards of not less than ten feet each.</p> <p>(4) <i>Rear yard.</i> There shall be a rear yard of at least 20 feet.</p> <p>(5) <i>Lot size.</i></p> <p>(a) A one-family dwelling without public sewer and public water shall be located on a lot containing not less</p> |

F. Special Conditions:

1. Water Setbacks: No building shall be located closer than 30 feet to a waterfront property line or the high water line of any body of water, whichever is greater, or not to exceed the build to line of neighboring structures.
2. Waterfront Accessory Structures: two accessory buildings not exceeding 25 square feet may be located between the waterfront and the principal structure and it shall meet the side yard and front yard setback requirements for the principal structure, but in no event shall any such accessory structure (except for a lawful seasonal dock or pump house not exceeding two feet tall) be located closer than 30 feet from the high water mark of the lake, river, creek or stream. Seasonal docks in lakes or ponds shall not be longer than is required to reach a low water mark of a depth of 4.5 feet and shall not exceed 4 feet in width or 3 feet above the watermark.
3. Sewage Disposal Systems:
 - a. No sewage disposal system shall be located closer than 100 feet to the high water mark of any body of water. Any portion of the sewage disposal system that discharges effluent to the soil shall be located in an area where the groundwater is at least four (4) feet beneath the ground surface at all times during the year.
 - b. No sewage disposal system will be permitted within 500 feet of any inland lake or stream if the site is within a 1/2-mile radius of an existing public or community sewer system to which it can hook up.

than 7,500 square feet. The average width of the lot shall be at least 75 feet.

(b) No private sewage disposal system, drain field, septic tank or similar device for the disposal of household or human wastes shall be located or used in any side yard or between the principal structure and the waterfront unless a completely enclosed water-tight container permitting no discharge of wastes into the surrounding soil or water seepage into the container is used.

(c) Accessory structures located between the waterfront and the principal structure shall meet the side yard provisions for the principal structure. Seasonal docks, boat-houses, boat landings and similar structures in lakes or ponds shall not be longer than is required to reach a water depth of four and one-half feet. The structures located in rivers or streams shall not be longer than 10% of the width of the stream or river measured at the point of location of the structure.

(d) No tree or trees shall be removed from a building site unless the removal thereof is necessary for the erection of a building thereon.
(Ord. passed 5-2-1972)

MERRILL TOWNSHIP VS. YATES TOWNSHIP ZONING ORDINANCE CROSSWALK
ARTICLE 10 ~ "W-O" WILDERNESS OVERLAY

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| <p>Section 10.01 Purpose</p> <p>The purpose of this—overlay is the preservation of the large, contiguous tracks of forest/wilderness in areas surrounded by and/or adjacent to the Manistee National Forest. This overlay specifically is intended to govern areas that were once part of the Manistee National Forest or are currently part of the forest and may one day revert to private land. Low-density single-family dwellings situated on large parcels, that preserve the nature of the forest with limited intrusion of humans and the preservation of wildlife and flora is the primary use in this overlay. All requirements of the underlying zoning district must also be met.</p> | <p>Not identified in Yates</p> |
| <p>Section 10.02 Permitted Uses</p> <p>The following uses are permitted in the "W-O" overlay</p> <ul style="list-style-type: none"> A. All uses in the R-R Rural Residential zoning district. B. Land division in the "W-O" overlay shall be limited to one (1) split per 40 acres of land | |
| <p>Section 10.03 Special Land Uses</p> <p>The following may be approved by the Planning Commission as a special land use:</p> <p>All special land uses in the rural residential zoning district.</p> <ul style="list-style-type: none"> A. Private Campgrounds B. Outdoor Recreational C. Entertainment Facilities | |

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| <p>Section 10.04 Height Regulations</p> <p>All height regulations in the rural residential zoning district</p> | |
| <p>Section 10.05 Area Regulations</p> <p>All area regulations in the rural residential zoning district</p> | |
| <p>Section 10.06 Minimum Floor Area</p> <p>The minimum floor area for all residential uses shall meet the minimum floor areas set forth in this Ordinance.</p> | |

MERRILL TOWNSHIP VS. YATES TOWNSHIP ZONING ORDINANCE CROSSWALK
 ARTICLE 11 ~ "C" COMMERCIAL ZONING DISTRICT

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| <p>Section 11.01 Purpose</p> <p>This zoning district is intended to provide areas for business uses that serve the needs of the community and fabricate, manufacture or produce a salable product.</p> | <p>Will be combination of 154.069 Neighborhood Commercial 154.070 Highway Commercial 154.071 Industrial</p> |
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Section 11.02 Permitted Uses

Land and/or buildings in the "C" zoning district may be used for the following purposes with special land use approval:

- A. All commercial uses not otherwise prohibited elsewhere in this Ordinance as regulated in the rural residential district.
- B. Single family residential as regulated in the R-R Rural Residential zoning district
- C. Institutional uses.
- D. Mining and mineral extraction.
- E. Communication towers.
- F. Accessory uses customarily incidental to the preceding uses, but only with special land use approval.

Section 11.03 Height Regulations

No building shall exceed 35 feet in height or two and one half stories, whichever is less.

Section 11.04 Area Regulations

No lot shall be created or used and no building or structure shall hereafter be erected, used, altered, or enlarged unless all of the following yard, lot area, and other dimensional requirements are met and maintained in connection with such lot creation and use or building or structure erection, alteration, or enlargement:

- A. Lot Area: The minimum lot area in this zoning district shall be 10,000 square feet with a minimum width of 100 feet.
- B. Front Yard (i.e. front setback): There shall be a front yard of not less than 30 feet.
- C. Side Yard (i.e. side setback): There shall be a side yard of not less than 30 feet on each side of any building.
- D. Rear Yard (i.e. rear setback): There shall be a rear

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| yard of not less than 30 feet | |
| Section 11.05 Greenbelt A greenbelt, as defined in the Ordinance, shall be provided and maintained at all times on each side and rear lot line that abuts a residential district. | |
| Section 11.06 Miscellaneous Regulations A. All businesses and uses shall be conducted in such a manner that no unreasonable noise, dust, vibration, light, noxious fumes or any other like nuisance shall exist to adversely affect adjoining properties. B. No canopy, drive-through window, or drive-through service shall be permitted or utilized unless approved by the Planning Commission as a special land use pursuant to this Ordinance. | |

Section 11.07 Storage of Hazardous Substances

The use, storage, or generation of any and all hazardous substances, as defined below, shall be subject to the following requirements:

- A. Definition of Hazardous Substances: Hazardous substances shall include hazardous chemicals as defined by the Michigan Department of Public Health and the Michigan Department of Labor; hazardous materials as defined by the U.S. Department of Transportation; critical materials and polluting materials as defined by the Michigan Department of Natural Resources; and hazardous waste as defined by the Michigan Department of Natural Resources.
- B. Specific state laws that must be adhered to are:
 - PIPP: Pollution Incident Prevention Plan (DNR), "Part 5" of the Water Resources Commission Act.
 - Michigan Hazardous Waste Management Act
 - Michigan Rules for Storage of Flammable and Combustible Liquids; Michigan Fire Prevention Act known as the "Fireman's Right to Know Law"; State Police Fire Marshall
 - Registration of Underground Tanks (DNR)
 - Material Storage Permits (DNR)
 - Small Quantity Hazardous Waste Management Regulations (DNR)
- C. Applicability. These provisions apply to all businesses and facilities that use, store or generate hazardous substances in quantities of 100 Kilograms (25 gallons, 220 pounds, or 1/2 drum) or greater at one time. Hazardous substances included raw material, products, and wastes.
- D. Above Ground Storage:
 - 1. Primary containment of hazardous substances shall be product tight.
 - 2. Secondary containment of hazardous substances shall be provided for all facilities subject to a site plan review. Secondary containment shall be sufficient to store the

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| <p>substance for the maximum anticipated period of time necessary for the recovery of any released substance.</p> <p>3. Outdoor storage of hazardous substances is prohibited except in product tight containers that are protected from weather, leakage, accidental damage, and vandalism. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance, including an allowance for the expected accumulation of precipitation.</p> <p>4. At a minimum, state and federal agency requirements for storage, leak detection, record keeping, spill prevention, emerging response, transport, and disposal shall be met.</p> <p>E. Below Ground Storage: At a minimum, regulations of the Michigan Department of Natural Resources, Michigan Fire Marshal Division for the installation, inspection, maintenance of a leak detection system, inventory and record keeping, emergency response and closure must be met. All underground storage tanks that have been out of service for 9 months or longer shall be removed from the site before a building permit is issued. This requirement may be adjusted by the Township Fire Authority in situations where a clear timetable for the safe use of the underground tank is established</p> | |
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MERRILL TOWNSHIP VS. YATES TOWNSHIP ZONING ORDINANCE CROSSWALK
ARTICLE 12 ~ "RC-O" RIVER/CREEK OVERLAY DISTRICT

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| <p>Section 12.01 Purpose</p> <p>The purpose of this overlay district is the preservation and enhancement of rivers, streams and lakes in Merrill Township and in</p> | <p>Not identified in Yates</p> |
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particular, their special environmental aspects such as flood plains and wetlands in the interest of present and future generations; the prevention of ecological damage and aesthetic damage that may result from overcrowding, overuse or unwise and disorderly development.

Section 12.02 Designated District and Boundaries

This overlay district covers all lands within 300 feet of any river, stream, or lake within Merrill Township that are not already within the L-R Lake Residential zoning district. These regulations are in addition to those for the underlying zoning district.

Section 12.03 Regulations

- A. Accepted normal agricultural activities shall be followed, providing there is no undue erosion of banks by farm animals or pollution of the waters from animal wastes.
- B. One pump house is allowed when it is set back at least 10 feet from the water's edge and does not exceed 9 square feet in area and 2 feet in height.

Section 12.04 Natural Vegetation Strip

To minimize erosion, stabilize riverbanks, protect water quality and keep nutrients out of the water, a strip 25 feet wide, bordering the water's edge, shall be left undisturbed, or if disturbed shall be planted and maintained in trees and shrubs. An opening is allowed for access to the lake, river, or stream of not more than 10 feet wide. Trees and shrubs may be trimmed or pruned, allowing building set back of 30 feet, with a minimum frontage of 200 feet. If a river or creek falls under the National River Act (NRA), then the NRA applies if it is more restrictive.

Section 12.05 Earth Changing Activities

All earth changing activities, including dredging, cutting, filling and grading within this overlay district that involves the removal of ground cover, shall be in accordance with the requirements of the sedimentation control regulations of the Newaygo county Soil Conservation District (or successor agency). If the earth changing activity involves the filling in of a flood plain, all regulations of the State of Michigan must be met. In addition, no refuse, garbage, rubbish, or waste material shall be used as fill material. No approval by the Planning Commission shall be gained without assured compliance with this Section.

Section 12.06 Considerations for Approval

The Zoning Administrator may grant permits for dwellings and accessory buildings if the above requirements and following considerations are met. Construction and/or use will:

- A. Provide for the conservation of soil, banks, and adjoining uplands.
- B. If abutting a river or stream, protect the natural floodwater storage capacity of the river flood plain, so as to prevent flood damages and associated public relief expenditures created by improper construction of structures in a flood plain.
- C. Not damage fish, wildlife, and their habitat.

