

West Branch Township Planning Commission

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# WEST BRANCH TOWNSHIP ZONING ORDINANCE

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Ogemaw County, Michigan

*Effective December 16, 2005*

*Revised January 17, 2017*

*[www.westbranchtownship.org](http://www.westbranchtownship.org)*

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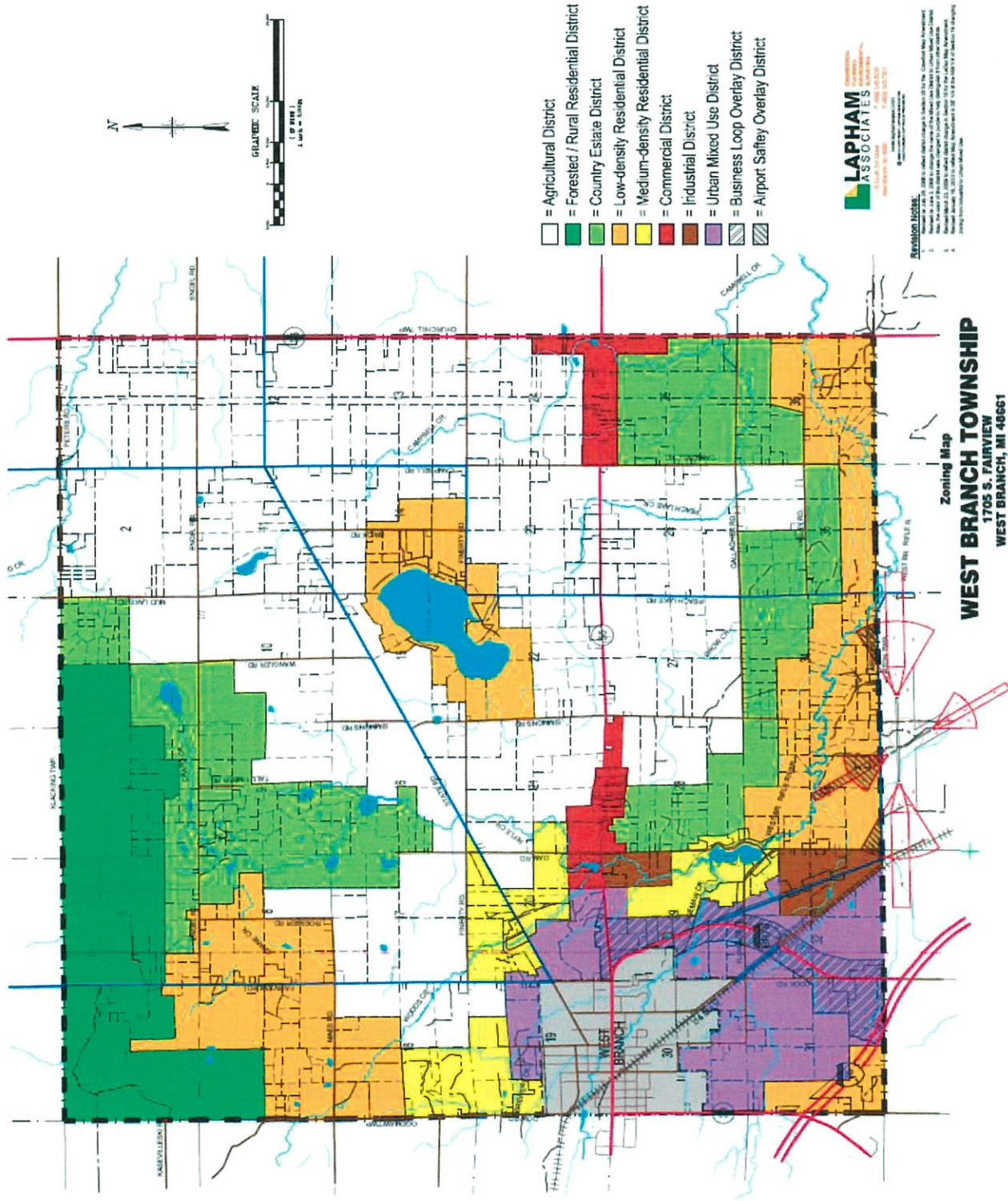
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# ZONING DISTRICT MAP



**ZONING ORDINANCE FOR WEST BRANCH TOWNSHIP  
OGEMAW COUNTY, MICHIGAN**

**CHAPTER 1 PREAMBLE**

SECTION 1.1 TITLE

This Ordinance shall be known as the “Zoning Ordinance for West Branch Township” and shall be referred to as “this/the Ordinance.”

SECTION 1.2 PURPOSE

This Ordinance is based on the West Branch Township Master Plan and is designed to be the primary means for its implementation. It sets forth regulations for the uses of land, structures, and natural resources of the Township and for development, redevelopment or restoration of all property by establishing requirements requisite to proper land use. This Ordinance, along with the Zoning Map, delineate allowed land uses and their restrictions within the Township. The Zoning Ordinance and the Zoning Map are organized into ten basic zone areas:

- Agricultural District
- Forested / Rural Residential District
- Country Estate District
- Low-density Residential District
- Medium-density Residential District
- Commercial District
- Industrial District
- Urban Mixed Use District
- Business Route I 75 Overlay District
- Airport Safety Overlay District

In the Ordinance each district, except the overlay districts, is divided into six parts that provide regulations for each:

- Purposes;
- Permitted and Conditional Uses;
- Development Standards;
- Performance Standards;
- Accessory Structures and Uses;
- Miscellaneous Regulations.

The objectives of the West Branch Township Ordinance are:

- A. To promote the public health, safety, and general welfare;
- B. To ensure that land uses shall be in appropriate locations and in proper relationships with other uses;
- C. To provide for open spaces in order to prevent the overcrowding of land and congestion of population, transportation, and public facilities;

- D. To provide for adequate and efficient transportation, sewage disposal, water, and energy systems, and for recreation, public safety, and other public service and facility needs;
- E. To cause and perpetuate the wise use of lands and natural resources in accordance with their character and their adaptability to development or not;
- F. To eliminate the improper use of land;
- G. To effect the proper and orderly development of the Township; and
- H. To accomplish the goals and objectives of the Township's Master Plan.

To meet these objectives, West Branch Township is divided into districts of such number, shape and area, and of such common purpose, adaptability or use, that are deemed most suitable to protect the common rights and interests within each district and the Township as a whole, to preserve the property owners' rights to the use of their lands, and to promote quality of life and business vitality.

The regulations of this Ordinance accomplish the purpose and objectives as outlined above by providing for land uses within each district, by acknowledging the unique impacts of special land uses through specific standards for their development in appropriate locations within selected districts; by promoting quality development by limiting the location, height, bulk, occupancy and uses of buildings and other structures by defining maximum residential density and specifying the percentage of a site available for building by providing for basic site design standards to ensure that land is developed in a functional and aesthetic manner, and by requiring various setbacks from property lines and public street rights-of-way.

#### SECTION 1.3 SCOPE

- A. Where any condition imposed by any provision of this Ordinance upon the use of any lot, building, or structure is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this Ordinance, the provision which is more restrictive or which imposes the higher standard or requirement shall govern.
- B. This Ordinance shall not abrogate or annul any easement, covenant, or other private agreement. Where any provision of this Ordinance is more restrictive or imposes a higher standard or requirement than such easement, covenant, or other private agreement, the provision of this Ordinance shall govern.
- C. Zoning applies to every building, structure, or use. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged, or altered, except in conformity with this Ordinance.
- D. No setback area or lot existing at the time of adoption of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards, lots, or setback areas, created after the effective date of this Ordinance shall meet at least the minimum requirements established herein.
- E. Unless otherwise provided for by this Ordinance, any conditions attached to a lot as a result of public action taken pursuant to the application of this Ordinance shall remain in effect even though said lot may change ownership.
- F. The regulations herein established shall be minimum regulations for promoting and protecting the public health, safety, and welfare.

- G. Illegal uses under current Ogemaw County rules, ordinances, and regulations shall remain so under this Ordinance and shall not become non-conforming uses unless such illegal use is now allowed in the district in which it is located. An agreement entered into with Ogemaw County in regard to such a use shall remain in effect and may be enforced jointly by the Township and the County. No property in the township shall be used for any illegal use under applicable township, county, state or federal law.

#### SECTION 1.4 AUTHORITY

This Ordinance is enacted in accordance with Public Act 110 of 2006, The Michigan Zoning Enabling Act, as amended.

#### SECTION 1.5 VALIDITY AND SEVERABILITY

This Ordinance and the various parts, subsections, paragraphs, sentences, phrases, and clauses thereof are hereby declared to be severable. If any court of competent jurisdiction shall declare any part of this Ordinance to be invalid, such ruling shall not affect any other provisions of the Ordinance not specifically included in said ruling. Further, if any court of competent jurisdiction shall declare invalid the application of any provision of this Ordinance to a particular lot, use, building, or structure, such ruling shall not affect the application of said provision to any other lot, use, building, or structure not specifically included in said ruling.

#### SECTION 1.6 EFFECTIVE DATE

This Ordinance shall take effect on the eighth (8<sup>th</sup>) day after publication thereof.

## **CHAPTER 2 DEFINITIONS**

### **SECTION 2.1 RULES APPLYING TO THE TEXT**

The following rules of construction shall apply to the text of this Ordinance.

- A. Except with respect to the headings contained in Section 2.2, the headings that title a chapter, a section or a subsection of this Ordinance are for the purposes of clarity and are not to be considered in any construction or interpretation of this Ordinance, or as enlarging or restricting any of its terms or provisions in any respect.
- B. The illustrations contained within this Ordinance are intended to exemplify hypothetical applications of the provisions that refer to them, and shall not have the effect of enlarging or restricting the terms or provisions which refer to them. In the event of any conflict between the provisions of the written text of the Ordinance and the illustrations, the text shall govern.
- C. When inconsistent with the context, words used in the present tense shall include the future tense, words in the singular shall include the plural and words in the plural shall include the singular.
- D. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- E. A "building" or "structure" includes any part thereof unless specifically excluded.
- F. The word "person" shall include a firm, association, partnership, joint venture, corporation, trust, municipal or public entity, or equivalent entity or any combination of them as well as a natural person.
- G. The words "used" and "occupied", as applied to any land, building or structure, shall be construed to include the phrases "intended to be", "arranged to be" or "designed to be" used or occupied.
- H. The words "erected" or "erection" as applied to any building or structure, shall be construed to include the words "built", "constructed", "reconstructed", "moved upon", or any physical operation or work on the land on which the building or structure is to be built, constructed, reconstructed or moved upon, such as excavation, filling, drainage or the like.
- I. The particular shall control the general.
- J. Terms not herein defined shall have common, customary meanings.

## SECTION 2.2 DEFINITIONS

For the purpose of their use in this Ordinance, the following terms and words are hereinafter defined:

**Accessory Building or Structure** is a building or structure that is detached from the principal building located on the same lot and is customarily incidental to the principal building. A permit is not required for an accessory structure 120 square feet or smaller.

**Accessory Use** shall mean a use incidental, related, appropriate, and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of such lot or building.

**Adult Entertainment Establishment** is any one, or combination of the following: adult bookstore, adult tavern or bar, adult cabaret, adult live entertainment, adult mini-motion picture theater, adult motion picture theater, adult novelties, video sales or rental, or related adult amusement. Any business that devotes more than thirty (30%) percent of its total sales, stock, or trade to adult uses shall be considered an adult entertainment establishment. "Adult" in this context shall mean sexually explicit materials and actions not intended for exhibit to minors.

**Agriculture** is farms and general farming, including horticulture, floriculture, dairying, fish farming, livestock, and poultry raising, and other similar enterprises or uses.

**Alley, Lane or Service Drive** is a service way providing a secondary means of public access to abutting properties and not intended for general traffic circulation.

**Apartments** refer to definition of "Dwelling, Multiple-Family".

**Bed and Breakfast Establishment** is a use which is subordinate to the principal use of a dwelling as a single-family dwelling unit and in which transient guests stay for short periods of time and are provided a sleeping room and a breakfast in return for payment.

**Bonafide Commercial Agricultural Operation** is the raising of plants or animals, commonly grown in Central Lower Michigan, on a parcel of land appropriate for a continuing agricultural enterprise.