MERRILL TOWNSHIP VS. YATES TOWNSHIP ZONING ORDINANCE CROSSWALK
ARTICLE 13 ~ "PUD" PLANNED UNIT DEVELOPMENT ZONING DISTRICT

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| <p>Section 13.01 Description and Purpose:</p> <p>A. The use, area, height, bulk, and placement regulations of this Ordinance are primarily applicable to the usual situation of one (1) principal building per lot. In certain larger or unusual developments, those requirements result in a less desirable development for the achievement of the purposes of this Ordinance than if a controlled degree of flexibility is allowed. For example, a large scale residential development might better achieve the purposes of this Ordinance if a portion of the open space requirements were consolidated into small community parks or open space rather than on an individual, lot-for-lot basis.</p> <p>B. A development may be of such large size or unusual nature as to justify permitting certain incidental uses not normally permitted in the existing zoning district. Permitting these uses within the development can, in certain cases, increase convenience, be compatible with the overall character of the development, and not be injurious to adjoining properties. The Planned Unit Development (PUD) zoning district is intended to permit and control the development of areas as planned developments (PUD's) for various compatible uses permitted by this Ordinance in other zoning districts and for other special land uses not so permitted. In so doing, a degree of flexibility is allowed in the use, area, height, bulk and placement regulations for PUD developments. However, it is also the intent of a PUD district to afford each type of use reasonable protection from encroachment or interference by other incompatible land uses, and that reasonable protection be afforded to uses adjacent to the PUD zoning district.</p> <p>C. All zoning pursuant to this Article shall give due consideration to</p> | <p>Not identified in Yates</p> |
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maintenance of reasonable conditions regarding emission and transmission of injurious or obnoxious noise, vibration, gas, smoke, dust, dirt, litter, odor, light glare, traffic congestion, ease of police and fire protection, drainage, property values, light and air, overcrowding of persons, sanitation, surface and ground water quality, water supply and sewage disposal, general appearance and character of the area, and other similar considerations having an effect on the achievement of the purposes of this Ordinance.

Section 13.02 Allowed Uses:

If approved by the Township Board, land in the PUD zoning district may be used for all or any of the uses permitted by this Ordinance in other zoning districts and other special land uses not permitted as of right, including, without limiting the generality of the foregoing, the following specific uses:

- A. Camps and campgrounds
- B. Cemeteries
- C. Children's homes
- D. Colleges
- E. Community swimming pools and other recreation facilities and parks
- F. Golf courses and country clubs
- G. Hospitals and clinics
- H. Housing for senior citizens
- I. Industrial parks and/or research parks
- J. Junk yards, landfills and dumping grounds
- K. Mineral extraction uses
- L. Large scale residential development
- M. Mobile-modular home sales lots
- N. Mobile-modular home development or parks
- O. Nursing homes
- P. Offices and office parks
- Q. Philanthropic institutions
- R. Private clubs
- S. Public and private schools and colleges
- T. Resorts, including motels, restaurants and similar associated uses
- U. Malls or shopping centers
- V. Drive-in theaters
- W. Recreational or entertainment facilities
- X. Condominiums
- Y. Site condominiums

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| <p>Z. One-family, two-family, multiple-family, and condominium dwellings AA. Mineral extraction operations BB. Sanitary landfill</p> | |
| <p>Section 13.03 Procedures</p> <p>Any land in the Township may be zoned or rezoned as the PUD zoning district in accordance with the procedures and requirements hereinafter specified.</p> | |

Section 13.04 Preliminary Plan - Submissions and Content

Applicants for a PUD zoning district shall prepare and submit to the Zoning Administrator three (3) copies of a preliminary plan for the PUD. The Zoning Administrator shall promptly transmit two (2) copies of this plan to the Planning Commission and one (1) copy to the Township Board. This plan shall set forth, in general terms, the proposed uses to be developed in the PUD and the following specific information:

- A. Legal description of the land included in the PUD.
- B. Small-scale sketch of properties, streets and uses within one-half (1/2) mile of the PUD.
- C. A map to scale showing any existing or proposed arrangement of (1) streets, (2) lots and buildings, (3) access points, (4) other transportation arrangements, and (5) buffer strips.
- D. A narrative describing: (1) the overall objectives of the PUD, (2) method of financing, (3) number of acres allocated to each use, (4) gross densities, (5) proposed method of providing sewer and water service as well as other necessary public and private utilities, and (6) proposed method of providing storm drainage.
- E. All information submitted shall be of sufficient scale, clarity, and quality to permit a determination of compliance with the standards of this Article.
- F. Any additional information required by the Planning Commission.

Section 13.05 Planning Commission Review of Preliminary Plan

The Planning Commission shall review the preliminary plan and make recommendations to the applicant based on (1) the requirements of this Ordinance and (2) the following specific considerations where applicable:

- A. Ingress and egress to the property and proposed buildings and structures thereon, with particular reference to vehicle and

pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe

- B. Off-street parking and loading areas where required, with particular reference to the items in subparagraph A and the economic, noise, glare and/or odor effects of each use in the proposed PUD.
- C. Refuse and service areas, with particular reference to the items in subparagraphs A and B above.
- D. Utilities, with reference to locations, availability, and compatibility.
- E. Screening and buffering with reference to type, dimensions, and character.
- F. Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect and
- G. Compatibility and harmony with adjoining properties and properties in the proposed PUD.
- H. Required yards and other open spaces.
- I. General compatibility with adjoining properties and properties in the proposed PUD.
- J. The purpose of this Ordinance, as well as compatibility with other ordinances and statutes that regulate land development.
- K. Consistency of the project with the Merrill Township Master Plan.

Section 13.06 Transmittal of Planning Commission's Recommendation

The Planning Commission shall transmit its recommendations pertaining to the preliminary plan along with any recommended changes or modifications thereof to the applicant. A copy of the Planning Commission's recommendations shall also be transmitted to the Township Board. In the course of its consideration of the preliminary plan, the Planning Commission may hold an advisory public hearing and give such notice thereof as it shall deem appropriate.

Section 13.07 Final Plan Submission:

- A. After receiving the recommendations of the Planning Commission on the preliminary plan, the applicant for PUD district zoning shall submit five (5) copies of a final development plan to the Zoning Administrator. The Zoning Administrator shall promptly transmit two (2) copies to the Planning Commission, two (2) copies to the Township Board, and retain one (1) copy.
- B. Simultaneously with the submission of a final development plan, the applicant shall submit to the Zoning Administrator an application for rezoning request that the land included in the final plan for the PUD be rezoned to the PUD zoning district designation. Consideration of the requested zoning amendment shall then proceed in accordance with the rezoning procedures of the Zoning Act.

Section 13.08 Final Plan Content:

The final plan shall include all of the following information unless the same, as determined by the Township, is found to be unnecessary for the consideration of the PUD.

- A. A plot plan based on an accurate certified land survey showing:
 - (1) location, size, and type of present buildings or structures to be retained or removed;
 - (2) location of all proposed buildings, structures or other improvements;
 - (3) location of existing and proposed streets, easements, rights-of-way, drives and parking lots;
 - (4) location of water and sewer lines;
 - (5) storm drainage;
 - (6) topographical features including contour intervals no greater than five (5) feet and bodies of water;
 - (7) ditches and water courses;
 - (8) ground cover and other pertinent physical features of the site such as trees;
 - (9) proposed landscaping;
 - (10) location of existing improvements;
 - (11) location of lot lines;
 - (12) loading and unloading facilities;
 - (13) wetlands; and
 - (14) exterior lighting and signs.
- B. Preliminary architectural sketches and/or a general statement as to the type of construction and materials to be used in the proposed buildings or structures. Height and area of buildings and structures shall be described.
- C. The period of time within which the project will be completed.
- D. Proposed staging of the project, if any.
- E. Gross areas of buildings and parking.
- F. Delineation of the one hundred (100) year flood plain, if applicable and any proposed uses therein.
- G. A description of all aspects of such plan that might have an adverse effect on public health, safety, and welfare.
- H. An environmental impact statement or assessment, if requested by the Planning Commission.
- I. Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land as an option or purchase contract.

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| <p>J. Method of financing and commitments or other proof of ability to obtain financing.</p> <p>K. Additional information that the Township Board may request that is reasonably necessary to evaluate the proposed PUD and its effect on the surrounding neighborhood and properties and the Township in general.</p> <p>L. Such other data or information as is required by the Planning Commission.</p> | |
| <p>Section 13.09 Public Hearing:</p> <p>The Planning Commission shall hold a public hearing pursuant for the purpose of receiving comments relative to the final development plan and the proposed rezoning.</p> | |
| <p>Section 13.10 Final Planning Commission Recommendations:</p> <p>The Planning Commission shall transmit its recommendations concerning the final development plan and the proposed zone change along with any recommended changes, conditions, or modifications to the Township Board.</p> | |
| <p>Section 13.11 Final Approval by Township Board:</p> <p>Final approval (together with conditions of approval) or disapproval of the zone change and final development plan shall be by the Township Board. The Township Board shall also hold a public hearing pursuant to this Ordinance. A copy of said final zone change, if finally approved, shall be forwarded to the Township Clerk for filing with the Township Zoning Ordinance and shall be an official amendment to this Ordinance. If all conditions and requirements of this Article are fulfilled, the Township Board may approve the PUD. The Township Board may attach conditions to any PUD approval</p> | |

Section 13.12 General Provisions "PUD" - Planned Development Districts:

A. Minimum Size, Modification of Standards, and Project Design

Review Standards:

1. Size - In order to be zoned as a PUD zoning district, the proposed area of land shall be no less than five (5) acres.
2. Project Design and Review Standards - Unless specifically specified otherwise, the Township Board may approve deviations to the dimensional standards normally required for projects developed in traditional fashion. These include modifications to building setbacks, building density, customary building placement parking, and access, and similar modifications. In approving the PUD, including any modifications, the Township Board shall find:
 - a. That there will be no adverse effect upon public health, safety, or general welfare.
 - b. That the modifications are consistent with the Township Master Plan.
 - c. The PUD will be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent properties and the surrounding area.
 - d. The proposed use and modifications will not change the essential character of the surrounding area and the neighborhood.
 - e. The proposed use and modifications will not place demands on public services, roads, and facilities in excess of their current capacities.
 - f. The proposed use and modifications will not establish a precedent for developments or uses that could adversely affect the long-term goals of the Township Zoning Ordinance or Master Plan. The

proposed use and modifications shall be designed to preserve environmental features, such as lakes, streams, flood plains, agricultural areas, ground water and natural areas.

g. The standards for a site plan are met.

- B. Time Limitations on Development. Each PUD development shall be under substantial construction within one (1) year after the date of rezoning by the Township Board. If this requirement is not met, the Township Board may grant an extension provided the developer presents reasonable evidence to the effect that said development has encountered unforeseen difficulties but is now ready to proceed. Should the aforementioned requirements not be fulfilled within a period of one (1) year after final approval by the Township Board, any building permit issued for said development shall be invalid and void, and the Township Board may initiate proceedings to hold a public hearing for the purposes of rezoning said property.
- C. Security. The Township Board, in connection with reviewing any application for a final development plan, may require reasonable undertakings by the applicant to guarantee and assure by agreement, including a performance bond or irrevocable letter of credit, such bond or security to be posted by applicant in order to ensure that the development will be executed in accordance with the approved plan.
- D. Required Improvements Prior to Issuance of Occupancy Permit. The Township Board is hereby empowered to require that all required improvements be constructed and completed prior to issuing an occupancy permit. In the event that said improvements are partially completed to the point where occupancy would not impair the health, safety, and general welfare of the residents, but are not fully completed, the Building Inspector may, upon the recommendation of the Township Board, grant an occupancy permit so long as the developer deposits a performance bond with the Township Clerk in an amount equal to the cost of

improvements yet to be made, said improvements to be completed within one (1) year of the date of the occupancy permit.

E. Additional Provisions. All provisions of this Ordinance and other ordinances of the Township shall apply to the PUD district except where inconsistent therewith, in which case the provisions of this Article shall control.

Section 13.13 Discretionary Density:

- A. Notwithstanding the density requirements of this Ordinance, the Township may require a lesser density for a particular land development (that is, fewer dwelling units, fewer dwellings or other buildings, or fewer lots, mobile home sites, parcels of land or site condominium units) if it is determined that the following requirements will not be satisfied with the proposed density or the proposed number of lots, mobile home sites, parcels of land or site condominium units:
1. The property is located on a paved public street and is served by adequate public streets.
 2. There is a public sanitary sewer system to serve the property.
 3. There is a public water supply system or a privately owned public water supply system to serve the property.
 4. There are no natural or environmentally sensitive areas, including lakes, woodlands, wetlands, or prime farmland.
 5. The proposed development will not impose unreasonable demands upon public services or public facilities.
- B. In determining whether a lesser density shall be required, the Planning Commission and Township Board shall consider whether the requiring of such lesser density will assist in overcoming, compensating for or improving, in whole or in part, the disadvantages resulting from any of the following:
1. Inadequate public streets
 2. Lack of a public sanitary sewer.
 3. Lack of a public or community water supply system.
 4. Potential harm to or degradation of environmentally sensitive areas, including lakes, wetlands, woodlands, and prime farmland, resulting from the proposed development.

5. Unreasonable demands on public services and facilities resulting from the proposed development. The other standards contained in this Article.

Section 13.14 Certain Residential Developments as Planned Unit Developments:

- A. In the "L-R" Lake Residential zoning district, and the "R-R" Rural Residential zoning district, no subdivision (as defined in this section) shall be established or created and no lot, site condominium unit, individual mobile home or trailer site or park 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).
- B. For purposes of this section, a "subdivision" means any land or property, wherever located, improved or unimproved, that is divided, split, conveyed, proposed to be divided, split or conveyed, or developed as a land division, mobile home park, site condominium or recorded plat, for the purpose of sale, transfer or building construction, into or including 11 or more lots, parcels of land, site condominium units, individual mobile home or trailer sites or other interests in land, or any combination thereof whether in whole or in part. For purposes of this section, "subdivision" also includes any lands, whether contiguous or not, if 11 or more lots, parcels of land, site condominium units, individual mobile home or trailer sites or other units or interests are offered as part of a common promotional plan for rent, sale or conveyance, or where the subdivision is being developed or is offered for sale, rent, transfer or building construction by one developer, or more than one developer, whether acting individually or in concert.
- C. 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, individual mobile home or trailer sites or other interests is 11 or more.

- D. For purposes of this section, "contiguous" land means any additional land adjacent to or adjoining the subdivided land included in any previous subdivision.
- E. 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 approval, if 11 or more lots, parcels of land or site condominium units are created or developed from or out of such parcels or either of them.

Section 13.15 Modification of PUD Plans:

Minor changes to a PUD site plan may be approved administratively in writing by the Zoning Administrator provided the changes comply with all applicable requirements of this Ordinance and all other Township regulations and state laws. Any other changes shall require a formal amendment to the PUD approval and approved site plan.

Section 13.16 Conditions:

The Township Board may attach reasonable conditions to any PUD approval, including the following:

- A. PUD's shall be designed to protect and enhance environmental features, such as the preservation of trees, flood plains, waterways, agricultural areas and natural areas, and shall encourage proper site landscaping.
- B. The Township may require additional standards for private roads in addition to those specified in Section hereof.
- C. All PUDs shall be designed with open space.
- D. The Township may also require that the applicant provide some or all of the following information to the Township:
 - 1. Soil surveys, borings and septic suitability reports
 - 2. Natural hazards
 - 3. Substrate information
 - 4. Surface and groundwater information
 - 5. Storm water drainage information
 - 6. Erosion information
 - 7. Streams and water bodies impact analysis
 - 8. Environmental impact statement
 - 9. Traffic information
 - 10. Market study

MERRILL TOWNSHIP VS. YATES TOWNSHIP ZONING ORDINANCE CROSSWALK
ARTICLE 14 ~ SPECIAL LAND USES

Section 14.0 Scope

This Article provides a set of procedures and standards for special land uses of land or structures, which because of their unique characteristics require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards, herein, are designed to allow, on one hand, practical latitude for the applicant, but at the same time maintain adequate provision for the protection of the health, safety, convenience, and general welfare of the Township. For purposes of this Ordinance, all special land uses within the various zoning districts are subject to the conditions and standards of this Article. In addition, particular special land uses shall conform to the specific site plan standards in this Article 15 as applicable.

§ 154.072 EXCEPTIONAL USES.

Section 14.02 Application and Review Procedures

- A. An application for a special land use shall be submitted through the Zoning Administrator, accompanied by:
 - 1. The payment of an application fee or fees and any required escrow fee(s) as established by the Township Board.
 - 2. A completed application form, as provided by the Township.
 - 3. A complete site plan as specified in this Ordinance.
 - 4. A narrative describing the proposed use(s).
- B. Applications for a special land use (if complete) shall be submitted at least thirty (30) days prior to the next Planning Commission meeting.
- C. The application (if complete), along with the required site plan, shall be forwarded to the Planning Commission for its next scheduled meeting.
- D. The Planning Commission shall hold a public hearing on the application, noticed in accordance with this Ordinance. The Planning Commission shall then review the application and other information available to it through the public hearing or from any other sources, including recommendations or reports from the Township's planner, engineer, attorney, or other party, and shall approve, approve with conditions, or deny the request, and incorporate the basis for the decision and any conditions which should be imposed on an approval.
- E. No request for special land use approval that has been disapproved shall be resubmitted for a period of one (1) year from the date of disapproval, except as may be allowed by the Zoning Administrator after learning of new and significant material facts or substantially changed conditions that might result in favorable action upon re-submittal.
- F. A special land use approved pursuant to this Article shall be valid for one (1) year from the date of approval. Each development or

use shall be under substantial construction within one (1) year after the date of approval of the special land use, except as noted below.

1. The Planning Commission may grant one six (6) month extension of the approval, provided the applicant requests the extension prior to the date of the expiration of the special land use approval.
2. The extension shall be approved if the applicant presents reasonable evidence to the effect that the development or use has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.

If neither of the above provisions are fulfilled or the six (6) month extension has expired prior to construction, then the special land use approval shall be null and void.

- G. No use, building, or structure requiring special land use approval shall occur or be commenced prior to such approval.

Section 14.03 General Standards

- A. In addition to the standards established for specific uses herein, an application for a special land use shall be reviewed for compliance with the review standards for approval of site plans in this Ordinance. Reasonable conditions may be placed upon a special land use approval (and the accompanying site plan approval).
- B. No special land use may be approved unless all of the following standards are met. Each application shall be reviewed for the purpose of determining that the proposed special land use will:
1. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance, with the existing or intended character of the general vicinity and that the use will not change the essential character of the area in which it is proposed.
 2. Be adequately served by essential public facilities and services such as highways, streets, police, and fire protection, drainage structures, and refuse disposal, water and sewage facilities.
 3. Not create excessive additional requirements at public cost for public facilities and services.
 4. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production or effects of traffic, noise, smoke, fumes, glare, or odors.
 5. The proposed use shall be sufficiently designed to maintain adequate provision for the protection of the health, safety, conveniences, and social and economic welfare of those who will use the special land use, residents, and landowners adjacent to the special land use, and the community as a whole.
 6. The proposed use shall be consistent with the intent of

this Ordinance and the intent of the Master Plan.

7. The use shall not create or substantially add to traffic hazards in the area.
 8. The proposed use shall not set precedents for development, which could adversely affect the long-term plans or policies of the Township.
 9. The proposed use shall not have significant adverse environmental, ecological, or natural resource impacts.
 10. The proposed use shall not have significant adverse impacts upon adjoining properties or uses.
 11. The proposed use will be reasonable.
 12. Any standards listed later in this Article for specific uses must also be met.
- C. The Planning Commission may impose additional conditions and safeguards on a special land use approval deemed necessary to accomplish the following purposes. Failure to comply with the conditions may result in the revocation of the special land use approval, pursuant to this Ordinance. Conditions imposed shall be those necessary to ensure that the proposed special land use will:
1. Meet the intent and purpose of the Zoning Ordinance and the Master Plan.
 2. Relate to the standards established in the Ordinance for the land use or activity under consideration.
 3. Ensure compliance with those standards.
 4. Protect the general welfare.
 5. Protect individual property rights.
 6. Ensure that the intent and objectives of this Ordinance will be observed.
- D. The Planning Commission shall adopt a statement of findings and conditions relative to the special land use that specifies the basis for the decision and any conditions imposed.

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| <p>Section 14.04 Performance Guarantee</p> <p>The Planning Commission may require a performance guarantee or guarantees in accordance with this Ordinance to ensure compliance with any requirements or conditions associated with the granting of a site plan and special land use approval.</p> | |
| <p>Section 14.05 Special Land Use Specific Requirements</p> <p>The general standards and requirements are basic to all special land uses. The specific and detailed requirements set forth hereafter relate to particular uses and are requirements which shall be met by those uses in addition to the foregoing general standards and requirements. Any use listed in this Ordinance not addressed as follows shall be reviewed under the general standards.</p> | |
| <p>Section 14.06 Termination/Revocation of a Special Land Use Approval</p> <p>In the event that a special land use approval is granted, the individual or successor in interest as to the property involved shall not use the property in question such that it would exceed the rights granted by the special land use (and site plan) approval or any conditions attached thereto or fail to follow or comply with any conditions or requirements thereof. In the event that the use of the property exceeds those rights given by the special land use (and site plan) approval or conditions attached thereto, or the property owner fails to follow the conditions placed upon the special land use (and site plan) or any requirements of this Ordinance, the special land use (and site plan) shall terminate immediately. Alternatively, in such cases, the Planning Commission shall also have the authority to terminate a special land use approval after reasonable notice and hearing</p> | |

Section 14.07 Institutional and Public Uses

Allowed in any zoning district (except L-R Lake Residential).

Institutional and public uses may be allowed as a special land use if the Planning Commission finds that all of the following requirements are met:

- A. The proposed use will be harmonious with, and not harmful, injurious, or objectionable to, existing and projected future land uses in the area.
- B. The proposed use is adequately served by necessary improvements, including, but not limited to, water, sewer, electricity, roads, drainage, and parking.
- C. The proposed use is in accordance with the development policies of Merrill Township.