**Building** is any structure which is erected having a roof supported by columns or walls.

**Building Envelope** is the area of a parcel inside all yard setbacks within which structures may be constructed or placed in accordance with the provisions of this Ordinance. (*Amended by Ordinance 36, March 2012*)

**Building Height** shall mean the vertical distance from the average grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the highest point of the highest gable of a pitch or hip roof, but exclusive of vents, mechanical equipment, chimneys, or other such incidental appurtenances.

**Building Site** shall mean a legally created parcel or contiguous parcels of land in single or joint ownership that provides the area and the open spaces required by this Ordinance for the location or construction of a building, exclusive of all vehicular and pedestrian rights-of-way and all other



easements that prohibit the surface use of the property by the owner thereof.

**Camping** is the temporary placement on a property of five or less tents, travel trailers, or recreational vehicles. More than five units shall constitute a Lodge.

**Commercial Day Care Center** shall mean a facility in which more than twelve minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member by blood, marriage or adoption employed by the facility.

**Development Site Plans** are the documents and drawings required by the Zoning Ordinance necessary to ensure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

**Drive-through Business** is a business establishment organized so that its retail or service character is wholly or partially dependent on providing a driveway approach and service windows or facilities for vehicles in order to serve patrons while in their vehicles.

**Driveway** is that portion of a lot or parcel of land devoted to affording the principal means of access for no more than two (2) dwellings to and from a Public Road or Private Road.

**Dwelling, Multiple-Family** is a building containing three (3) or more dwelling units with a minimum 500 square feet per dwelling unit, designed for exclusive use and occupancy by three (3) or more families.

**Dwelling, Single-Family** is a building designed for exclusive use and occupancy as a dwelling unit by one (1) family, complying with the following standards:

1. A single-family dwelling shall have a minimum of 720 square feet of living space.
2. It complies in all respects with the Michigan State Construction Code as promulgated by the Michigan State Construction Commission under the provisions of Public Act 230 of 1972 as amended, 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 and regulations for construction are different from those imposed by the state building code, then, and in that event, such federal or state standard or regulation shall apply.
3. It is firmly attached to a permanent foundation constructed on the site in accordance with the building code in effect, and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile or manufactured home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's set-up instructions, and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a perimeter wall as required above. Manufactured homes must be accompanied by a certificate or affidavit of compliance by the State of Michigan. *(Amended by Ordinance 31, August 2009)*
4. In the event that a dwelling is a mobile or manufactured home as defined herein, each mobile or manufactured home shall be installed with the wheels removed.

Additionally, no dwelling shall have any exposed towing mechanism ,undercarriage or chassis.

5. The dwelling is connected to a public sewer and water supply or to such private facilities approved by the District Health Department.
6. The dwelling contains no additions or rooms or other areas which do not meet the same construction requirement listed above and are permanently attached to the principal structure.
7. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24CFR 3280, and as from time to time such standards may be amended.
8. The pitch of the roof shall not be less than three (3) feet of rise for each twelve (12) feet of horizontal run. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
9. The main body of the dwelling shall be rectilinear with a width not less than sixteen (16) feet measured across the narrowest section.
10. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this Ordinance.
11. All construction required herein shall be commenced only after a land use permit and building permit have been obtained in accordance with the applicable building code provisions and requirements.

**Dwelling, Two-Family (Duplex)** is a building containing two (2) separate dwelling units, both units having a minimum 720 square feet, designed for residential use by no more than two (2) families and connected by either a common wall or an attached garage area.

**Dwelling Unit** is a building, or part thereof, providing complete living facilities, including provisions for sleeping, cooking, eating and sanitation.

**Essential Service** is a service utility which is needed for the health, safety, and welfare of the community. In Michigan, these services are controlled by the Public Services Commission.

**Family** is an individual or two (2) or more persons related by blood or marriage, or a group of not more than five (5) persons who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling.

**Family Day Care Home** means a private home in which one but fewer than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family Day Care Home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year.

**Flag Lot** is a lot not fronting on or abutting a road where access to the road is by a narrow, private right-of-way.

**Floor Area** is the total area of the floor space within the outside walls of a building, excluding porches, breezeways, garages, attics, basements, utility areas, cellars or crawl spaces, but which may include that portion of a walkout basement that is finished for everyday living and not just for storage or occasional use.

**Frontage** is the continuous length along which a parcel of land fronts on a road or street, measured along the line where the property abuts the street or road right-of-way.

**Garage - Private** is a detached accessory building or portion of a main building used only for the parking or storage of vehicles.

**Garage - Public** is a building other than a private garage primarily used for the purpose of parking, storing, repairing or equipping motor vehicles therein as commercial use.

**Group Day Care Home** means a private home in which more than six but not more than twelve minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group Day Care Home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year.

**Home Occupation** is an occupation or profession carried on by an occupant of a dwelling unit as a secondary use which is clearly ancillary to the use of the parcel and dwelling for residential purposes. No more than two non-family members may be employed in such activity; outdoor storage shall be completely screened; and no activity shall become a nuisance to its immediate neighbors or neighborhood.

**Indoor Recreation Establishment** is a facility designed and equipped for the conduct of sports, amusement or leisure time activities and other customary recreational activities indoors (within an enclosed building) and operated as a business and open for use by the public for a fee, such as fitness centers, bowling alleys, indoor softball, and racquetball and tennis clubs.

**Kennel** is any land, building, or structure where five (5) or more cats and/or dogs over six (6) months of age are either permanently or temporarily boarded, housed, bred or sold for profit.

**Land Division** is any splitting or dividing of a plot of land (parent parcel) that results in the creation of a new defined parcel or parcels of land from the original parent parcel.

**Large Scale Livestock Enterprises** is a farming operation where numbers of animals significantly more than historically raised in general agriculture are raised usually in confinement or dry lot, also known as a large confined animal feeding operation.

**Loading Space** is a space on the same lot with a building, or group of buildings, for the temporary parking of commercial vehicles while loading and unloading merchandise or materials.

**Lodge or Club** is a building where members and guests meet for lodging, meals, or other club activities. It may consist of a building or group of buildings, tents, travel trailers or recreational vehicles set up for hunting or other special season outdoor recreational activities.

**Lot** is a parcel of land separated from other parcels of land by description on a recorded plat or by metes and bounds description, including a condominium unit site in a site condominium subdivision, having frontage upon a public or private street and having sufficient size to comply with the requirements of this Ordinance.

**Lot Area** is the total area included within lot lines. Where the front lot line is the centerline of a public street, the lot area shall not include that part which is in the public right-of-way.

**Lot Coverage** is a part or percent of a lot occupied by buildings or structures and other impervious surfaces.

**Lot Depth** is the arithmetic mean of the shortest and longest distance from the front lot line to the rear lot line.

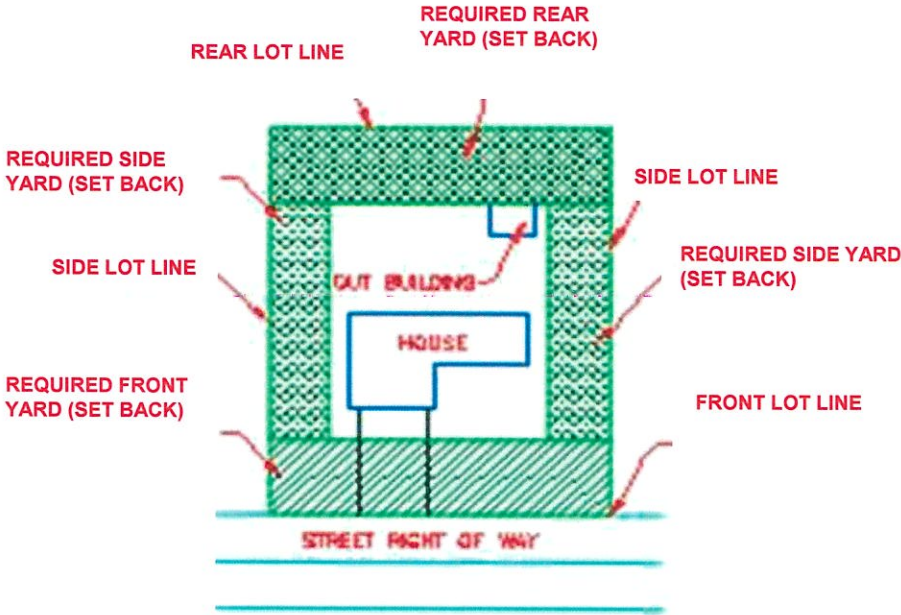
**Lot Line** is the line bounding a lot, parcel, or general common element (if there is no limited common element) that separates the lot, parcel, or general common element (if there is not limited common element) from another lot, parcel, general common element (if there is no limited common element), existing street right-of-way, approved private road easement, or the ordinary high water mark.

**Lot Line, Front** is the lot line separating a lot or parcel from a street right-of-way (refer to Figure 1, below) or in the case of a lake lot, the ordinary high water mark.

**Lot Line, Rear** is the lot line which is opposite and most distant from the front lot line. In the case of an irregular or triangular shaped lot, a line at least ten (10) feet in length, entirely within the lot, and generally parallel to and most distant from the front lot line (refer to Figure 1, below).

LOT LINES AND MINIMUM REQUIRED YARDS

Figure 1



**Lot Line, Side** is any lot line not a front or rear lot line (refer to Figure 1).

**Lot Width** is the distance between the side lot lines measured at the primary building front face or at the front setback line.

**Manufactured Home** is a mobile home, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling when connected to the required utilities, and includes the plumbing, HVAC, and electrical system in the structure. Manufactured home does not include a recreational vehicle or motor home.

**Modular Home** is a building, dwelling unit, dwelling room or rooms, or a building component which is designed for long-term residential use and is wholly or substantially constructed at an off-site location, transported to a site, and erected on a permanent foundation.

**Motor Vehicle Sales and/or Repair** is any establishment engaged in the sale, rental, or leasing of new or used automobiles, vans, pick-up trucks, recreational vehicles, or travel trailers, or a business performing repairs on such vehicles.

**Motor Vehicle Service Facility** is any establishment engaged in the direct retail sale of gasoline or other engine fuels, motor oil or lubricants, performing interior or exterior cleaning, sale of tires, parts or accessories, inspection, lubrication, engine tuning, or minor repair for automobiles, vans, pick-up trucks, or other motor vehicles.

**Non-Conforming Structure** is a structure, or portion thereof, lawfully existing at the time this Ordinance or amendments become effective and fails to meet the minimum requirements of the zoning district in which it is located.

**Non-Conforming Use** is the use of a building or of land lawfully existing at the time this Ordinance or amendments become effective but does not conform with the use regulations of the district in which it is located.

**Off-Site Sign** is a sign which advertises or directs attention to products or activities that are not provided on the parcel upon which the sign is located.

**Ordinary High Water Mark** is the line between upland and bottom land which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland, and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake which has a level established by law it means the high established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, levee, or other water controlling device, this shall be the natural ordinary high water mark.

**Outdoor Recreation Establishment** is a facility designed and equipped for the conduct of sports, amusement or leisure time activities, and other customary recreational activities outdoors (outside of an enclosed building) and operated as a business and open for use by the public for a fee such as tennis courts, archery ranges, golf courses, miniature golf courses, golf driving ranges, race tracks, and children's amusement parks.

**Owner(s)** shall mean any combination of persons who have equitable or legal title to the premises, dwelling, or dwelling unit.

**Planned Development** is an area of a minimum contiguous size, as specified by this Ordinance, developed according to plan as a single entity and containing one or more structures with appurtenant common areas.

**Principal Use** is the main use to which a premises is devoted and the principal purpose for which a premises exists.

**Private Road** is any road or thoroughfare for vehicular traffic which is privately owned and maintained and provides the principal means of access to abutting properties.

**Public Street** is a public thoroughfare for vehicular traffic which is publicly owned and maintained and provides the principal means of access to abutting properties.

**Recreational Vehicle** is a vehicle intended and designed primarily for recreational use, such as a motor home, camper trailer, boat, snowmobile, off-road and all-terrain vehicle, or similar vehicle or trailer. The term "recreational vehicle" shall not include a motorcycle or motor bike or other similar means of transportation intended primarily for daily on-street use.

**Retail Store** is any building or structure in which goods, wares, or merchandise are sold to a customer for direct consumption and not for resale.