Section 14.08 Kennels

Kennels may be allowed as a special land use provided the Planning Commission determines all the following requirements are met:

- A. All animals must be housed no closer than 200 feet from any adjoining property line and at least 500 feet from any residential dwelling.
- B. Animals shall be kept under sanitary conditions and in sanitary enclosures. The special land use approval may be revoked if the premises become unsanitary or if objectionable noise or odors emanate from the premises.

Section 14.09 Oil, Gas or Other Drilling Activity

Oil and gas wells, including drilling operations for any underground resources, though not controlled by this Ordinance, shall comply with the following requirements:

- A. No truck parking or storage shall be located within 500 feet of any adjoining residence or within 200 feet of adjoining property lines.
- B. All truck operations shall be directed away from residential streets.
- C. Site operations shall be at least 500 feet from any dwelling, church, school, public building, or public or semi-public place including parks and recreation areas.
- D. The area shall be completely enclosed by a solid wall or fence of at least 6 feet but no more than 8 feet in height, with no material stored within the fenced area visible above said fence.
- E. No dumping of garbage, trash or any byproducts shall be permitted.
- F. The site shall not create a nuisance adversely affecting adjoining property owners.

Section 14.10 Outdoor Recreational and Entertainment Facilities

Outdoor recreational and entertainment facilities may be allowed with special land use approval if the Planning Commission finds that all of the following requirements are met:

- A. The proposed use will be harmonious with, and not harmful, injurious or objectionable to, existing and projected future land uses in the area.
- B. The proposed use is adequately served by necessary improvements, including, but not limited to, water, sewer, electricity, roads, drainage, and parking.
- C. The proposed use is in accordance with the development policies of Merrill Township.

Section 14.11 Private Campgrounds

Private campgrounds may be allowed as a special land use if the Planning Commission finds that all of the following requirements have been met:

- A. The campground shall be situated on a lot of no less than 20 acres, with direct access to an improved gravel or paved public road.
- B. Each campsite shall contain a minimum of 1,500 square feet.
- C. No vehicle, trailer, or tent shall be erected or placed within 30 feet of any road right-of-way.
- D. A greenbelt of at least 50 feet shall be maintained along all parameters of said campground.
- E. Public restrooms, housed in all-weather structures, containing adequate water outlet, toilet, waste container and shower facilities shall be provided uniformly throughout the said campground at a ratio of not less than one such restroom for every 20 sites.
- F. All sanitary facilities shall be designed and constructed in strict conformance with all applicable Newaygo County health regulations.
- G. The development of the entire parcel is subject to all applicable requirements of the Michigan Department of Natural Resources, and Camp Ground Act 368 of Public Acts of 1978, as amended.
- H. Each campground shall have a minimum of 20 campsites.
- I. No particular trailer, tent, or recreational vehicle shall remain at a campsite for longer than 120
- J. Days during a calendar year.
- K. Deer camps, one family campsites, and similar uses shall not be deemed a "campground" and are fully subject to the restrictions of this Ordinance hereof.

(12) Sites for transient trailers, mobile homes, or camping accommodations may be provided within a mobile home court for temporary stays not to exceed two consecutive weeks. The requirements of subsections (7) and (9) above shall not apply to the trailers, with common restrooms and water supply. Common sewage facilities shall be provided for sewage wastes.

Section 14.12 Mining and Mineral Extraction Uses and Operations

- 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 Article and this Ordinance, 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 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 (except L-R Lake Residential) if approved by the Planning Commission as a special land 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 land use review process.
- D. Standards. In order to approve a special land 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; The impact on existing land uses in the vicinity of the property involved
 - 2. 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;

3. The impact on pedestrian and traffic safety in the vicinity of the property involved and along the proposed hauling route serving the property involved;

4. The impact on other identifiable health, safety, and welfare interests in Merrill Township; and the overall public interest in the extraction of the specific natural resources on the property involved. When considering this factor, the Planning Commission shall determine:

- a. Whether the mineral or minerals involved are available from other locations nearby or closer to the site or sites where the materials are needed.
- b. The degree and extent of the public interest in the extraction of the materials at issue.
- c. Whether the public interest in the specific material(s) is very high or relatively low.
- d. Market conditions related to the resource at issue in the specific location or area involved.
- e. The demand for the materials at issue.

E. Conditions. If the Planning Commission approves a special land 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
- 5. Traffic

Section 14.13 Cottage Industry Business

A Cottage Industry business may be allowed only as a special land use and includes an occupation or profession carried out by a member of

a family residing on the lot, which is clearly incidental and secondary to the principal residential use and does not involve the alteration of the structure or change the character thereof. The above requirements (as well as those listed below and in Section 3.21) must also be met to be considered a " Cottage Industry."

- A. No more than 25% of the gross floor area of the dwelling unit shall be utilized.
- B. A Cottage Industry may also be carried out in one separate unattached structure.
- C. Creates no nuisance or undue hazard due to heat, glare, noise, smoke, vibration, noxious fumes, odors, vapors, gases, or any other disturbances at any time resulting from such operation. In the case of electrical interference, no equipment or process shall be used that creates visual or audible interference in any radio or television off the premises or causes fluctuations in line voltage off the premises.
- D. There shall be no change in the exterior appearance of the dwelling or premises, or other evidence of the conduct of the " Cottage Industry" other than one non-illuminated sign not greater than 16 square feet in size relating to such occupation.
- E. Notice provisions regarding commercial property shall apply to uses under this Section.
- F. There shall be no exterior storage of materials, equipment, or products.
- G. Activities relating to the Cottage Industry must be carried on only by residents of the dwelling, plus not more than one nonresident.
- H. Provides adequate off-street parking, in addition to that required for the principal residence.
- I. Any such Cottage Industry is subject to periodic inspection by the Zoning Administrator of the Township.

Section 14.14 Communications Towers

Allowed in any zoning district (except L-R Lake Residential).

Communications towers may be allowed as a special land use in any zoning district if the Planning Commission determines that all of the following requirements are satisfied, in addition to the general standards for all special land uses.

Communications towers exceeding 50 feet in height shall also comply with all of the following requirements:

- A. Placement: Communications antennas and other such equipment shall be required to be located on an existing approved tower or other structure within a three (3) mile radius of the proposed tower unless one (1) or more of the following conditions exist:
1. The planned communications equipment would exceed the structural capacity of the existing tower, as documented by a qualified and registered professional engineer, and the existing tower cannot be reinforced, modified, or replaced so as to accommodate planned or equivalent equipment at a reasonable cost.
 2. The planned communications equipment would cause interference materially affecting the usability of other existing or planned equipment on or at the existing tower, as documented by a qualified and registered professional engineer, and such interference cannot be prevented at a reasonable cost
 3. Existing or approved towers within a three (3) mile radius cannot accommodate the planned communications equipment at a height necessary to function reasonably, as documented by a qualified and registered professional engineer.
 4. Other unforeseen conditions that make it unfeasible to locate the planned equipment upon an existing tower.
- B. Access by Other Users: Any proposed communications tower shall be designed, structurally, electrically, and in all other respects, to accommodate both the applicant's equipment and comparable

equipment for at least four (4) additional users. Towers shall be designed and constructed to allow for future rearrangement of equipment upon the tower and for the accommodation of equipment mounted at varying heights on the tower.

- C. Design: Towers shall be designed to blend into the surrounding environment through the use of color and architectural treatment, except in instances where color is dictated by state or federal authorities. Towers shall be of a monopole design unless Federal Communications Commission requirements or engineering requirements require an alternate design.
- D. Setbacks: All parts of the communications tower and associated structures and equipment placed on the ground shall comply with the following setback requirements:
 - 1. Except as noted under subsection 3, towers and associated equipment shall be located a minimum height of the tower from any property line or right of way
 - 2. Towers in Nonresidential Districts: Except as noted under subsection 3, any part of a tower and associated equipment shall be set back for a distance equal to the required setbacks for main buildings for the zoning district in which the tower is located, except that in all cases a tower and associated structures and equipment shall be located at least twenty-five (25) feet from any adjacent lot line or main building, and at least three hundred (300) feet from any residential zoning district, lot line or residential dwelling.
 - 3. Non-collapsible Towers: Towers that have not been designed and constructed to collapse in a downward, vertical fashion shall be set back from all property lines a distance of one (1) foot for each one (1) foot of height (tower and antenna combined). In no case however, shall said setback be less than as specified under subsections 1 and 2, above.

- E. Screening: The Planning Commission may require such towers and associated buildings, structures and equipment on the ground to be screened with landscaping, berms, fences, or a combination of these elements.
- F. Illumination and Advertising: Towers shall not be illuminated unless required by state or federal authorities. No signs or other advertising not related to safety or hazard warnings shall appear on any part of the tower or associated equipment or buildings.
- G. Abandonment: Towers that are abandoned or unused shall be removed, along with any associated structures, buildings or equipment, within twelve (12) months of the cessation of the operations, unless a time extension is granted by the Zoning Administrator. One three-month extension shall be permitted only if the Zoning Administrator finds that the owner or former operator of the facility is pursuing active measures to accomplish its removal.

MERRILL TOWNSHIP VS. YATES TOWNSHIP ZONING ORDINANCE CROSSWALK
ARTICLE 15 ~ SITE PLAN

Section 15.01 Purpose

- A. It is the purpose of this Article to achieve, through site plan review, safe and convenient traffic movement; harmonious relationships of buildings, structures, and uses; and the conservation of natural features and resources and the preservation of adjacent property values.
- B. The general and intensive use of the automobile requires careful study of the relationships between buildings, parking areas, streets, alleys, pedestrian walkways, traffic movements, and obstructions caused by uses that generate or attract traffic or that require parking. To ensure the safety, convenience, and well

§ 154.030 SITE DEVELOPMENT PLAN. (A) The general and intensive use of the automobile requires careful study of the relationships between buildings, areas for parking, driveways, streets, alleys, pedestrian walkways, traffic movements and obstructions caused by uses which generate or attract traffic or which requires parking. (B) To ensure the safety, convenience and well-being of the residents of the township and the public, the Planning Commission shall prior to the granting of a building permit, review a site development plan for all uses other than farms and one- or two-family homes. (C) Approval of a plan shall be subject to the following: (1) The Planning Commission shall determine that the proposed development is arranged: (a) To provide convenient and safe traffic circulation and parking in relation to streets, walkways and joining properties or parking areas; (b) To ensure adequate visual sight distance; (c) To