**Right-of-way** is a street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles and under the legal authority of an agency having jurisdiction over the right-of-way.

**Road** refer to definition of "street".

**Salvage** is material saved for future use, recycling, or sale.

**Salvage Yard** is any principal or accessory use where salvage or its component parts are bought and sold, exchanged, stored, baled, packed, disassembled, separated, or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A "salvage yard" includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings. A "salvage yard" shall be defined as less than six (6) acres in size and does not include landfills or recycling centers.

**Screen** is a structure such as a fence or wall or landscaping providing enclosure and visual barrier between the area enclosed and the adjacent property.

**Seasonal** is any use or activity that cannot or should not be performed during the entire year.

**Setback** is the required minimum horizontal distance between a lot line or other controlling entity and a building, structure, or use line.

**Sign** is an outdoor sign, display, figure, painting, drawing, message, placard, or poster which is designated, intended, or used to advertise or inform.

**Site Condominium Projects** are land developments done in accordance with the Condominium Act (Public Act 59 of 1978), as amended. All such developments shall follow the standards and procedures of Section 5.16, Planned Developments, and meet the requirements of the district(s) for which they are intended.

**State Licensed Residential Facility** is a structure that is constructed for residential purposes that is licensed by the state pursuant to Public Act 287 of 1972, as amended, being sections 331.681 to 331.694 of the Michigan Compiled Laws, or Public Act 116 of 1973, as amended, being sections 722.111 to 722.128 of the Michigan Compiled Laws, which provides resident services for six (6) or less persons, Family Day Care Home, or for more than six (6) persons but not more than twelve (12) persons, Group Day Care Home, under 24-hour supervision or care for persons in need of that supervision or care.

**Street** is an approved thoroughfare which affords the principal means of access to abutting properties.

**Structure** is anything constructed, assembled or erected, the use of which is intended to be permanent or lasting, and requires location on the ground or attachment to something having a location on or in the ground. The word "structure" shall not apply to wires and their supporting poles or frames or electrical or telephone utilities or to service utilities below the ground.

**Townhouse** is a single family dwelling, usually of two or three stories, that is connected to a similar structure by a common wall.

**Uniform Setback** is where fifty (50%) percent or more of the frontages of existing structures along a roadway between two (2) intersecting streets maintain the same minimum setback.

**Use** is the purpose for which land or a building (or buildings) is arranged, designed or intended, or for which land or a building (or buildings) is or may be occupied and used.

**Variance** is a modification to the rules or provisions of this Ordinance which may be granted by the Zoning Board of Appeals where there is practical difficulty or unnecessary hardship in the way of carrying out the strict letter of this Ordinance.

**Vehicle** is any device in, upon, or by which any person or property is or may be transported or drawn upon any street, highway, excepting devices exclusively moved by human power or used exclusively upon stationary rails or tracks.

**Yard** is a space open to the sky and unoccupied or unobstructed, except by structures or uses specifically permitted by this Ordinance. A required yard is measured between the applicable lot line and the nearest foundation line of a building or structure.

**Yard, Front** is the yard extending across the full width of the lot, the depth of which is the distance between the front lot line and foundation line of the main building (refer to Figure 1).

**Yard, Rear** is the yard extending across the full width of the lot, the depth of which is the distance between the rear lot line and the rear foundation line of the main building (refer to Figure 1).

**Yard, Side** is the yard between the foundation line of the main building and the side lot line extending from the front yard to the rear yard (refer to Figure 1).



## **CHAPTER 3 NON-CONFORMITIES**

### **SECTION 3.1 INTENT AND PURPOSE**

It is the intent of the Chapter to provide for the use of lands, buildings, and structures which were lawfully established prior to the effective date of this Ordinance to continue, even though the use may be prohibited or differently regulated under the terms of this Ordinance. Such non-conforming lots, uses of land, structures, and uses of structures are declared by this Ordinance to be incompatible with permitted conforming uses, buildings, and structures. In order to adequately regulate the conflicts between conforming and non-conforming uses, buildings, and structures, the regulations that follow are enacted.

### **SECTION 3.2 NON-CONFORMING LOTS**

See Chapter 4 General Provisions (Section 4.4 Substandard Lots)

### **SECTION 3.3 NON-CONFORMING USES OF LAND**

Where, at the effective date of adoption or amendment of this Ordinance, a lawful use on a parcel of land exists that becomes non-conforming under the terms of this Ordinance, such use may be continued, so long as it remains otherwise lawful. To request an enlargement or expansion of an existing non-conforming use, a land owner and/or his designee may apply for a variance to the Zoning Board of Appeals in accordance with Chapter 11 of this Ordinance.

### **SECTION 3.4 NON-CONFORMING STRUCTURES**

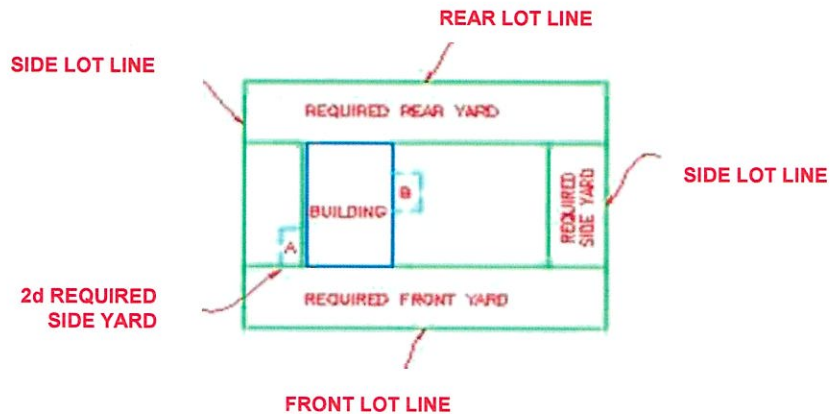
Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restriction on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions (refer to Figure 2,):

- A. No such structure may be enlarged or altered in a way which increases its non-conformity.
- B. Any such structure destroyed by fire, an act of God, or other event beyond the control of the owner may be reconstructed, but as nearly conforming with the provisions of this Ordinance as possible.
- C. Should such structures be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the area into which it is located.

## NON-CONFORMING STRUCTURES

**Figure 2**

Proposed addition "A" not permissible unless authorized by variance as it increases non-conformity. Proposed addition "B" permissible without variance as it does not increase non-conformity.



### SECTION 3.5 REPAIR AND MAINTENANCE OF NON-CONFORMING STRUCTURES

On any building devoted in whole or in part to any non-conforming use, ordinary maintenance may be done. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

### SECTION 3.6 CHANGE OF TENANCY OR OWNERSHIP

There may be change of tenancy, ownership, or management of any existing non-conforming use of land, structure, or premises provided there is no change in the nature or the character of such non-conforming use that would be at variance with the provisions of this Chapter and Ordinance.

### SECTION 3.7 ABANDONMENT OF NON-CONFORMING USES AND STRUCTURES

- A. If for any reason a non-conforming use is abandoned or discontinued for a period greater than 365 consecutive days, the use shall not be allowed to be re-established and any subsequent use shall conform to all the requirements and provisions of this Ordinance. Under extraordinary circumstances, a petition may be made to the Zoning Board of Appeals to extend the period of disuse or re-establish the non-conforming use.
- B. If for any reason the use of a non-conforming structure ceases to exist or is discontinued for a period of more than 365 consecutive days, no use shall be allowed to occupy the structure, unless authorized by the Zoning Board of Appeals.

### SECTION 3.8 NON-CONFORMING SIGNS

See Section 7.4, Non-Conforming Signs.

## **CHAPTER 4 GENERAL PROVISIONS**

### **SECTION 4.1 INTENT AND PURPOSE**

In addition to the development and performance requirements set forth in Chapter 5, other standards and requirements are necessary to ensure that the development of land occurs in an efficient and orderly manner. **It is the intent of this Chapter to set forth provisions that will regulate the uses allowed in all districts.**

### **SECTION 4.2 ACCESSORY BUILDINGS**

Accessory buildings, except as otherwise permitted in this Ordinance, shall be subject to the following regulation:

Where an accessory building is structurally attached to a main building, except where otherwise noted, it shall be subject to and must conform with all regulations applicable to the main buildings.

When an accessory building is primarily used for an automobile garage and is in close proximity to the principal structure on a lot or parcel and does not exceed 750 square feet, the square footage of the accessory structure/garage shall not be counted toward the total square footage of allowed accessory structure(s) on the lot or parcel. *(Amended by Ordinance 29, July 2008)*

### **SECTION 4.3 LOT ALLOCATION**

No portion of any lot or parcel used once to comply with the provisions of this Ordinance for yards, lot area, or any other requirement herein, shall be used a second time to satisfy said requirements for any other structure or building.

### **SECTION 4.4 SUBSTANDARD LOTS**

Any residential lot or parcel created and recorded prior to the effective date of this Ordinance may be used for residential purposes even though the lot does not comply with the dimensional requirements of this Ordinance, provided:

- A. That the lot or parcel complies with Section 4.3 of this Chapter.
- B. That a proposed building, structure, or use for the lot satisfies the yard requirements set forth in Chapter 5 of this Ordinance.
- C. That the requirements set forth in Section 4.13 of this Chapter are fulfilled.

### **SECTION 4.5 CORNER CLEARANCE**

No fence, wall, shrubbery, crops, signs, or other visual obstruction shall be permitted above a height of thirty-six (36) inches within a triangular area formed by the intersection of any street or road right-of-way lines at a distance along each such line of twenty (20) feet from their point of intersection.

#### SECTION 4.6 NUMBER OF DWELLING UNITS PER LOT

Unless otherwise permitted by this Ordinance, only one (1) dwelling unit shall be constructed or placed on one lot meeting the minimum lot area requirements set forth in Chapter 5. In the case of condominium developments, unit area and limited common areas may be used to satisfy lot area requirements. General common areas shall not be applied toward satisfying minimum lot area requirements.

#### SECTION 4.7 ESSENTIAL SERVICES

Essential service transmission lines such as electric, telephone, gas or other similar utilities, are permitted in all districts, provided, that the services are authorized, regulated, and in compliance with all other applicable laws, ordinances and regulations. Buildings accessory to such services, however, are subject to the requirements set forth in this Ordinance. Telecommunication towers and antennas are not essential services (see Section 4.10). New essential services shall be placed underground wherever possible.

#### SECTION 4.8 FENCES, WALLS AND SCREENS

Fences, walls, or screens are permitted in all yards, but shall be subject to sight distance requirements at drives and roadways and subject to height, materials, and other regulations as prescribed in the various districts.

#### SECTION 4.9 PORCHES AND DECKS

Open, unenclosed porches and decks that are attached to the main structure shall adhere to all setbacks of the principal structure.

#### SECTION 4.10 SATELLITE DISH ANTENNAS, TELECOMMUNICATION TOWERS AND ANTENNAS, AND SIMILAR STRUCTURES

- A. Satellite dish antennas, television antennas, amateur radio antennas, and other structures similar in size, shape and function are permitted in all zoning districts subject to the following:
1. All satellite dish antennas, television antennas, amateur radio antennas and other similar structures shall be subject to the following setback requirements:
    - a. All satellite dishes shall be located no closer than ten (10) feet from any side or rear lot lines.
    - b. All antennas and antenna towers shall be located no closer than the height of the tower from any lot line. Antennas and antenna towers greater than fifty (50) feet in height shall require a Special Use Permit.
    - c. Satellite dishes, antennas, and similar structures shall not be placed or constructed in any required front yard unless there is no other placement for acceptable reception.
    - d. Satellite dishes may be placed or mounted on poles, however, they shall be subject to accessory building height limitations.

- B. Telecommunication towers and antennas shall be subject to the regulations of the districts in which they are allowed in addition to the following:
1. All towers, tower structures, poles for holding telecommunication antennas, and other like structures require land use and building permits.
  2. All towers and antennas must meet applicable state and federal regulations.
  3. All towers shall be designed to accommodate co-location of antennas by additional users.
  4. Tower height shall be limited to one hundred ninety-nine (199) feet unless justified to the Township's sole satisfaction.
  5. No tower shall be closer to any boundary of the lot on which it is sited than its height.
  6. Towers shall be separated from one another in accordance with the following table:

**Table 1: Separation distances between towers (feet)**

	Lattice	Guyed	Monopole Greater Than 75 Ft in Height	Monopole Less Than 75 Ft in Height
Lattice	5000	5000	1500	750
Guyed	5000	5000	1500	750
Monopole Greater Than 75 Ft in Height	1500	1500	1500	750
Monopole Less Than 75 Ft in Height	750	750	750	750

7. Towers shall be of aluminum, galvanized steel, or be painted to blend with the surrounding environment.
8. No advertising or signage of any kind shall be attached to a tower or its appurtenant structures.
9. No lighting of any kind shall be allowed on or to illuminate a tower or its appurtenant structures except that required by FAA requirements if the structure is allowed to exceed one hundred ninety-nine (199) feet.
10. Plantings and fencing are required to screen a tower and its appurtenant structures from public view as much as possible. Native trees and other vegetation shall be retained on site and landscaping installed to achieve this objective.
11. An applicant for the installation of a telecommunication tower shall provide the Township a statement explaining the necessity for such a proposed tower.
12. The owner of any tower installed in the Township shall provide a Certificate of Insurance listing West Branch Township as an additional insured party.
13. The Township may require the owner of any tower installed in the Township to provide a bond or performance guarantee that will ensure the removal of its tower and all appurtenance structures and equipment if its use shall be discontinued for more than 365 consecutive days.
14. The Township may retain a qualified expert to aid in its review of an applicant's request; the expense of this review shall be borne by the applicant.

#### SECTION 4.11 ROAD ACCESS REQUIREMENTS

- A. Each lot shall have access to a public road or dedicated easement.
- B. A new road or driveway access to an existing primary county or state highway shall be allowed no closer than three hundred fifty (350) feet from another existing or proposed road or driveway. If the lot and driveway configurations existing prior to the date of adoption of this Ordinance preclude this action, or the lay of the land is such that meeting this requirement would create an unsafe or non-functional condition, the Zoning Administrator shall approve the location for a new proposed driveway which will meet the required distance as closely as possible. In industrial and commercial areas, service drives shall be used to meet this requirement. Temporary access roads must be closed after a new entrance is constructed.
- C. Driveway easements shall be a minimum of twenty (20) feet wide.
- D. Driveways and new public or private entry roads shall follow separation distances prescribed by the Township in a thoroughfare plan or other adopted policy.

#### SECTION 4.12 PERMITS

- A. No construction activity requiring a building or grading permit shall commence until a zoning permit and building or grading permit has been issued.
- B. Any building permit issued prior to the effective date of this Ordinance shall be valid, even though not conforming to the provisions of this Ordinance, provided that construction is commenced within one (1) year after the date the permit was issued.

#### SECTION 4.13 REQUIRED WATER SUPPLY AND SANITARY SEWERAGE FACILITIES/WELLHEAD PROTECTION

- A. No structure shall be erected, altered, or moved upon any parcel for use as a dwelling, office, business, industry or public facility unless it is provided with a safe, sanitary, and potable water supply and with a safe and effective means of collection, treatment, and disposal of human, domestic, commercial, or industrial waste.
- B. All such installations and facilities shall conform with the requirements of the District Health Department and applicable state agencies and all applicable permits authorizing said facilities shall be obtained. The owner or applicant for any zoning permit shall demonstrate the availability of potable water and public sewer connections or adequate space for septic fields with appropriate reserve areas and setbacks specific to site conditions. In no case should a septic field be closer than ten (10) feet to a lot line.
- C. All abandoned wells shall be capped and secured as required by state and local regulations.
- D. New or renovated structures within six hundred (600) feet of a Township water service line shall be required to connect to the system.

#### SECTION 4.14 CORNER LOTS

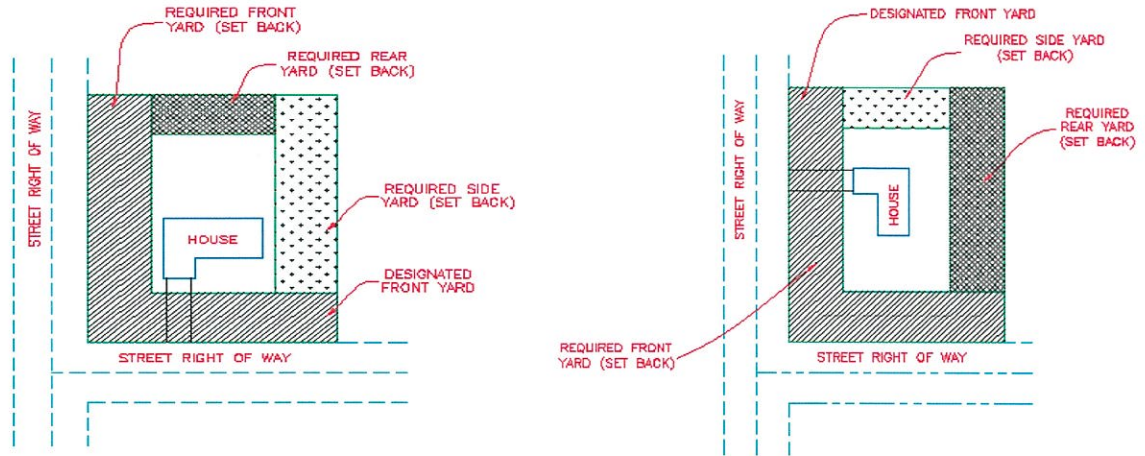
Lots or parcels which have frontage on two (2) or more streets shall be subject to the following (refer to Figure 3):

The lot or parcel owner shall designate which yard shall be considered the front yard for the purposes of establishing the rear and side yards.



## CORNER LOTS

Figure 3



### SECTION 4.15 LANDSCAPING, SCREENING, BUFFERS AND FENCING

- A. The intent of this Section is to promote the public health, safety, and general welfare in commercial activities by:
1. Minimizing the nuisances that new development may cause, including additional noise, air and water pollution, and the destruction of scenic views.
  2. Improving the appearance of off-street parking and other vehicular use areas.
  3. Requiring buffering between incompatible land uses.
  4. Regulating the appearance of property abutting the public rights-of-way.
  5. Protecting and preserving the appearance, character and value of the community and its neighborhoods.
  6. Preventing soil erosion and soil depletion.
  7. Promoting soil water absorption.

Sizes and amounts of landscaping and plant types shall be dependent upon what is already present in the area and landscaping needs of the specific site. Generally, landscaping shall at least equal surrounding landscaping in newer areas and tend toward upgrading older areas. Landscaping needs will be determined by using the standards set forth in this Section, and other applicable sections of this Ordinance, but plantings covering a minimum of twenty (20%) percent of any site shall be used as a guideline.

- B. The following standards shall be followed:
1. Additional landscaping shall be added to the retained natural landscape features to reduce the apparent mass and height of buildings, to visually break expanses of paving, to reduce the visibility of paved areas from adjacent roadways and properties, and to provide an attractive appearance from both within and without the site.

2. Except in urban areas where more exacting conditions may require selection of more specific and hardy species, plant materials shall be used that complement the natural landscape. Recommended plant material sizes shall be as follows: evergreen trees, six (6) feet in height; deciduous trees, two (2) inch caliper; shrubs, two (2) gallon pot or 18-24" in height and width.
  3. Ground cover shall be primarily of living materials.
  4. Areas that are intended to be planted shall be provided with a minimum depth of topsoil of four (4) inches and mulched appropriately.
  5. All plantings shall be maintained in a vigorous, healthy, and weed-free state. Any dead or diseased plants shall be removed and replaced.
- C. The Township may retain a qualified expert to aid in reviewing landscaping requirements. The expense of a review shall be borne by the applicant.

#### SECTION 4.16 PRIVATE ROAD STANDARDS

Landowners installing a private roadway or driveway for three (3) or more dwellings shall meet the following standards:

- A. Road construction details shall be provided as part of a site plan review in accordance with the requirements of Chapter 9 Development Site Plan Review. Review and approval of a private road will be based upon at minimum:
  1. The number of parcels to be served;
  2. How the proposed road will fit into the thoroughfare system of the township and county;
  3. The topography and design of the development.

The Township may hire or require an analysis by a registered professional engineer or other traffic expert at the applicant's expense to aid in its review. If reasonable standards for road design and construction cannot be agreed upon, Ogemaw County Road Commission standards for subdivision plat development shall be required.

- B. A sixty-six (66) foot right-of-way shall be provided. The edge of the travelway or paved portion of the road shall be a minimum of six (6) feet from the property boundary unless it is a shared roadway or driveway. The Planning Commission may require a greater distance if surrounding uses indicate a greater distance necessary to separate existing or future incompatible uses. *(Amended by Ordinance 31, August 2009)*
- C. All dead end roads shall terminate in a cul-de-sac with at least a fifty (50) foot radius or a T-shaped or hammer-head turn-around sufficient for emergency vehicle turn-around.
- D. Roads shall be named and names shall be approved by the County Road Commission and County Emergency Management Authority. Road signs shall be installed and maintained. Where stop signs or other traffic regulations signs are indicated, they shall conform to uniform traffic sign size, shape, color and installation requirements.
- E. The Township may require installation of a private road, and the posting of a sufficient bond for construction thereof, before land use or building permits are issued.



- F. As-built drawings of installed roads certified by a registered professional engineer shall be supplied to the Township upon completion of road construction.
- G. A copy of the maintenance agreement providing for safe travel on the road at all times, which shall be a deed-recorded covenant for all parcels to be served by a private road, shall be provided to the Township.
- H. Landowners creating private roads shall provide the Township with a recorded easement, master deed or plat containing the said private road(s) and an affidavit that:
  - 1. the road(s) to be constructed shall never become public roads, unless brought to the Ogemaw County Road Commission standards in effect at the time of application and are accepted by the Road Commission, and
  - 2. that these landowners shall indemnify and hold harmless the Township and its representatives from any and all claims for personal injury or property damage arising from the use of the private road(s). This recorded affidavit shall become a deed restriction of all parcels to which the proposed road will provide access and shall be disclosed at the time of sale or transfer of any parcel.

#### SECTION 4.17 RIFLE RIVER NATURAL RIVER PLAN

Portions of the Rifle River in West Branch Township have been designated as a wild scenic river by the Department of Natural Resources (DNR) under Michigan Natural River Act (Public Act 451 of 1994). Regulations promulgated by the DNR or the Natural Resources Commission governing these designated lands shall be followed.

#### SECTION 4.18 TEMPORARY STRUCTURES AND USES

- A. Temporary Offices or Storage Yards
  - 1. Upon application, the Zoning Administrator may issue a permit for a temporary office building or yard for construction materials and/or equipment which is both incidental and necessary to construction at the site where located. Each permit shall be valid for a period of not more than six (6) calendar months and may be renewed by the Zoning Administrator for four (4) additional successive periods of six (6) calendar months or less at the same location and only if such building or yard is still incidental and necessary to construction at the site where it is located.
  - 2. Upon application, the Zoning Administrator may issue a permit for a temporary sales office or model home which 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 six (6) calendar months. The permit may be renewed by the Zoning Administrator for up to four (4) additional successive periods of six (6) calendar months or less at the same location, if the Zoning Administrator determines that such office is still incidental and necessary for the sale or rental of real property in a new subdivision or housing project.
- B. Recreational Vehicles as Temporary Seasonal Dwellings
  - 1. The Zoning Administrator may issue a permit to an individual to park and occupy a temporary dwelling in any District provided that the following conditions are met:

- a. The temporary dwelling will be used only as a temporary use on the lot while the property owner is constructing a permanent residence on that same lot, and further provided that:
    1. A building permit has been issued for the construction of a permanent residence to the property owner applying for the temporary dwelling permit.
    2. The temporary dwelling is permanently connected to an approved well and septic system.
    3. The temporary dwelling is sufficiently secured to the ground to prevent overturning through the actions of high winds or other natural conditions.
  - b. A recreational vehicle may be used as a temporary or seasonal residence within the AG, FR, CE Districts, provided that:
    1. The dwelling shall be a wheeled vehicle, licensed and registered; in compliance with the Michigan Motor Vehicle Code; having properly inflated tires; and working turn signals and brake lights.
    2. The dwelling shall not be occupied for a period in excess of thirty (30) days, unless permanent, on-site sanitary facilities, approved by the Ogemaw County Health Department are installed, in which case the permit may be issued for a period from April 1 through November 30 at which time the temporary dwelling shall be removed from the site until the following year.
- C. Temporary dwellings during construction or convalescence, see AG, FR, CE District Regulations (Sections 5.5, 5.6, 5.7).
- D. In considering authorization for any temporary uses or structures, the Zoning Administrator shall consider the following standards:
  1. That all applicable requirements of Section 4.18 A and B are met;
  2. That there will be no unsanitary conditions or other detrimental effects upon the property, occupants, or adjacent properties;
  3. That, in the case of occupancy during construction, the use or structure is reasonably necessary for the convenience and safety of the construction proposed;
  4. That the use or structure does not impact the nature of the surrounding neighborhood;
  5. That access to the use, area, or structure is located at the least offensive point on the property.
- E. The Zoning Administrator may attach reasonable conditions to temporary uses or structures to ensure that the standards of this Section are met.
- F. All temporary dwellings, buildings, and uses shall be removed from the premises following the expiration of the permit and any extensions, or upon completion of the permanent building or structure.