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| <p>being of the residents of Merrill Township and the public, the Planning Commission shall, prior to the granting of certain zoning approvals, review and consider a site plan. A preliminary site plan may be required at the option of the Planning Commission.</p> | <p>minimize conflicts of traffic on streets and the property involved; and (d) To protect the reasonable use of adjacent properties and to advance the safety, convenience and well being of adjoining property owners and the residents of the township. (2) The Planning Commission shall approve the designation of entries and exits, the direction of traffic flow on off-street parking areas and drives, the number and location of drives onto a public street and the use of existing drives on adjacent properties to decrease traffic congestion on streets. (3) Upon approval of the plan the Chairperson shall sign three copies thereof. One shall be kept by the Board, one by the Building Inspector and the third shall be returned to the applicant. (Ord.72-1 passed 5-2-1972)</p> |
| <p>Section 15.02 Uses Requiring Site Plan Approval</p> <p>The following buildings, structures, and uses require site plan approval:</p> <ul style="list-style-type: none"> A. All rezoning and conditional rezoning requests. B. All special land uses. C. All commercial, business, and office uses, including parking areas. D. Any land division or development involving the creation of 5 or more lots, parcels, or site condominium units. E. Any site condominium. F. Any Planned Unit Development (PUD). G. Any use requiring a site plan as specified elsewhere in this Ordinance. H. Any change to or expansion of any of the above uses. <p>No use, building, or structure requiring site plan approval shall occur or be commenced prior to site plan approval.</p> | |
| <p>Section 15.03 Site Plan Scale Requirements</p> <p>Each site plan shall have the date, north arrow and scale. The scale shall not be less than 1" = 20 feet for property under three acres and at least 1" =100 feet for property of three acres or more.</p> | |

Section 15.04 Site Plan Information Requirements

Three (3) copies of each site plan submitted to the Township shall contain all of the following information, unless specifically waived by the Planning Commission, in whole or in part:

- A. Location, shape, area, and dimensions of the property.
- B. Surrounding property uses and zoning districts.
- C. Public and private easements or rights-of-way located adjacent to the property and also located on the property or proposed for said property.
- D. Driveways, off-street parking areas, loading spaces and all other facilities to deal with traffic.
- E. Location and dimensions of all buildings, existing and proposed, number of floors and uses.
- F. Pedestrian walkways, fences, and landscaping.
- G. Existing and proposed water, sewer, and utility lines, including sites for solid waste pickup.
- H. The method of storage of any and all toxic materials to be stored, sold, or used on the premises.
- I. Location, height, and orientation of all signs.
- J. All major environmental features, including, but not limited to, wetlands, lakes, creeks, streams, major stands of timber and vegetation, steep slopes (over 18%) and rock outcroppings on and within 100 feet of said property.
- K. Such other information as is required by the Planning Commission.

Section 15.05 Review Procedure

The Planning Commission shall study the site plan and shall approve, approve with conditions, or disapprove said plan. After review, the Planning Commission, prior to making a final decision, may require more studies or reports to be provided by the applicant. These may include, but are not limited to, environmental impact studies, property valuation studies, traffic studies, or other studies or reports as required by the Planning Commission. If the site plan is rejected, the reasons for disapproval shall be stated. Upon approval of a site plan, three copies shall be signed and dated by the Chairman of the Planning Commission. One copy shall be kept on file by the Planning Commission, one by the Zoning Administrator, and one returned to the applicant. All findings of facts shall be made part of the public records of the meetings of the Planning Commission.

Section 15.06 Standards for Site Plan Review; Conditions

- A. The Planning Commission shall not approve a site plan unless it determines that the site plan is consistent with this Ordinance and in accordance with the Township land use plan and that all of the following standards will be met:
 - 1. That the movement of vehicular and pedestrian traffic within the site and in relation to access streets will be safe.
 - 2. That the site will be equal to or an improvement in relation to property in the immediate vicinity and to the Township as a whole.
 - 3. The proposed use will not cause undue congestion or cause an adverse environmental impact or in any way negatively affect the properties or aesthetic values of township residents.
 - 4. That the site plan will not overburden the Township's ability to provide public services, while at the same time

adequately providing for sewage collection and treatment, storm drainage, and parking.

5. That the site plan is adequate to provide for the health, safety, and general welfare of persons and property on the site and in the neighboring community.
6. That all uses, structures, and buildings comply with this Ordinance.
7. That the use is reasonable.
8. The use will not have unreasonable negative impacts upon adjoining properties and the general neighborhood.

B. Reasonable conditions may be attached to the approval of a site plan by the Planning Commission.

C. The conditions imposed with respect to the approval of a site plan shall be part of the record of approval and shall remain unchanged except by mutual agreement of the Planning Commission and the landowner, after a public hearing notice of which must be given in the same manner as the original hearing. The Planning Commission shall keep on record the conditions that are changed.

Section 15.07 Revocation

Every structure, building, land use, or activity covered by or subject to an approved site plan must fully comply at all times with that site plan. If a violation of the site plan (or any conditions of approval attached thereto) occurs, then the Planning Commission shall have the authority to revoke the approved site plan after reasonable notice has been given to the property owner or applicant and a hearing has been held pursuant to this Ordinance.

MERRILL TOWNSHIP VS. YATES TOWNSHIP ZONING ORDINANCE CROSSWALK
ARTICLE 16 ~ ZONING BOARD OF APPEALS

Section 16.01 Membership and Procedures

- A. The Zoning Board of Appeals for Merrill Township (“ZBA”) shall consist of three (3), five (5), or seven (7) members (with the specific number of members set by the Township Board) appointed by the Township Board, who shall serve terms of three (3) years, except for the liaison members who are also on the Planning Commission or Township Board, who shall serve only as long as they are members of those bodies. Membership shall be representative of the population distribution and of the various interests present in the Township.
- B. One (1) member of the Planning Commission shall be a member of the ZBA, while a member of the Township Board may be a member of the ZBA, and the remaining members shall be selected and appointed by the Township Board from the electors of the Township. A Township Board member may not be chairperson of the ZBA.
- C. Meetings shall be held at the call of the Chairperson, and at other times as the ZBA in its rules of procedure may specify. The Chairperson, or in his/her absence, the acting Chairman, may administer oaths and compel the attendance of witnesses.
- D. All meetings of the ZBA shall be open to the public. The ZBA shall maintain a record of its proceedings, which shall be filed in the office of the Township Clerk and shall be a public record.
- E. Alternates:
 - 1. The Township Board may appoint up to two (2) alternate members for the same term as regular members of the ZBA.
 - 2. An alternate member may be called to sit as a regular member of the ZBA to serve in place of a regular member for the purpose of reaching a decision in a case where

(A) Generally. The Board of Appeals shall consist of three members. (1) The first member shall be the Chairperson of the Planning Commission, the second shall be a member of the Township Board. The third shall be selected and appointed annually by the first two members from among the electors residing in the township. No elected officer of the township or employee of the township may serve simultaneously as the third member of the Board of Appeals.

the regular member has abstained for reasons of conflict of interest or is absent.

3. The alternate members of the ZBA may be called to sit as regular members of the ZBA, if a regular member is absent from one (1) or more meetings of the ZBA. An alternate member may also be called to serve in the place of a regular member for reasons of conflict of interest.
4. The alternate member having been called to serve on a case shall serve on that case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the ZBA.
5. The records maintained by the ZBA shall reflect the attendance and participation of an alternate member.

Section 16.02 Vacancies and Removal

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

A(3) Members of the Board shall be removable by the Township Board for non-performance of duty or misconduct in office upon written charges and after public hearing.

Section 16.03 Rules of Procedure

- A. The ZBA may adopt rules and regulations for the conduct of its meetings. The ZBA shall annually elect from its membership a Chairperson, Vice-Chairperson, Secretary, and other officers as deemed necessary. The ZBA shall not conduct business unless a majority of its members are present. The presence of a majority of its members shall constitute a quorum.
- B. The regular place and time of meetings of the ZBA may be established by the ZBA in its rules and regulations. Except as otherwise specified in the rules and regulations of the ZBA, the procedure in meetings of the ZBA shall be governed by Robert's Rules of Order.
- C. Minutes of proceedings shall be kept for all ZBA meetings. These minutes shall list the members absent and present and shall show the action taken by the ZBA, as well as the vote of each member upon each matter presented to the ZBA

(B) Powers of the Board. The Board shall act upon all questions as they may arise in the administration of the ordinance, including the interpretation of the zoning map. The Board may reverse or affirm, wholly or partly, or may modify any order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal was taken. It may issue or direct the issuance of a permit. It shall also hear and decide all matters referred to it or upon which it is required to pass under this chapter.

Section 16.04 Conflict of Interest

- A. A member of the ZBA shall not participate or vote with respect to a matter in which the member has a conflict of interest. Failure of a member to refrain from participating or voting in a matter in which the member has a known conflict of interest shall constitute misconduct in office. A conflict of interest exists whenever a member of the ZBA owns land within the Township, which is significantly affected by a matter presented to the ZBA, or a member has a direct financial interest in the matter presented to the ZBA. A conflict of interest may exist in other circumstances as well.
- B. The members of the ZBA should strive to avoid even the appearance of impropriety. Whenever a member of the ZBA has a conflict of interest or appears to have a conflict of interest with respect to a matter presented to the ZBA, the member shall state

on the record the nature of the conflict of interest, or the circumstances that exist that could be perceived to be a conflict of interest. If the member has a conflict of interest, the member shall not participate in the ZBA's consideration of the matter. If circumstances exist which could be perceived to be a conflict of interest, the member, after disclosure of these circumstances, may continue to participate in the ZBA's consideration of the matter if the member can be fair, objective and impartial, subject to the vote of the other members of the ZBA.

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

Section 16.05 Interpretations

The Zoning Board of Appeals shall have the power to hear and decide, in accordance with the provisions of this Ordinance, appeals involving interpretations of this Ordinance made by the Zoning Administrator, and may make decisions on any other questions on

which the ZBA is authorized to pass. In exercising all of its powers, the ZBA shall apply the standards of this section.

A. Text Interpretations: The ZBA may hear and decide upon appeals for the interpretation of the provisions of this Ordinance after the Zoning Administrator has rendered an interpretation. In deciding text interpretations, the ZBA shall be governed by the following such rules.

1. Text interpretations shall be narrow and address only the situation to be interpreted, be based on a thorough reading of this Ordinance and not have the effect of amending this Ordinance.
2. Interpretations shall give weight to practical interpretations by the Zoning Administrator if applied consistently over a long period of time.
3. Records shall be kept of all interpretations.
4. Where the intent of this Ordinance is unclear and the facts cannot be read to support only one interpretation, the benefit of the doubt shall go to the property owner.
5. Nothing contained in this section shall be construed to give or grant to the ZBA the power or authority to alter or change the language of this Ordinance.

B. Map Interpretations: When there is any question as to the location of any boundary line between Districts, upon an appeal involving an interpretation of the zoning map from a decision of the Zoning Administrator, the ZBA shall establish the boundary based upon the map and all available information relating thereto and shall establish the boundaries to carry out the intent and purposes of this Ordinance and the Master Plan.

C. Any appeal shall be filed in writing with the Township within 21 days of the date when the Zoning Administrator makes his/her interpretation

Section 16.06 Appeals

- A. Upon application, the ZBA shall hear and decide appeals from and review any order, requirements, decision or determination made by the Zoning Administrator or other official or body charged with the administration of this Ordinance. Any person aggrieved may make an appeal to the ZBA. The grounds of every appeal shall be stated in writing as part of the application.
- B. A written application for appeal shall be filed with the Township within 21 days after the date of the decision that is the basis of the appeal. The appealing party shall file the notice of appeal with the Township on the form required by the Township and pay the required fee or fees with the Zoning Administrator. The notice shall specify the nature and grounds of the appeal and the application fee or fees shall be submitted to the Township in an amount or amounts as established by the Township Board from time to time.
- C. The Zoning Administrator shall transmit to the ZBA all the papers constituting the record upon which the action being appealed was taken.
- D. An appeal stays all proceedings from furthering the action being appealed unless the Zoning Administrator certifies to the ZBA that a stay would, in their opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order which may be granted by the ZBA or by the Circuit Court.
- E. The ZBA shall fix a reasonable time for the hearing of the appeal, and give due notice to the applicant and all property owners and occupants within three hundred (300) feet of the subject property via a letter sent first class mail not less than fifteen (15) days before the public hearing the time and place of the hearing. Any party may appear in person or by agent. A public hearing notice shall also be published in a newspaper of general

(D) Appeals and procedure. Appeals may be taken to the Board by any party aggrieved by a decision or order of the Building Inspector where it is alleged that there is error or misinterpretation in any order, requirement, decision made by the Building Inspector or other administrative agency in the carrying out of the provisions of this chapter.

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| <p>circulation not less than fifteen (15) days before the public hearing.</p> <p>F. Following the public hearing, the ZBA shall decide the matter within a reasonable time. The ZBA may reverse or affirm, wholly or partly, or may modify the order requirement, decision or determination, and to that end, shall have all the powers of the Zoning Administrator and may issue or direct the issuance of a permit.</p> | |
| <p>Section 16.07 Variances</p> <p>A. Non-Use (Dimensional) Variances: The ZBA may authorize upon written application in specific cases variances from the terms of this Ordinance where, owing to special conditions related to the applicant's property, a literal enforcement of the provisions of this Ordinance would result in a practical difficulty to the applicant. A non-use/dimensional variance from the terms of this Ordinance shall not be granted by the ZBA unless and until a written application for a variance is submitted and the ZBA finds that all of the following standards are met:</p> <ol style="list-style-type: none"> 1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that does not apply generally to other properties in the same Zoning District. Exceptional or extraordinary circumstances or conditions include: <ol style="list-style-type: none"> a. Exceptional narrowness, shallowness or shape of a specific property on the effective date of this Article; b. By reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure; c. By reason of the use or development of the property immediately adjoining the property in question, whereby the literal enforcement of the | <p>(F) Variances. The Board, after public hearing, shall have the power to decide applications for variances as follows. (1) Where the literal enforcement of this chapter would involve practical difficulties or would cause undue hardship by reason of the exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographical conditions or other extraordinary situation of the premises or of the use of the premises immediately adjoining the premises in question. (2) Where there is practical difficulty or unnecessary hardship in meeting the strict letter of the ordinance so that the spirit of the ordinance may be observed, public safety secured and substantial justice done. (3) The condition or situation of the property or the intended use is not of so general or recurrent a nature as to make reasonably practical an amendment of the ordinance. (G) Variances prohibited. No variance shall be authorized unless the Board finds from reasonable evidence that purposes of the ordinance or the public health, safety and general welfare, and that two of the following facts and conditions exist: (1) There are exceptional or extraordinary circumstances or conditions applying to the specific property that do not apply generally to other properties in the district affected. (2) The variance is necessary for the preservation and enjoyment of substantial property right similar to that possessed by other properties in the district. Financial gain alone shall not be deemed sufficient to warrant the granting of a variance. Yates Township - Land Usage (3) The condition or situation of the property or the intended use is not of so general or recurrent a nature as to make reasonably practical an amendment of the ordinance. (H) Exceptional uses. (1) The Board shall determine whether the proposed exceptional use would be hazardous, harmful or a nuisance to the surrounding neighborhood by</p> |

requirements of this Ordinance would involve practical difficulties; or

d. Any other physical situation on the land, building or structure deemed by the ZBA to be extraordinary.

2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.
3. That the variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
5. The variance will not impair the intent and purpose of this Ordinance.
6. That the immediate practical difficulty causing the need for the variance request was not created by any affirmative action of the applicant or the applicant's predecessors in title.
7. That the reasons set forth in the application justifies the granting of the variance and that the variance is the minimum variance necessary.

B. Use Variances: Subject to other provisions of this Ordinance, the ZBA shall have the jurisdiction to decide applications for use variances. The ZBA shall not grant a use variance unless it finds that an unnecessary hardship will occur unless the variance is granted. Additionally, the ZBA shall not grant a use variance unless it also finds that all of the following standards below are met:

reason of increased noise, atmospheric or other pollution, vibration, glare, fire hazard, parking, traffic, aesthetic effect, devaluation of property values or psychological effects. (2) For that purpose, the Board may suggest to the applicant that he or she enlist experts to aid in its determinations. The Board may impose additional requirements and conditions necessary to preserve the intent of this chapter.

1. The variance request, if granted, will be the minimum variance (*i.e.*, the least variation or change from the particular requirement of the Ordinance involved) that will make possible the reasonable use of the land, structure, or building involved.
2. The granting of the variance will not be injurious or detrimental to neighboring properties or residents.
3. The variance will not be detrimental to the public welfare or change the essential character of the neighborhood.
4. The variance will not impair the intent or purpose of this Ordinance.
5. The problem or condition for which the variance is requested is not a self-created problem by the applicant or property owner (or their predecessors in title) as to the property involved.
6. The condition or situation involved is not of so general or recurrent a nature that it would be more reasonable or practical for the Township to amend the provision of the Ordinance involved rather than to grant a variance for the condition or situation.
7. There are exceptional, unique, or extraordinary physical conditions or circumstances that directly relate to the property itself (including the land or a structure or building thereon) rather than the individual situation or desire of the applicant or property owner. In other words, the problem or exception or extraordinary circumstances or conditions must be inherent in the land, structure, or building involved.
8. The variance must be necessary for the preservation and enjoyment of a substantial property right, which is similar to that possessed by other properties in the same zoning district and vicinity. (NOTE-a possible increased financial return shall not, of itself, be deemed sufficient to warrant a variance.)

9. The property cannot be reasonably used as currently zoned.

10. As specified above, the ZBA must also find that unnecessary hardship will occur if a use variance is not granted.

No use variance shall be granted unless at least two-thirds (2/3) of all members of the ZBA vote in favor of such use variance. Furthermore, before the members of the ZBA may vote on a given use variance request, the matter shall be referred to the Planning Commission. The Planning Commission shall be asked for its recommendation regarding the proposed use variance request. The ZBA may take final action regarding such a use variance request once the Planning Commission has forwarded its recommendation on the particular use variance request to the ZBA or 45 days has elapsed since the referral to the Planning Commission, whichever occurs first.

C. The ZBA may attach reasonable conditions to the granting of any variance.

Section 16.08 Applications and Hearings

- A. Applications for variances shall be submitted to the Zoning Administrator who will review the application for completeness and validity, then transmit it to the Zoning Board of Appeals when complete. Applications not meeting the requirements shall be returned to the applicant for completion.
- B. A valid application for a variance to the ZBA shall consist of all of the following:
 - 1. Ten (10) copies of a site plan drawn to scale, which is sufficient to describe the nature of the request.
 - 2. A completed application form as provided by the Township.
 - 3. Payment of the application fee or fees, in accordance with a fee schedule, as determined by the Township Board from time to time.
 - 4. An escrow deposit where applicable.
 - 5. A legal description and/or parcel number of the entire property that is the subject of the request.
 - 6. A statement with regard to compliance with the standards of this Ordinance, as applicable.
 - 7. Other materials as may be required by the ZBA or the Township.
- C. A public hearing shall be held and noticed pursuant to this Ordinance.

(E) Hearings. Procedure for scheduling public hearings. (1) When application for hearing or appeal has been filed in proper form and the required fee paid, the Secretary of the Board shall immediately place the same upon the calendar for hearing and serve required notices. (2) Notice shall be published once in a newspaper of general circulation in the township at least five days prior to the hearing. (3) Copies of the notice shall be served upon the applicant and the Building Inspector or other administrative officer from which the appeal is taken. Service shall be made as provided in the following division. (4) A like notice shall be sent at least five days prior to the hearing to all owners of property within 300 feet of the premises involved by regular U.S. mail, with proof of posting, postage prepaid, and addressed to the last known address of the owners as determined by township records. (5) Any interested party may appear and be heard at the hearing in person or by agent or attorney. (6) Upon the date for hearing of any application or appeal, the Board may adjourn the hearing to a specified time and date in order to permit the obtaining of additional information or to cause further notices to be served. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the resumption of the hearing unless the Board decides otherwise.

Section 16.09 Decisions of the ZBA

- A. The concurring vote of a majority of the members of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or body or to decide in favor of the appellant on any matter. The ZBA shall render its decision upon any appeal or application submitted to it within a

(7) Decisions: (a) The Secretary shall record the grounds for each decision. The Board shall render its decision upon any matter within 60 days after the matter is heard; (b) Two members shall constitute a quorum. The concurring vote of two members shall be required to reverse the determination appealed from; (c) The Secretary shall keep minutes of the Board's proceedings. He or she shall record the vote of each member. He or she shall record the grounds for the decision of the Board; and (d) A copy of each decision shall be sent to the

reasonable time after the hearing thereon. However, no use variance shall be granted unless at least two-thirds (2/3) of all of the members of the ZBA vote in favor thereof.

- B. The ZBA may require a performance guarantee or guarantees and/or impose reasonable conditions in conjunction with the approval of an appeal, variance, or any other decision that it is required to make. Conditions shall be imposed in a manner in accordance with the Zoning Act and be related to the standards by which the decision is reached.
- C. All decisions of the ZBA shall become final at the entry of an order, or at the adoption of the minutes, unless the ZBA shall find, and so certify on the record, that it is necessary to cause the order to have immediate effect, in order to preserve property or personal rights.
- D. For each decision of the ZBA, a record shall be prepared including at a minimum, the following items:
 - 1. Description of the applicant's request.
 - 2. The ZBA's motion and vote.
 - 3. A summary or transcription of all competent material and evidence presented at hearing.
 - 4. Any conditions attached to an affirmative decision.
- E. The decision of the ZBA shall be final. However, a party aggrieved by the decision of the ZBA may appeal to the Circuit Court. Upon appeal, the Circuit Court shall review the record in accordance with the requirements of the Zoning Act. The court may affirm, reverse, or modify the decision of the ZBA, or may remand the decision to the ZBA for further hearings or action.
- F. Period of Validity. No variance granted by the ZBA shall be valid for a period longer than twelve (12) months, from the date of its issuance if not used. However, the applicant may, upon written request, seek up to one (1) twelve (12) month extension of the variance from the ZBA. The ZBA may grant an extension provided that the original circumstances authorizing the variance have not

Building Inspector, Planning Commission and the application. No building permit shall be issued by the Building Inspector until he or she has received the decision.