#### SECTION 4.19 TEMPORARY OUTDOOR EVENT USES

Temporary outdoor event uses may be permitted in any zoning district provided that the temporary use is similar in nature to those uses that are permitted in the district. A Zoning Permit identifying the location, sponsoring group or individual, and beginning and ending dates of the use shall be obtained from the Township Zoning Administrator. The Zoning Administrator shall determine whether the use is appropriate at the proposed site within the district and shall determine any necessary site conditions such as off-street parking and other health, safety and welfare issues.

Other temporary uses not deemed similar to permitted uses in a district shall be reviewed by the Planning Commission and at its discretion, upon review of a site plan of the proposed temporary use, it may authorize the use, if it is found appropriate within the proposed district and the proposed site, with any conditions determined necessary by the Planning Commission.

Temporary outdoor uses shall be authorized for not more than a 14 day period and not less than 30 days shall elapse between the end one authorized temporary outdoor use period and the beginning of another for the same proposed site within the district.

#### SECTION 4.20 DISMANTLED VEHICLES AND DISCARDED MATERIALS

- A. No person, firm or corporation shall park, store or place upon any public or private property, public right-of-way or any premises zoned for any type of residential purpose any discarded materials, dismantled or partially dismantled motor vehicles, house trailer or any new or used parts unless the same is completely contained within a fully enclosed building and does not violate any township, county, state or federal laws, except for the following:
1. Licensed and legally operable motor vehicles or trailers.
  2. Licensed and legally operable motor vehicles or trailers that are temporarily inoperable because of minor mechanical failure but which are not in any manner dismantled and have substantially all main components attached may remain on such private property for up to thirty (30) days.
  3. Not more than one vehicle in operable condition that has been redesigned or reconstructed for a purpose other than originally manufactured (such as a stock car or unlicensed vehicle) may be parked, stored or placed in the open, providing there is no building or garage where such may be stored. No such modified vehicle may be parked in the front or side yard areas.
  4. No repairing, modifying or dismantling operations shall be allowed upon any vehicle, trailer or parts upon any public property, public right-of-way or property zoned for residential purposes for a period in excess of seventy-two (72) hours except that which can be accomplished within a fully enclosed building or back yard and will not constitute a nuisance or annoyance to neighboring property owners or occupants and does not violate the provisions of this Ordinance. All work done within the seventy-two (72) hour period shall not consist of any major repair, modifying or dismantling but only such occasional minor repair as may be required to maintain a vehicle, trailer or parts in normal operating condition.
- B. In the event of foregoing regulations create any special hardship beyond the control of a person, the Zoning Administrator may grant an additional period up to fourteen (14) days to accomplish the repairs provided that no neighboring property owners or occupants are adversely affected and the purpose of the regulations are maintained.
- C. Any parking, storing, placement or operation in violation of these regulations shall be

declared a public nuisance by the Zoning Administrator (or other person designated by the Township Board to administer this Ordinance) and those responsible shall be subject to fines and/or other penalties specified herein.

- D. These regulations shall not prevent the operation of any licensed junkyard, salvage yard, body or paint shop legally operating within a proper zone as defined by this Ordinance and shall be in addition to any other laws or ordinances regarding refuse, litter, trash or junk control.
- E. In addition to any fine and/or penalty imposed by the Zoning Administrator or other person designated by the Township Board, the Board may cause the removal of any items which violate the terms of these regulations to be properly disposed of or sold. Any costs incurred in this action shall be the responsibility of the person(s) in violation and may be subtracted from any proceeds if such items were sold, the balance being returned to the person(s) in violation.

SECTION 4.21 TRASH / GARBAGE DISPOSAL

No trash or refuse shall be stored on any premises unless contained and not a health hazard. Burying of non-biodegradable or toxic waste, trash or refuse is prohibited. If West Branch Township Board does not provide a trash collection system, then each resident is responsible for obtaining legal and timely trash / garbage collections services.

## **CHAPTER 5 DISTRICT REGULATIONS**

### **SECTION 5.1 INTENT AND PURPOSE**

For the purposes of this Ordinance, all land within West Branch Township, excepting the roadways and alleys, is divided into the following Zoning Districts:

AG	Agricultural District
FR	Forested / Rural Residential District
CE	Country Estate District
R-1	Low-density Residential District
R-2	Medium-density Residential District
C	Commercial District
I	Industrial District
UX	Urban Mixed Use District
BR	Business Route I 75 Overlay District
AP	Airport Safety Overlay District

For the specific regulations and requirements of each of the districts listed above, refer to Sections 5.5 - 5.14. Section 5.16 allows for and regulates Planned Developments (PD) within the above districts.

Illegal uses under current Ogemaw County rules and regulations shall remain so under this Ordinance and shall not become non-conforming uses unless such illegal use is now allowed in the district in which it is located. An agreement entered into with Ogemaw County in regards to such a use shall remain in effect and be enforced jointly by the Township and the County.

### **SECTION 5.2 OFFICIAL ZONING MAP**

The boundaries of zoning districts are defined and established as shown on a map entitled the West Branch Township Zoning Map. This map, with all explanatory matter thereon, is hereby made a part of this Ordinance. The official Zoning Map shall be kept by the Township Clerk and shall be maintained by the Zoning Administrator.

### **SECTION 5.3 INTERPRETATION OF BOUNDARIES**

Where uncertainty exists with respect to the boundaries of any of the districts indicated on the official Zoning Map, the following rules shall apply:

- A. Boundaries shown following streets or highways shall be presumed to follow the centerline of these roadways.
- B. Boundaries shown approximately following Township boundary lines or property lines shall be presumed to follow these lines.
- C. Boundaries shown approximately parallel to the centerline of streets or alleys shall be interpreted as being parallel thereto and at such a distance therefrom as indicated by given distance or scaled dimension.

SECTION 5.4 CLASSIFICATION OF USES NOT LISTED

The Zoning Board of Appeals shall have the power to classify a use which is not specifically mentioned by this Ordinance, as described in Chapter 11. Said use shall be treated in a like manner with comparable uses, as determined by the Zoning Board of Appeals, and permitted and managed in accordance with the District Regulations found in any Zoning District.

## SECTION 5.5 AGRICULTURAL DISTRICT ( AG )

The purpose and intent of the Agricultural District is to provide areas for commercial agricultural and farming operations, as well as limited residential uses. This district is established to conserve and protect agricultural lands as an ecologically and economically valued resource by preventing the encroachment of urban land uses in predominantly agricultural areas where geographic and economic conditions favor continued agricultural production.

### SECTION 5.5.1 PERMITTED PRINCIPAL USES

In an Agricultural District, no building, structure, land or water use shall be permitted except for one or more of the following:

All historically practiced general agricultural uses. (Large scale livestock enterprises see “Conditional Uses.”)

Farm dwellings, accessory buildings, farm labor housing:

1. More than one farm dwelling shall not be permitted unless substantial evidence is provided that shows that the additional farm dwelling is necessary for the operation of the commercial farm. In making the determination whether the additional farm dwelling is necessary for the farm operation, the Zoning Administrator shall take into consideration whether any non-farm dwellings already exist on the farm that may be used for that purpose. Migrant housing shall be allowed in accordance with state regulations.
2. A dwelling may be considered to be in conjunction with farm use or the propagation or harvesting of a forest product when located on a lot or parcel that is managed as part of a farm operation or woodlot. A separate parcel five acres or larger must be created for a new dwelling unit.
3. Farm dwellings in addition to the principal dwelling shall be located to minimize adverse affects upon productive areas for farm crops and livestock.

Camping

Churches and other religious institutions.

State licensed residential facilities—family day care home.

Residential single-family dwelling units. (*Amended by Ordinance 31, August 2009*)

Planned developments (see Section 5.16).

On-site Wind Energy Conversion Systems (OWECS) (*Amended by Ordinance 36, March 2012*)

### SECTION 5.5.2 CONDITIONAL USES

- A. The following uses are permitted in this district upon securing a Special Use Permit and upon Development Site Plan Review approval in accordance with Chapters 8 and 9. The necessary conditions for approval of any of these uses shall be a demonstrated need for the use and the placement of the facility in a manner which least affects the productive agricultural land of the site and surrounding properties: (*Amended by Ordinance 31, August 2009*)

Agricultural research and development facilities, public and private.  
Agricultural businesses or uses.  
Bed and breakfast establishments.  
Cemeteries.  
Commercial windmills.  
State licensed residential facilities—group day care home.  
Kennels.  
Large scale livestock enterprises.  
Public or private outdoor recreation or park facilities.  
Riding stables.  
Rural businesses providing needed services to local and seasonal residents of areas surrounding a particular use. These may include convenience stores with or without gasoline and other automotive products, garages or repair shops, offices, shops, other small business establishments.  
Sawmills and other forestry related businesses.  
Schools and commercial day care facilities.  
Slaughter houses.  
Telecommunication towers and antennas (see Section 4.10).  
Secondary dwellings for an elderly or infirm family member during the period of convalescence or debility (see Section 5.5.5).  
Large Scale Wind Energy Conversion Systems (LWECS) (*Amended by Ordinance 36, March 2012*)

- B. A roadside stand for the sale of agricultural products, provided that:
1. Adequate parking and maneuvering areas are provided to ensure safe vehicle ingress and egress and pedestrian movement within the site.
  2. The products sold at any stand are mainly grown or produced on the premises.
- C. A temporary manufactured home or an approved detached accessory structure for the living purposes during the construction of a permanent dwelling on the same lot.
1. The manufactured home or approved structure will be removed within eighteen months or as soon as the original reason for the temporary dwelling has ceased whichever comes first;
  2. The manufactured home will be connected to an approved well and septic system; and,
  3. Will be anchored securely and properly and will follow all other applicable township, county, state, and federal regulations.
  4. The Zoning Administrator may in extraordinary circumstances extend the zoning permit for this use for one year.



SECTION 5.5.3 DEVELOPMENT STANDARDS

The following dimensional requirements shall be met for any use in this district, unless otherwise provided.

- A. Minimum farm parcel size: Two (2) acres, or as specified in a project for which a Special Use Permit has been secured. *(Amended by Ordinance 31, August 2009)*

	<u>Farm Buildings</u>	<u>Commercial or other non-farm Structures</u>
Minimum frontage	200 feet	200 feet
Minimum front setback	50 feet	50 feet
Minimum side setback	25 feet	25 feet
Minimum rear setback	50 feet	50 feet
Maximum height	95 feet	40 feet

- B. Residential developments shall be permitted within agricultural areas on non-productive farmland by designing a Planned Development in accordance with Section 5.16 of this Ordinance, with an underlying allowable dwelling unit density of one (1) dwelling unit per one (1) acre and a minimum of seventy-five (75%) percent permanently preserved unbuilt open space. Minimum project area ten (10) acres. *(Amended by Ordinance 31, August 2009)*

- C. Metes-and-Bounds or platted lots for residential uses on non-productive farmland shall meet the following standards: *(Amended by Ordinance 31, August 2009)*

Minimum parcel size	2 acres
Minimum lot width	200 feet
Minimum front setback	50 feet
Minimum side setback	25 feet
Minimum rear setback	50 feet
Maximum height	35 feet

SECTION 5.5.4 PERFORMANCE STANDARDS

- A. Farming and approved ancillary activities shall be carried out conscious of neighboring uses. Wherever feasible and justifiable, buffers of hedgerows, tree lots or other barriers should be maintained between different districts and uses to minimize conflicts. Michigan Department of Agriculture “Generally Accepted Management Practices” (GAMPS) shall be used to determine whether a new use may be sited as proposed. Setbacks prescribed in the GAMPS shall be used to assess the distances needed by a new use from existing residences and other uses.
- B. Deviations for farm lot size may be granted by the Planning Commission if applicant can prove the desired agricultural operation is a bonafide commercial agricultural operation.
- C. To the greatest degree practicable, land divisions, including single lot splits, must be designed to protect and preserve natural resources, productive farmland, and the culture and character of the area.
- D. Within all setbacks, landscape plantings shall be required by residential uses to buffer them from adjacent agricultural, or potential agricultural operations, and to retain the rural character of the area.