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| <p>changed and that the circumstances creating the need for the extension were reasonably beyond the control of the applicant.</p> | |
| <p>Section 16.10 Performance Guarantee</p> <p>The Zoning Board of Appeals may require a performance guarantee or guarantees to ensure compliance with any conditions associated with the granting of a variance.</p> | |
| <p>Section 16.11 Resubmission</p> <p>No variance request (or similar request) that has been decided by the ZBA shall be submitted for reconsideration within a one (1) year period from the date of the original application unless the ZBA finds that at least one of the following conditions exists:</p> <ul style="list-style-type: none"> A. That the conditions involving all of the reasons for the original denial have been significantly altered; or B. That new conditions or circumstances exist which change the nature of the original request | |
| <p>Section 16.12 Lack of Jurisdiction</p> <p>The ZBA is without jurisdiction to hear any appeals or matters involving any of the following:</p> <ul style="list-style-type: none"> A. A planned unit development (PUD). B. A special land use. C. Site plan decisions. <p>Notwithstanding the fact that the ZBA generally has no jurisdiction with regard to the above-mentioned matters, the ZBA shall have jurisdiction to entertain variance requests related to subsections A, B, and/or C above, if the Township body which makes the final decision regarding the matter (for example, the Township Board with regard to a PUD or the Planning Commission with regard to a special land use) expressly grants written permission to the landowner or applicant involved to apply to the ZBA for a variance of one or more of the</p> | |

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| <p>underlying requirements of the Zoning Ordinance. For example, but not by way of limitation, the Planning Commission could approve a particular special land use request contingent upon the ZBA granting a variance for an otherwise applicable requirement within the Ordinance which would normally prohibit the applicant or landowner from taking advantage of a special land use approval absent a variance.</p> | |
| <p>Section 16.13 Termination/Revocation of a Variance</p> <p>In the event that the ZBA grants a variance, the individual or successor in interest as to the property involved shall not use the property in question such that it would exceed the rights given by the Zoning Ordinance or the variance or fail to follow any conditions placed thereon by the ZBA. In the event that the use of the property exceeds those rights given by the Zoning Ordinance or the variance, or the property owner fails to follow the conditions placed upon the variance, the variance shall immediately terminate. Alternatively, in such case, the ZBA shall also have the authority to terminate or revoke a variance after reasonable notice and hearing pursuant to this Ordinance.</p> | |
| <p>Section 16.14 No Advisory Opinions</p> <p>The ZBA shall not give advisory, informal, or hypothetical opinions or decisions.</p> | |

MERRILL TOWNSHIP VS. YATES TOWNSHIP ZONING ORDINANCE CROSSWALK
ARTICLE 17 ~ ADMINISTRATION & ENFORCEMENT

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|---|----------------|
| <p>Section 17.01 Zoning Administrator</p> <p>The provisions of this Ordinance shall be administered, interpreted and enforced by the Zoning Administrator, who shall be appointed by the Township Board.</p> | <p>154.086</p> |
| <p>Section 17.02 Duties of the Zoning Administrator</p> <p>A. This Ordinance shall be administered, interpreted and enforced by the Zoning Administrator who shall, in no case, issue any permit nor grant any occupancy permit where the proposed structure, alteration, or use would be in violation of any provisions of this Ordinance, except under written order of the Zoning Board of Appeals or a court of competent jurisdiction. The Zoning Administrator shall interpret and enforce the Zoning Ordinance. The Building Inspector shall administer applicable building codes and shall issue Building Permits once a land use permit has been issued by the Zoning Administrator.</p> <p>B. Violations. The Zoning Administrator shall investigate any alleged violation of this Ordinance coming as may be discovered. If a violation is found to exist, the Zoning Administrator shall serve written notice upon the owner to cease said violation as provided by law. If said owner fails to act diligently to correct such violation, the Zoning Administrator shall serve notice upon the owner, notify the Township Board, and prosecute (or issue and pursue municipal civil infraction citations/tickets) such violator to terminate said violation before a court of proper jurisdiction.</p> <p>C. Inspections. The Zoning Administrator shall make periodic inspections of the Township to ascertain that all the requirements of this Ordinance are being complied with.</p> <p>D. Records. The Zoning Administrator shall keep records of all inspections, applications and permits issued, with a notation of all special conditions involved. He/she shall file and safely keep</p> | |

copies of all plans, other than for single-family dwellings, and records of all fees submitted with applications. The same shall form a part of the records of the Township and shall be available to the Township Board and all other officials of the Township.

Section 17.03 Zoning Permits

- A. No structure or part thereof shall be constructed, reconstructed, erected, moved, enlarged, or altered, nor shall any use or activity on any property be commenced or changed to another use, until a zoning permit has been issued by the Zoning Administrator. Application for a zoning permit shall be filed by the owner or an agent of the owner and it shall state the intended use of the structure and of the land. The application shall be accompanied by building plans and specifications, a plot plan, a site plan where required, and such other information as may be necessary to provide for the enforcement of this Ordinance.
- B. The Zoning Administrator may require plans drawn to scale and shall show all dimensions in figures. Plans shall be signed by the person preparing them and by the owner of the property or building involved. A fee as established by the Township Board from time to time to defray the costs of administration and inspections shall accompany any plans or applications for a zoning permit or building permit. The Zoning Administrator may impose or attach reasonable conditions to a zoning permit.
- C. A zoning permit shall only be issued if the plans and intended use conform in all respects to the provisions of this Ordinance. All zoning permits shall expire one (1) year from their date of issuance unless extended by the Zoning Administrator.
- D. A copy of all approved permits shall be sent to the Assessor.
- E. A zoning permit shall not be issued until the owner verifies that the lot involved has been created in conformance with this Ordinance.
- F. The zoning permit and building permit shall be displayed so as to be visible at the site where authorized action is being undertaken.
- G. Every use, building and structure must comply with its zoning permit.

(A) Building permit required. (1) No person shall commence construction of any building or structure or make structural changes in any existing structure without first obtaining a building permit from the Building Inspector. (2) The Building Inspector shall not issue a building permit for the construction, alteration or remodeling of any structure until an application has been submitted showing that the proposed construction complies with the Building Code. (B) Administrative officials. Except as otherwise provided, the Building Inspector shall administer and enforce this chapter. (C) Application. Every application for a building permit shall be made as required by the Building Code and shall designate the existing or intended use of the structure. (1) The application shall be attached to two permanent scale drawings showing the actual lines, angles and dimensions of the lot to be used and the size and location upon the lot of all existing and proposed structures. The application shall contain such other information with respect to the proposed structure, the lot and adjoining property as may be required by the Building Inspector. (2) One copy of plans and specifications shall be retained by the Building Inspector. The other copy shall be delivered to the applicant upon issuance of a building permit. (3) The Building Inspector may, upon approval of the Planning Commission, waive portions of the foregoing requirements which are not necessary under the particular circumstances for compliance with this chapter. (4) Any building permits shall be displayed within 24 hours of issuance by placing the same face out in a conspicuous place on the premises facing the nearest street. The permit shall be displayed until all work is completed or the term for which the permit is issued expires. (4) The Building Inspector shall send a copy of the permit to the Clerk.

Section 17.04 Certificate of Occupancy

No land shall be used and no building hereafter erected or altered shall be occupied or used for any purpose until a Certificate of Occupancy shall have been issued by the Building Inspector stating that the premises or building complies with the provisions of approved plans and all Ordinances of the Township. Where any special land use, variance or site plan review conditions are applicable, said conditions shall be stated on the Certificate of Occupancy. A record of all Certificates of Occupancy shall be kept on file in the Township. A copy also shall also be sent to the Township Assessor. Where a Building Permit is not involved, the Zoning Administrator shall issue a Zoning Permit. Said permit may be in the form of a letter or such instrument as determined by the Township Board to be fulfill the requirements of this section. No Certificate of Occupancy shall be issued where the structure or lot involved is in violation of this Ordinance, any other Township ordinance or any state or county law or regulation.

(D) Certificate of occupancy. No land shall be used and no structure erected or altered until a certificate of occupancy is obtained from the Building Inspector. A record of all the certificates shall be kept by the Building Inspector. A copy of all the certificates shall be sent to the Township Clerk.

Section 17.05 Ordinance Amendments

This Zoning Ordinance may be amended at any time pursuant to the procedures of the Zoning Act, as amended, or its successor legislation.

A. Initiation

1. An amendment to the Zoning Map, which is a part of this Ordinance, may be initiated by the Township Board or Planning Commission on a motion by either body, or by a verified application of one (1) or more of the owners or lessees of property within the area proposed to be changed, or by a person authorized in writing by the property owner to submit such application.
2. An amendment to the text of the Zoning Ordinance may be initiated by the Township Board or Planning Commission on a motion by either body or by a verified application of any person affected by the provision requested to be changed.
3. The Planning Commission has the discretion not to pursue a text amendment submitted by a citizen.

B. Procedure for Changes

1. Applications for Zoning Ordinance map or text amendments shall be submitted to the Planning Commission upon forms supplied by the Township, along with the following information or materials:
 - a. A legal description of the property to be affected by a proposed change to the Zoning Map; or a typewritten copy of the proposed text amendment, including specific references to the portions of the existing Ordinance section and language.
 - b. A drawing or map showing, at a suitable scale, the property to be changed by an amendment to the Zoning Map and the location of properties within

three hundred (300') feet of the property affected by such amendment.

c. Payment of a fee or fees, in accordance with a fee schedule, as determined by the Township Board from time to time.

2. Before submitting its recommendation to the Township Board, the Planning Commission shall hold at least one (1) public hearing, notice to be given in accordance with the requirements of the Zoning Act.

3. The Planning Commission shall transmit a summary of comments received at the public hearing, along with the recommendation of the Planning Commission, to the Township Board. The Township Board may hold additional hearings if it considers it necessary. The notice for such hearing to be the same as required by the Planning Commission public hearing for the same matter.

C. Resubmission. Whenever a proposed zoning map or text change has not been approved by the Township Board, the Planning Commission shall not reconsider such map or text change for at least one (1) year following the date of the original application unless the Planning Commission finds that at least one of the following conditions exist:

1. That the conditions involving all of the reasons for the original denial have been significantly altered.

2. That new conditions or circumstances exist that change the nature of the original request.

Section 17.06 Fees, Escrow Charges and Expenses

A. Except as may be provided for otherwise in this Ordinance, the Township Board shall determine and set fees to be collected for all applications for zoning matters, permits, and approvals. These fees shall be collected prior to any permit or certificate being

issued or any zoning approval, and other official actions required by this Ordinance. No application shall be considered complete until all applicable fees have been paid to the Township. Furthermore, Township employees and officials shall not commence work on a given zoning application or matter until any and all fees have been paid to the Township in full. The fee schedule shall be that adopted by resolution of the Township Board as amended from time to time.

- B. In addition to regularly established or fixed fees, the Township Board at its discretion may also require an applicant to submit to the Township, at any time during the zoning review process, an amount of money determined by the Township to be a reasonable estimate of the fees and costs which may be incurred by the Township in reviewing and acting upon any such application or related matters. Such costs and expenses to be charged or assessed to the applicant for reimbursement of the Township's reasonable costs and expenses, may include, but shall not be limited to, Township attorney fees, Township engineering fees, costs and fees for services of outside consultants, fees and expenses of other professionals who may assist the Township, costs and fees for studies and reports pertaining to the matters in questions, significant Township employee time, special meeting costs, and other reasonable costs and expenses. Such monies shall be retained by the Township for reimbursement of such costs and expenses. Any monies paid or deposited by an applicant which are not used or spent by the Township pursuant to an escrow fee shall be refunded. If, for some reason, the applicant does not pay, or the Township does not collect, zoning escrow fees during the zoning review process, the Township can still bill such costs and expenses to the applicant after the zoning review process has been completed and the applicant or landowner shall promptly pay/reimburse the Township for the same.

Section 17.07 Stop Work Orders

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

Section 17.08 Enforcement

- A. No property, premise, lot, structure, building, or use shall be used, erected or conducted in such a manner so as to violate this Ordinance or to cause a nuisance to adjacent property or uses. Any structure, building, lot, or use that violates any provision or this Ordinance (or any permit or approval issued pursuant to this Ordinance) shall be deemed to be a nuisance *per se*.
- B. Any building or structure which is erected, moved, placed, reconstructed, demolished, extended, enlarged, altered, maintained or changed in violation of any provision of this Ordinance (or any permit or approval issued pursuant to this Ordinance) is hereby declared to be a nuisance, *per se*.
- C. A violation of this Ordinance (or any permit or approval issued pursuant to this Ordinance) constitutes a municipal civil infraction offense. Any person or firm who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any

amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a municipal civil infraction.

- D. A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than \$50 nor more than \$500 for the first offense and not less than \$100 nor more than \$2,500 for subsequent offenses, in the discretion of the Court, and such fine shall be in addition to all other costs, attorney fees, damages, expenses, and other remedies as provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible, provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall all be considered separate first offenses.
- E. The Township Board, the Zoning Administrator, or their duly authorized representative(s) are hereby charged with the duty of enforcing the Ordinance and are hereby empowered to commence and pursue any and all necessary and appropriate actions and/or proceedings in the District Court (including municipal civil infraction proceedings) or Circuit Court of Newaygo County, Michigan, or any other Court having jurisdiction, to restrain and/or prevent any noncompliance with or violation of any of the provisions of this Ordinance, and to correct, remedy and/or abate the noncompliance or violation.
- F. The rights and remedies provided to the Township herein are cumulative and in addition to other remedies provided by law.

Section 17.09 Performance Guarantees

- A. As a condition of approval of a site plan review, special land use, PUD, Zoning Agreement, Zoning Permit, variance, or other approvals authorized by this Ordinance, the Township Board, Planning Commission, Zoning Board of Appeals, or Zoning Administrator may require a performance guarantee or guarantees of a sufficient sum to assure compliance with this Ordinance, to assure compliance with a condition of approval or a permit, and to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development.
- B. The features or components, hereafter referred to as "improvements," may include, but shall not be limited to, survey monuments and irons, streets, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, paving, driveways, utilities, and similar items.
- C. Performance guarantees shall be processed in the following manner
 - 1. Required Improvements:
 - a. Prior to the issuance of a Building Permit, Zoning Permit, or other approval or permit, the applicant or their agent shall submit an itemized cost estimate of the required improvements that are subject to the performance guarantee, which shall then be reviewed and approved by the Zoning Administrator.
 - b. The amount of the performance guarantee shall be not more than one hundred and ten percent (110%) of the cost of purchasing of materials and

installation of the required improvements, including the cost of necessary engineering and inspection costs and a reasonable amount for contingencies.

- c. The required performance guarantee shall be payable to the Township and may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety guarantee acceptable to the Township.
- d. The Zoning Administrator shall not issue a Zoning Permit until all final plans, development agreements, escrow fees and any required performance guarantees are provided.
- e. The Zoning Administrator, upon the written request of the obligor, shall (where feasible) rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. A portion of the performance guarantee shall be rebated in the same proportion as stated in the itemized cost estimate for the applicable improvements.
- f. When all of the required improvements have been completed, the obligor shall send written notice to the Zoning Administrator of completion of the improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections.
- g. If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that

portion sufficient to secure completion of the improvements not yet approved.

h. The Zoning Administrator shall maintain a record of required performance guarantees.

2. Compliance with Conditions:

a. As a condition of approval of a site plan, special land use, conditional rezoning, PUD, Zoning Permit, variance, or other approvals authorized by this Ordinance, the Township Board, Planning Commission, Zoning Board of Appeals, or Zoning Administrator may require a performance guarantee or guarantees to ensure compliance with the approval and any conditions attached thereto.

b. A required performance guarantee or guarantees shall be payable to the Township and shall be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety guarantee with the amount, form, financial institution, and language acceptable to (and approved by) the Township.

c. The Zoning Administrator shall not issue a Zoning Permit or other permit or approval until all required fees and performance guarantees are provided to the Township.

d. The Zoning Administrator shall maintain a record of required performance guarantees pursuant to this subsection.

Section 17.10 Zoning Agreements; Conditional Rezoning

A. The Township Board recognizes that there are certain instances where it would be in the best interest of Merrill 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.

Therefore, it is the intent of this section 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. These provisions shall be in accordance with the provisions of the Zoning Act, as amended.

B. The following definitions shall apply to this section:

1. Rezoning Offer - shall mean 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.
2. Zoning Agreement - shall mean a written agreement offered by the applicant and approved and executed by the applicant and the Township and recorded with the Newaygo County 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 Ordinance.

C. Eligibility: An applicant for rezoning may submit a proposed Zoning Agreement with an application for rezoning.

D. Zoning Agreement

1. 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:
 - a. 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.

- b. 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.
 - c. The property shall not be developed and/or used in any manner that is not consistent with the Zoning Agreement.
 - d. 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.
 - e. If a rezoning with a Zoning Agreement becomes void in accordance with the Zoning Act, 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.
2. 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.

3. 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.

E. Rezoning Offer

1. 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 the Zoning Ordinance of Merrill Township be allowed unless a variance has been previously granted by the ZBA pursuant to the requirements of Article 18.
2. Any uses proposed as part of a Zoning Agreement that would otherwise require approval of a special land use permit and/or site plan shall be approved as required in this Ordinance prior to establishment of or commencement of development of the use.

F. Procedure for Application, Review and Approval

1. An application for rezoning shall be the same as specified in the Zoning Act. 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.
2. 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.
3. The Zoning Agreement shall be reviewed by the Township Attorney prior to the required Planning Commission public hearing. The Township Attorney shall determine that the Zoning Agreement conforms to the requirements

of this section and the Zoning Act, as amended, and shall confirm that the Zoning Agreement is a form acceptable for recording with the Newaygo County Register of Deeds.

4. An escrow fee deposit may be required by the Township to cover any and all costs incurred for addressing the Zoning Agreement request.

G. Approval

1. 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. The Township Clerk shall maintain a listing of all properties subject to Zoning Agreements and shall provide copies of the Agreements upon request.
2. 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 the Zoning Ordinance.
3. The approved Zoning Agreement shall be recorded with the Newaygo County Register of Deeds by the applicant with proof of recording provided to the Township.
4. Prior to development, a site plan shall be approved in accordance with this Ordinance, if otherwise required.

H. Continuation

1. 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.

2. 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.

Amendment

3. During the initial two (2) 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.
4. The Zoning Agreement may be amended after the expiration of the initial two (2) year period and any extensions, in the same manner as was prescribed for the original rezoning and Zoning Agreement

Section 17.12 Notice and Hearings

Except where expressly stated otherwise in this Ordinance, whenever a public hearing on a zoning application or matter is required by this Ordinance or by the Zoning Act (for example, where a rezoning, ordinance amendment, conditional rezoning, special land 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. For applications involving the rezoning of ten (10) or fewer adjacent properties; for applications to the ZBA; and for all planned unit development and special land use applications, a notice of public hearing shall be mailed by way of U.S. first class mail or be personally delivered to the following persons, at least 15 days prior to the date of the public hearing:
 - 1. The applicant;
 - 2. All persons to whom real property is assessed for property tax purposes within 300 feet of the property that is the subject to the application;
 - 3. The occupants of all dwellings within 300 feet of the property that is the subject of the application; and
 - 4. All neighborhood organizations, public utility companies, railroads, and other persons that have requested to receive notice.

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 eleven (11) or more adjacent properties are being proposed for rezoning.
3. A statement of where and when the application or request will be considered.
4. Indicate where and when written comments will be received concerning the application or request.

Section 17.13 Time Limits

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

Section 17.14 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 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 land use requests, site plan review, Zoning Permits, and any other zoning or building code action.

Section 17.15 Surveys

The Zoning Administrator or Building Inspector shall have the authority to require that an applicant or property owner provide the Township with a current survey by a registered surveyor or engineer for one (1) or more boundary or property lines of the lot or parcel involved (including providing a sealed survey drawing by such professional surveyor or engineer and with property boundaries staked by such professional) if the Zoning Administrator or Building Inspector determines that it is reasonably necessary in order for the Township to determine whether the zoning setback, area, and other applicable requirements are met. The Zoning Administrator or Building Inspector may also require that the professional surveyor or engineer place stakes at specified relevant areas along the property line(s) and any setback lines or building envelopes. All surveying costs shall be paid for by the applicant or property owner.

Section 17.16 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 Permit, then the Township body, board, or official that granted the zoning approval or permit may terminate the zoning approval or Zoning Permit. Where a special land 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.

MERRILL TOWNSHIP VS. YATES TOWNSHIP ZONING ORDINANCE CROSSWALK
ARTICLE 18 ~ AMENDMENTS AND REZONINGS

Section 18.01 Amendments

Any amendment to this Ordinance (including rezoning) shall be done pursuant to the requirements of the Michigan Zoning Enabling Act (MCL 125.3101 *et seq.*), as amended.

§ 154.087 AMENDMENT AND ADOPTIONS. (A) Procedure. Any interested person or public body may request the Planning Commission to schedule a public hearing for amendments of this chapter. (B) Notices. (1) The Planning Commission shall authorize the publication of the proposed amendment upon payment of the required fees. (2) The Planning Commission shall set a time and place for at least one public hearing notice of which shall be given as provided by law. (C) Decision. (1) The Planning Commission shall forward its decision and the proposed amendment to the County Planning Department and the Township Board with its recommendation for approval or denial. (2) Determination: (a) The Township Board shall set a date for the consideration of the proposed amendment upon receipt of the decision of the County Planning Department or upon the expiration of 30 days from the date the amendment was forwarded to the body; and (b) If the Township Board shall deem any amendments advisable as to the proposed text, it shall refer the same to the Planning Commission or a report thereon within the time specified by the Township Board. (D) Adoption. (1) The Township Board may adopt the amendment at any regular meeting or at any special meeting called for that

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| | <p>purpose with or without amendments that have been previously considered by the Planning Commission at a public hearing. (2) A majority vote of the members of the Township Board shall be required to adopt any amendment. (3) Amendments shall be effective upon adoption by the Township Board and shall be published in a newspaper of general circulation in the township within ten days after adoption.</p> |
| <p>Section 18.02 Severability</p> <p>If any provision of this Ordinance or the application thereof to any person, property, or circumstance shall be found to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions of this Ordinance and the balance of this Ordinance shall remain unaffected and in full force and effect.</p> | |
| <p>Section 18.03 Repeal</p> <p>When effective, this Ordinance shall repeal the prior Merrill Township Zoning Ordinance, as amended.</p> | |
| <p>Section 18.04 Effective Date</p> <p>This Ordinance (and the new Zoning Map) shall become effective upon the expiration of seven (7) days after publication as provided by law.</p> | |