- E. All residential developments, or residential plots, units or parcels, and any other non-farm use within this district shall be devised with the understanding that agricultural operations are the primary use of this district and therefore layouts for residences and other non-farm uses shall be designed in such a manner as to protect farming and other agricultural operations from interference and nuisances.

#### SECTION 5.5.5 ACCESSORY STRUCTURES AND USES

Any use or structure customarily incidental to a permitted principal use not otherwise regulated by this Ordinance is allowed by right. Accessory structures shall generally be located in side or rear yards and shall meet all setback requirements. *(Amended by Ordinance 36, March 2012)*

Home occupations as limited by this Ordinance are allowed in this district as an accessory use. The Planning Commission may allow, at its discretion, accessory structures to be used for home occupations (if there is a principal structure on the same parcel) subject to site plan review and/or a special use permit. *(Amended by Ordinance 33, December 2010)*

A secondary dwelling for an elderly or infirm family member during the period of convalescence or debility is allowed in this district as a Special Use as an accessory structure and use.

#### SECTION 5.5.6 MISCELLANEOUS REGULATIONS

The keeping of horses, ponies and other large farm animals is allowed on residential parcels of three (3) acres or larger within this district.

General Provisions as permitted in Chapter 4.

Parking as permitted in Chapter 6.

Signs as permitted in Chapter 7.

## SECTION 5.6 FORESTED / RURAL RESIDENTIAL ( FR )

The purpose and intent of this district is to preserve the forests of the Township while allowing residential development and other uses on private lands near State of Michigan Forest lands in such ways that will not hinder this objective. To the greatest degree practicable, the integrity and contiguity of forest lands shall be maintained.

### SECTION 5.6.1 PERMITTED PRINCIPAL USES

Single-family dwellings.  
State licensed residential facilities—family day care home.  
Planned developments (see Section 5.16).  
On-site Wind Energy Conversion Systems (OWECS) (*Amended by Ordinance 36, March 2012*)

### SECTION 5.6.2 CONDITIONAL USES

- A. The following uses are permitted upon securing a Special Use Permit and upon Development Site Plan Review approval in accordance with Chapters 8 and 9. Also see Section 4.15 for Landscaping Standards.

Agricultural businesses.  
Bed and breakfast establishments.  
Cemeteries.  
Churches and other religious institutions.  
Forestry related businesses.  
State licensed residential facilities—group day care home.  
Kennels.  
Lodges and clubs.  
Natural resource extraction operations.  
Outdoor recreation establishments.  
Schools and commercial day care facilities.  
Telecommunication towers.  
Secondary dwellings for an elderly or infirm family member during the period of convalescence or debility (see Section 5.6.5).  
Large Scale Wind Energy Conversion Systems (LWECS) (*Amended by Ordinance 36, March 2012*)

- B. A temporary manufactured home or an approved detached accessory structure for the living purposes during the construction of a permanent dwelling on the same lot.
1. The manufactured home or approved structure will be removed within eighteen months or as soon as the original reason for the temporary dwelling has ceased whichever comes first;
  2. The manufactured home or approved structure will be connected to an approved well and septic system; and,
  3. Will be anchored securely and properly and will follow all other applicable township, county, state, and federal regulations.

4. The Zoning Administrator may in extraordinary circumstances extend the zoning permit for this use for one year.

### SECTION 5.6.3 DEVELOPMENT STANDARDS

- A. Metes-and-Bounds or platted lots for residential uses shall meet the following standards:

Minimum parcel size	5 acres
Minimum lot width	330 feet
Minimum front setback	50 feet
Minimum side setback	50 feet
Minimum rear setback	50 feet
Maximum height	2½ stories or 35 feet

Flag lots may be created by Planning Commission action: the driveway leg must have a minimum access of sixty-six (66) foot frontage on a public road and be separated from the nearest drive in accordance with Section 4.11.

- B. Residential developments shall be permitted within this district by designing a Planned Development in accordance with Section 5.16 of this Ordinance, with an underlying allowable dwelling unit density of one (1) dwelling unit per five (5) acres and a minimum of seventy-five (75%) percent permanently preserved unbuilt open space. Minimum project area twenty (20) acres.

### SECTION 5.6.4 PERFORMANCE STANDARDS

- A. All structures, roads and other infrastructure shall be placed in such a manner that will avoid the destruction of as few trees and natural terrain on a site or parcel as possible.
- B. Wooded unbuilt areas of a site or parcel shall be contiguous with forested areas of adjoining sites to promote the maintenance of large forested expanses without buildings, other structures, or infrastructure.
- C. Trees and other vegetation within buffer or setback areas shall be preserved to the greatest degree practicable.
- D. Unbuilt areas, suitable for such, should be reforested as part of a parcel's Development Site Plan.
- E. All non-residential uses shall be situated and designed such that any potential nuisances or disturbances of surrounding properties shall be eliminated or mitigated to the greatest degree possible.
- F. Residences or other structures shall not be placed within fifty (50) feet of a creek or stream and a streamside non-disturbance area of twenty-five (25) feet shall be maintained except for an access route of cleared area to the water of no more than twenty (20) feet in width.

### SECTION 5.6.5 ACCESSORY STRUCTURES AND USES

Any use or structure incidental to a permitted principal use not otherwise regulated by this Ordinance is allowed by right. A pole building or other storage building may be constructed without a principal structure provided setbacks are followed as set forth in Section 5.6.3. Accessory structures shall not cover more than ten (10%) percent of the building envelope. *(Amended by Ordinance 36, March 2012)*

Home occupations as limited by this Ordinance are allowed in this district as an accessory use. The Planning Commission may allow, at its discretion, accessory structures to be used for home occupations (if there is a principal structure on the same parcel) subject to site plan review and/or a special use permit. *(Amended by Ordinance 33, December 2010)*

A secondary dwelling for an elderly or infirm family member during the period of convalescence or debility is allowed in this district as a Special Use as an accessory structure and use.

### SECTION 5.6.6 MISCELLANEOUS REGULATIONS

The keeping of horses, ponies, or other large farm animals is allowed on parcels of three (3) acres or larger within this district. No manure piles or other similar debris shall be kept within one hundred (100) feet of any lot line or within one hundred fifty (150) feet of any adjacent occupied dwelling. *(Amended by Ordinance 36, March 2012)*

General Provisions as permitted in Chapter 4.

Parking as permitted in Chapter 6.

Signs as permitted in Chapter 7.

## SECTION 5.7 COUNTRY ESTATE DISTRICT ( CE )

The Country Estate District is established to provide for large site rural home development. The district is intended to discourage non-agricultural development in the AG district by providing suitable and sufficient territory for low-density residential development in this rural area outside the AG and FR districts..

### SECTION 5.7.1 PERMITTED PRINCIPAL USES

Agriculture, excluding the operation of large scale livestock enterprises.  
Single-family dwellings.  
State licensed residential facilities—family day care home.  
Planned developments (see Section 5.16).  
On-site Wind Energy Conversion Systems (OWECS) (*Amended by Ordinance 36, March 2012*)

### SECTION 5.7.2 CONDITIONAL USES

The following uses are permitted upon securing a Special Use Permit and upon Development Site Plan Review approval in accordance with Chapters 8 and 9. Also see Section 4.15 for Landscaping Standards.

- A. Bed and breakfast establishments.  
Cemeteries.  
Churches and other religious institutions.  
State licensed residential facilities—group day care home.  
Lodges and Clubs.  
Private stables, accessory to and on the same parcel as a principal dwelling.  
Public and private outdoor recreational establishments excluding rifle ranges or gun clubs.  
Schools and day care facilities.  
Secondary dwellings for an elderly or infirm family member during the period of convalescence or debility (see Section 5.7.5).  
Large Scale Wind Energy Conversion Systems (LWECS) (*Amended by Ordinance 36, March 2012*)
- B. A roadside stand for the sale of agricultural products provided that:
1. Adequate parking and maneuvering areas are provided to ensure safe vehicle ingress and egress and pedestrian movement within the site.
  2. The products sold at any stand are mainly grown or produced on the premises.
- C. A temporary manufactured home or an approved detached accessory structure for the living purposes during the construction of a permanent dwelling on the same lot.
1. The manufactured home or approved structure will be removed within eighteen months or as soon as the original reason for the temporary dwelling has ceased whichever comes first;
  2. The manufactured home or approved structure will be connected to an approved well and septic system; and,

3. Will be anchored securely and properly and will follow all other applicable township, county, state, and federal regulations.
4. The Zoning Administrator may in extraordinary circumstances extend the zoning permit for this use for one year.

SECTION 5.7.3 DEVELOPMENT STANDARDS

- A. The following dimensional requirements shall be met for any use in this district, unless otherwise provided.

Minimum parcel size	5 acres
Minimum lot width	330 feet
Minimum front setback	50 feet
Minimum side setback	50 feet
Minimum rear setback	50 feet
Maximum height	2 ½ stories or 35 feet

or as approved in a Planned Development.

- B. Residential developments shall be permitted in this district by designing a Planned Development in accordance with Section 5.16 with an underlying allowable dwelling unit density of one (1) dwelling unit per five (5) acres and a minimum of seventy-five (75%) percent permanently preserved open space. Minimum project area of twenty (20) acres.

SECTION 5.7.4 PERFORMANCE STANDARDS

- A. All structures, roads and other infrastructure shall be placed in such a manner that will avoid the destruction of as few trees and natural terrain on a site or parcel as possible.
- B. Wooded unbuilt areas of a site or parcel should be contiguous with forested areas of adjoining sites to promote the maintenance of large forested expanses without buildings, other structures, or infrastructure.
- C. Any permitted non-residential uses shall be situated and designed such that any potential nuisances or disturbances of surrounding properties shall be eliminated or mitigated to the greatest degree possible.
- D. Planned developments and conditional uses must be designed so as not to affect adjacent or other district estate holdings.
- E. Both residential and commercial uses shall be designed and conducted to limit noise, artificial light, and other bothersome effects.

SECTION 5.7.5 ACCESSORY STRUCTURES AND USES

Any use or structure customarily incidental to a permitted principal use not otherwise regulated by this Ordinance is allowed by right. Accessory structures shall generally be located in side or rear yards. Accessory structures shall not cover more than ten (10%) percent of the building envelope. *(Amended by Ordinance 36, March 2012)*

Home occupations as limited by this Ordinance are allowed in this district as an accessory use. The Planning Commission may allow, at its discretion, accessory structures to be used for home

occupations (if there is a principal structure on the same parcel) subject to site plan review and/or a

special use permit. *(Amended by Ordinance 33, December 2010)*

A secondary dwelling for an elderly or infirm family member during the period of convalescence or debility is allowed in this district as a Special Use as an accessory structure and use.

SECTION 5.7.6 MISCELLANEOUS REGULATIONS

The keeping of horses, ponies, or other large farm animals is allowed on parcels of three (3) acres or larger within this district. No manure piles or other similar debris shall be kept within one hundred (100) feet of any lot line or within one hundred fifty (150) feet of any adjacent occupied dwelling. *(Amended by Ordinance 36, March 2012)*

- General Provisions as permitted in Chapter 4.
- Parking as permitted in Chapter 6.
- Signs as permitted in Chapter 7.



SECTION 5.8 LOW-DENSITY RESIDENTIAL DISTRICT ( R-1 )

The purpose and intent of this district is to provide a stable and sound family residential environment with its appropriate neighborhood related urban utilities, facilities, and services. In this district, low-density urban residential development will be permitted through the construction and occupancy of single-family dwellings on relatively large urban lots.

SECTION 5.8.1 PERMITTED PRINCIPAL USES

- Single-family dwellings.
- Public outdoor recreational facilities.
- State licensed residential facilities—family day care home.
- Planned developments (see Section 5.16).
- On-site Wind Energy Conversion Systems (OWECS) (*Amended by Ordinance 36, March 2012*)

SECTION 5.8.2 CONDITIONAL USES

The following uses are permitted upon securing a Special Use Permit and upon Development Site Plan Review approval in accordance with Chapters 8 and 9. Also see Section 4.15 for Landscaping Standards.

- Bed and breakfast establishments.
- Cemeteries.
- Churches and other religious institutions.
- Contractors offices not including outdoor storage of materials or vehicles.
- State licensed residential facilities—group day care home.
- Hospitals, nursing homes, and housing for the elderly.
- Municipal buildings, not including outdoor storage of materials or vehicles and further excluding correctional facilities.
- Private outdoor recreational facilities, i.e. golf courses or country clubs.
- Public utility or service buildings, not requiring outdoor storage or material.
- Commercial day care facilities.
- Large Scale Wind Energy Conversion Systems (LWECS) (*Amended by Ordinance 36, March 2012*)

SECTION 5.8.3 DEVELOPMENT STANDARDS

A. The following dimensional requirements shall be met for any use in this district, unless otherwise provided.

Minimum parcel size	2 acres
Minimum lot width:	200 feet
Minimum front setback	50 feet
Minimum side setback	25 feet
Minimum rear setback	50 feet
Maximum height	2 ½ stories or 35 feet, whichever is less

or as approved in a Planned Development

- B. Residential developments shall be permitted within this district by designing a Planned Development in accordance with Section 5.16 of this Ordinance, with an underlying allowable dwelling unit density of two (2) acres or one dwelling unit per one (1) acre density and a minimum of sixty (60%) percent permanently preserved unbuilt open space. Minimum project area ten (10) acres.

#### SECTION 5.8.4 PERFORMANCE STANDARDS

- A. Higher density housing will only be allowed where services and facilities warrant them. All landscaping, parking, and other requirements of this Ordinance and other appropriate agencies and authorities shall be followed.
- B. In designing homesites and developments, care shall be taken to preserve the quality of the Township's natural environment. Proper drainage including retention and detention areas shall be provided and buffer areas shall be provided along the creeks and streams within this district.
- C. Streets and roads shall integrate rationally into the county and city road networks. Connections to existing streets shall be required where appropriate. Driveways onto a county primary road shall be no closer than three hundred fifty (350) feet (see Section 4.11).
- D. Residential developments in rural portions of the district shall retain trees and other vegetation between the developed portions of a project and the county road rights-of-way.
- E. Based upon site conditions, specific setbacks, buffers, and other requirements may be placed upon special uses to ensure safety and harmony between these special uses and other uses within the district.

#### SECTION 5.8.5 ACCESSORY STRUCTURES AND USES

Uses and structures incidental to a permitted principal use not otherwise regulated by this Ordinance are allowed by right. Accessory structures shall be constructed generally in rear and side yards. Accessory structures shall not cover more than ten (10%) percent of the building envelope. *(Amended by Ordinance 36, March 2012)*

Home occupations as limited by this Ordinance are allowed in this district as an accessory use. The Planning Commission may allow, at its discretion, accessory structures to be used for home occupations (if there is a principal structure on the same parcel) subject to site plan review and/or a special use permit. *(Amended by Ordinance 33, December 2010)*

#### SECTION 5.8.6 MISCELLANEOUS REGULATIONS

The keeping of horses, ponies and other large farm animals is allowed on residential parcels of five (5) acres or larger. No more than three (3) large animals per the first five (5) acres and three (3) for each additional five (5) acres is allowed. *(Amended by Ordinance 36, March 2012)*

General Provisions as permitted in Chapter 4.

Parking as permitted in Chapter 6.

Signs as permitted in Chapter 7.

SECTION 5.9 MEDIUM-DENSITY RESIDENTIAL DISTRICT ( R-2 )

The purpose and intent of this district is to provide for development of family homes at medium densities. The district is meant to encourage the development of attractive single residential areas with compatible services and amenities.

SECTION 5.9.1 PERMITTED PRINCIPAL USES

- Single-family dwellings.
- Two-family dwellings (duplexes).
- State licensed residential facilities—family day care homes.
- Planned developments (see Section 5.16).
- On-site Wind Energy Conversion Systems (OWECS) (*Amended by Ordinance 36, March 2012*)

SECTION 5.9.2 CONDITIONAL USES

The following uses are permitted upon securing a Special Use Permit and upon Development Site Plan Review approval in accordance with Chapters 8 and 9. Also see Section 4.15 for Landscaping Standards.

- Bed and breakfast establishments.
- Cemeteries.
- Churches and other religious buildings.
- State licensed residential facilities—group day care home.
- Multi-Family dwellings (limited to eight dwellings per unit)
- Public and private parks.
- Public and private schools.
- Large Scale Wind Energy Conversion Systems (LWECS) (*Amended by Ordinance 36, March 2012*)

SECTION 5.9.3 DEVELOPMENT STANDARDS

A. The following dimensional requirements shall be met for any use in this district, unless otherwise provided.

	<u>With public sewer</u>	<u>Without public sewer</u>
Minimum parcel size	12,000 square feet	16,000 square feet
Duplex minimum parcel size per unit	9,000 square feet	12,000 square feet
Minimum lot width	75 feet	85 feet
Minimum front setback	25 feet	25 feet
Minimum side setback	10 feet	10 feet
Minimum rear setback	30 feet	30 feet
Maximum height	30 feet	30 feet

B. Residential developments shall be permitted within this district by designing a Planned

Development in accordance with Section 5.16 of this Ordinance, following the densities above and a minimum of fifty (50%) percent permanently preserved unbuilt open space. Minimum project area five (5) acres.

#### SECTION 5.9.4 PERFORMANCE STANDARDS

- A. In designing homesites and developments, care shall be taken to preserve the quality of the Township's natural environment. Proper drainage including retention and detention areas shall be provided and buffer areas shall be provided along the creeks and streams within this district.
- B. Streets and roads shall integrate rationally into the county and city road networks. Connections to existing streets shall be required where appropriate. Driveways onto a county primary road shall be no closer than three hundred fifty (350) feet (see Section 4.11).
- C. Residential developments in rural portions of the district shall retain trees and other vegetation between the developed portions of a project and the county road rights-of-way.
- D. Based upon site conditions, specific setbacks, buffers, and other requirements may be placed upon special uses (including multi-family developments) to ensure safety and harmony between these special uses and other uses within the district.

#### SECTION 5.9.5 ACCESSORY STRUCTURES AND USES

Uses and structures incidental to a permitted principal use not otherwise regulated by this Ordinance are allowed by right. No accessory structure or detached garage may be higher or larger than the primary structure on a lot. No accessory structure shall be located in a front yard. Accessory structures shall not cover more than ten (10%) percent of the building envelope. *(Amended by Ordinance 36, March 2012)*

Home occupations as limited by this Ordinance are allowed in this district as an accessory use. Accessory structures may not be used for home occupations unless the lot or parcel is two acres or larger.

#### SECTION 5.9.6 MISCELLANEOUS REGULATIONS

The keeping of horses, ponies and other large farm animals is allowed on residential parcels of five (5) acres or larger. No more than three (3) large animals per the first five (5) acres and three (3) for each additional five (5) acres is allowed. *(Amended by Ordinance 36, March 2012)*

General Provisions as permitted in Chapter 4.

Parking as permitted in Chapter 6.

Signs as permitted in Chapter 7.

SECTION 5.10 COMMERCIAL DISTRICT ( C )

The purpose and intent of this district is to provide locations for commercial uses in the Township. Permitted uses are small and primarily local and are intended to serve township residents and travelers on the state trunklines. All proposed commercial uses are required to submit a Development Site Plan in accordance with Chapter 9 of this Ordinance.

SECTION 5.10.1 PERMITTED PRINCIPAL USES

- General retail, office, financial, and service businesses.
- Restaurants, not including drive-through restaurants.
- Planned developments (see Section 5.16).
- On-site Wind Energy Conversion Systems (OWECS) (*Amended by Ordinance 36, March 2012*)

SECTION 5.10.2 CONDITIONAL USES

The following uses are permitted upon securing a Special Use Permit and upon Development Site Plan Review approval in accordance with Chapters 8 and 9. Also see Section 4.15 for Landscaping Standards.

- Building supply yards, warehouses, and wholesale businesses.
- Coin-operated laundries.
- Contractors and builders establishments.
- Commercial day care centers.
- Drive-through businesses.
- Hotels and motels.
- Indoor recreation establishments, such as bowling alleys, skating rinks, and arcades.
- Mortuaries and funeral homes.
- Motor vehicle sales and/or repair facilities.
- Motor vehicle service facilities, including gas stations and car washes.
- Residential dwellings - single-family, duplex, and multi-family.
- Self-service storage facilities.
- Taverns, bars, and similar establishments not providing adult entertainment.
- Theaters.
- Large Scale Wind Energy Conversion Systems (LWECS) (*Amended by Ordinance 36, March 2012*)

SECTION 5.10.3 DEVELOPMENT STANDARDS

A. The following dimensional requirements shall be met for any use in this district, unless otherwise provided.

	<u>With public sewer</u>	<u>Without public sewer</u>
Minimum parcel size	25,000 square feet	1 acre
Minimum lot width	200 feet	200 feet
Minimum front setback	50 feet	50 feet

Minimum side setback	10 feet, or zero if proper access, building, and fire codes are met	
Minimum rear setback	25 feet	25 feet
Maximum height	35 feet	35 feet

- B. Minimum Planned Residential Development project area is five (5) acres with an allowable unit density of one (1) dwelling unit per one (1) acre and a minimum of fifty (50%) percent permanently preserved unbuilt open space.
- C. Minimum Planned Commercial Development project area is one (1) acre. Developments shall follow development standards above for density requirements.

SECTION 5.10.4 PERFORMANCE STANDARDS

- A. This district intends that commercial development take place primarily adjacent to the City of West Branch and at the crossroads of M 55 and M 33 and that new development shall be directed toward infill and/or rehabilitation of existing commercial sites.
- B. A street tree and landscape planting plan shall be followed.
- C. Driveways shall be kept to a minimum and service drives and/or parking areas must be connected to neighboring lots or to the lot lines between adjoining commercial parcels. Access Management Guidelines developed by the Michigan Department of Transportation shall be used to assess compliance with this standard.
- D. Parking shall contain treed landscape islands or isles if a lot has over sixteen (16) parking spaces.
- E. Buffers and proper drainage devices shall be provided to ensure protection of township creeks, streams, and other waterways.
- F. Where appropriate, minimum five (5) foot sidewalks shall be provided. (*Amended by Ordinance 29, July 2008*)
- G. All storage shall be within a structure or completely screened from public view.
- H. Commercial establishments adjacent to residential areas shall provide an opaque screen (landscaping, fencing, or berms) at these property boundaries and carry on no activities including parking or storage within a rear or side yard setback adjacent to a residential district.

SECTION 5.10.5 ACCESSORY STRUCTURES AND USES

Any use or structure incidental to a permitted principal use not otherwise regulated by this Ordinance is allowed by right and must be located in a side or rear yard only. Unlicensed trailers and transit containers must be housed within the principal structure or in an approved permanent accessory structure. Temporary transfer storage and any other exterior accumulation of goods or equipment shall not be allowed unless as part of an approved site plan.

Home occupations as limited by this Ordinance are allowed in this district as an accessory use and shall become a part of the Special Use Permit regulating the residential dwelling.

SECTION 5.10.6 MISCELLANEOUS REGULATIONS

General Provisions as permitted in Chapter 4.

Parking as permitted in Chapter 6.

Signs as permitted in Chapter 7.

## SECTION 5.11 INDUSTRIAL (I)

The purpose of this district is to provide for areas where moderate scale industrial activities may occur within the Township together with similar transitional commercial uses and existing residential uses. These areas will primarily be adjacent to the current industrial areas and where utilities, roads, and other necessary services are available. *(Amended by Ordinance 43, January 2017)*

### SECTION 5.11.1 PERMITTED PRINCIPAL USES

Single-family detached dwellings.  
Accessory dwellings. (See Section 5.12.5)  
State licensed residential facilities—family day care home.  
Planned developments (see Section 5.11.3 B and Section 5.16).  
Utility transforming stations and other installations.  
On-site Wind Energy Conversion Systems (OWECS)  
*(Amended by Ordinance 43, January 2017)*

### SECTION 5.11.2 CONDITIONAL USES

The following uses are permitted upon securing a Special Use Permit and upon Development Site Plan Review approval in accordance with Chapters 8 and 9. Also see Section 4.15 for Landscaping Standards. Changes of use in existing structures shall be reviewed by the Zoning Administrator. Upon review of application for reuse, if the Zoning Administrator determines there will be no significant effects to the existing site layout, such effects including off-street parking, landscaping, drainage or other conditions, the Zoning Administrator may require only a minor project site plan review in accordance with Chapter 9 to be approved by the Planning Commission without the necessity of a new Special Use Permit.

Building supply yards, warehouses, and wholesale businesses.  
Contractors and builders establishments.  
Design, manufacturing, processing, packaging, treatment or use of previously prepared materials.  
Laundry and dry cleaning plants.  
Motor vehicle sales and/or repair operations.  
Motor vehicle service businesses.  
Office buildings.  
Printing and publishing plants.  
Storage facilities.  
General retail, office, financial, and service businesses.  
Commercial day care centers, except in a designated U.S. EPA Brownfields Program District.  
Telecommunications towers and antennas (see Section 4.10).  
Large Scale Wind Energy Conversion Systems (LWECS)

Any industrial use not specifically listed above may be submitted for a Special Use Permit in accordance with Section 8 of this Ordinance. The primary criterion for the Planning Commission accepting an application for review, to be determined solely at the Commission's discretion, will be the suitability of the proposed use at the proposed location. Factors used in this determination



will include, but will not be limited to, the character of the neighborhood, necessary infrastructure availability, availability of a more appropriate site within the Township, traffic and roadway requirements, and the other elements of the proposed site plan submitted by the applicant. (*Amended by Ordinance 43, January 2017*)

### SECTION 5.11.3 DEVELOPMENT STANDARDS

- A. The following dimensional requirements shall be met for any use in this district, unless otherwise provided.

	<u>With public sewer</u>	<u>Without public sewer</u>
Minimum parcel size	10,000 square feet	1 acre
Minimum lot width	75 feet	200 feet
Minimum front setback	25 feet	50 feet
Minimum side setback	10 feet*	25 feet*
Minimum rear setback	30 feet	50 feet
Maximum height	50 feet	50 feet

\*Minimum setback distance from another district boundary is fifty (50) feet.

- B. Industrial Parks may be permitted within this district by designing a Planned Development in accordance with Section 5.16 of this Ordinance, following the densities above and a minimum of fifty (50%) percent permanently preserved unbuilt open space. Minimum project area two (2) acres.

### SECTION 5.11.4 PERFORMANCE STANDARDS

- A. Proposed activities shall provide for all necessary infrastructure to the site.  
B. Ingress and egress drives shall be kept to a minimum, and where appropriate, service drives shall connect businesses. Flare or turning lanes may be required at highway entries.  
C. Buffers and proper drainage devices shall be provided to ensure protection of township creeks, streams, and other waterways.  
D. A street tree and landscape planting plan shall be followed.  
E. All storage shall be within a structure or screened from public view.  
F. Industrial operations adjacent to residential areas shall provide an opaque screen (landscaping, fencing, or berms) at these property boundaries and carry on no activities including parking or storage within a rear or side yard setback adjacent to a residential district.

### SECTION 5.11.5 ACCESSORY STRUCTURES

Any use or structure incidental to a permitted principal use not otherwise regulated by this Ordinance is allowed by right and must be located in side or rear yards only.

### SECTION 5.11.6 MISCELLANEOUS REGULATIONS

General Provisions as permitted in Chapter 4.

Parking as permitted in Chapter 6.

Signs as permitted in Chapter 7.

## SECTION 5.12 URBAN MIXED USE DISTRICT ( UX )

The purpose and intent of this district is to provide areas within the Township where traditional high-density, urban development may occur with a mixture of uses. Sewer, water systems, and other infrastructure may be necessary for these uses within this district. See Business Route I 75 Overlay District for additional uses and regulations.

### SECTION 5.12.1 PERMITTED PRINCIPAL USES

- A. The following residential uses: *(Amended by Ordinance 36, March 2012)*
- Single-family detached dwellings.
  - Single-family attached dwellings.
  - Duplex dwellings.
  - Townhouse dwellings.
  - Accessory dwellings. (See Section 5.12.5)
  - State licensed residential facilities—family day care home.
- B. Public and semi-public uses, including community meetings halls, public or private schools, athletic clubs, museums, libraries, parks and playgrounds and structures typically constructed as part of these types of facilities.
- C. The following commercial uses:
- Banks and other financial institutions without drive-through banking facilities.
  - Offices and personal service establishments.
  - Retail stores.
  - Restaurants, without drive-through or drive-in facilities.
- D. Planned Developments in accordance with Section 5.16 when more than one use or one structure is included for a specific parcel of property.
- E. On-site Wind Energy Conversion Systems (OWECS) *(Amended by Ordinance 36, March 2012)*

### SECTION 5.12.2 CONDITIONAL USES

- A. Wireless telecommunication antenna towers and equipment shelter buildings shall be allowed under the following conditions:
1. Maximum height forty-two (42) feet.
  2. Designed and constructed to be inconspicuous in their intended locations.
  3. Co-location with other servers is mandatory.
  4. Provision of a positive environmental assessment.
  5. A statement providing the proof of need for the proposed tower.
  6. Equipment shelter buildings and other accessory structures shall meet all the requirements for similar structures in this district.

B. The following uses require a Special Use Permit in accordance with Chapter 8.

- Apartment dwellings / multi-family dwellings.
- Bed and Breakfast establishments.
- Churches.
- Coin-operated laundries.
- Commercial day care facilities.
- Contractors and builders establishments.
- Drive-through businesses.
- Hotels and motels.
- Indoor recreation establishments.
- Mortuaries / funeral homes.
- State licensed residential facilities—group day care home.
- Taverns and bars.
- Theaters.

C. Large Scale Wind Energy Conversion Systems (LWECS) (*Amended by Ordinance 36, March 2012*)

SECTION 5.12.3 DEVELOPMENT STANDARDS

High density uses must conform to the development standards that follow for each type allowed. All uses in this district require Site Plan Review except a single-family residence (see Chapter 9).

A. Single-family detached units:

	<u>With public sewer</u>	<u>Without public sewer</u>
Minimum parcel size:	8,000 square feet	15,000 square feet
Minimum lot width at front yard setback line:	75 feet	100 feet
Minimum lot depth:	100 feet	100 feet
Minimum yard dimensions:		
Front yard:	25 feet	25 feet
Side yard:	10 feet	10 feet
Rear yard:	25 feet	25 feet
Maximum building height:	35 feet	35 feet
Rear yard parking preferred, alleys optional.		

Additional standards for accessory structures and dwellings: an accessory structure or dwelling located on the same lot as a detached single-family dwelling shall additionally comply with the standards as specified above without modification, except that a detached accessory dwelling shall be limited to a maximum building height of twenty-five (25) feet.

Area and bulk standards for flag lots: flag lots shall comply with the above specified area and bulk standards, except that minimum lot width at the street line and minimum lot width at the front yard setback line shall be twenty (20) feet and a minimum yard setback dimension for all yards shall be twenty-five (25) feet.

B. Single-family dwellings with attached units:

	<u>With public sewer</u>	<u>Without public sewer</u>
Minimum parcel size per dwelling unit / office commercial:	11,000 square feet	15,000 square feet
Minimum lot width at front yard setback line:	85 feet	110 feet
Minimum lot depth:	100 feet	100 feet
Minimum yard dimensions:		
Front yard:	25 feet	25 feet
Side yard:	10 feet	10 feet
Rear yard:	25 feet	25 feet
Maximum building height:	35 feet	35 feet
Rear or side yard parking preferred, alley access optional.		

Attached structure shall be subordinate to the main structure characterized at minimum by a lower ridge line.

C. Duplex Dwellings

	<u>With public sewer</u>	<u>Without public sewer</u>
Minimum parcel size:	15,000 square feet	20,000 square feet
Minimum lot width (per dwelling unit) at front yard setback line:	100 feet	100 feet
Minimum lot depth:	100 feet	100 feet
Minimum yard dimensions:		
Front yard:	25 feet	25 feet
Side yard:	10 feet	10 feet
Rear yard:	25 feet	25 feet
Maximum building height:	35 feet	35 feet
Rear yard parking and alley preferred.		

D. Townhouse Dwellings (3 - 8 units per building)

	<u>With public sewer</u>	<u>Without public sewer</u>
Minimum parcel size per dwelling unit:	8,000 square feet	1 acre
Minimum lot width (per dwelling unit) at front yard setback line:	33 feet	33 feet
Minimum lot depth:	100 feet	100 feet
Minimum yard dimensions:		
Front yard:	25 feet	25 feet
Side yard (end of each row):	10 feet	10 feet
Rear yard:	25 feet	25 feet
Maximum building size:	Eight (8) dwelling units in a row	
Minimum interior yards		
Open Space between bldgs.:	20 feet	20 feet
Maximum building height:	35 feet	35 feet
Rear yard garage and alleys preferred.		

E. Apartment Dwellings

	<u>With public sewer</u>	<u>Without public sewer</u>
Minimum parcel size per building:	20,000 square feet	1 acre
Minimum lot width at front yard setback line:	120 feet	120 feet
Minimum lot depth:	100 feet	100 feet
Minimum yard dimensions:		
Front yard:	25 feet	25 feet
Side yard:	10 feet	10 feet
Rear yard:	25 feet	25 feet
Minimum interior yards		
Open Space between bldgs.:	20 feet	20 feet
Maximum building size:	twelve (12) dwelling units in a building, 96 ft. in length	
Maximum building height:	35 feet	35 feet
Rear yard parking and alley access are preferred.		

F. Commercial and Mixed Use Buildings

	<u>With public sewer</u>	<u>Without public sewer</u>
Minimum parcel size:	10,000 square feet	30,000 square feet
Minimum lot width at front yard setback line:	75 feet	110 feet
Minimum lot depth:	100 feet	100 feet
Minimum yard dimensions:		
Front yard:	10 feet	10 feet
Side yard:	zero (0), if attached to adjacent building and meets fire and building codes, or a minimum of 10 feet, if not	
Rear yard	25 feet	25 feet
Maximum building height:	35 feet	35 feet
Service drives may be required.		

G. Community Facilities, Institutional and Religious Buildings:

	<u>With public sewer</u>	<u>Without public sewer</u>
Minimum parcel size:	20,000 square feet	1 acre
Minimum lot width at front yard setback line:	100 feet	100 feet
Minimum lot depth:	110 feet	110 feet
Minimum yard dimensions:		
Front yard:	30 feet	30 feet
Side yard:	25 feet	25 feet
Rear yard:	75 feet	75 feet
Maximum building height:	35 feet	35 feet

Off-street parking recommended to be in rear or side yards. Alleys and service drives may be required.

H. Required Off-street Parking in Urban Areas

These requirements take precedence over the parking requirements of Chapter 6 in Urban Mixed Use Districts only.

1. Off-street parking in village areas shall be provided according to minimum requirements as specified below. All parking and lane areas must be paved with concrete or bituminous material.

<u>Use</u>	<u>Required Parking</u>
Single-family	Two parking spaces per unit
Townhouse and duplex	One space per first bedroom plus half of a space per each additional bedroom
Apartment dwellings	One space per bedroom
Accessory dwellings	One space per bedroom
Retail	One space for the first one thousand (1,000) square feet and one space for each additional seven hundred fifty (750) square feet
Office uses	One space for each five hundred (500) square feet of gross floor area
Institutional / Churches	One space for each four (4) seats

2. Off-street parking for commercial uses shall be sufficient to provide parking for the employees as well as long-term customer parking. Off-street parking lots shall be prohibited in any front yard setback area, preferably located at the rear of buildings, and shall be accessed by means of common driveways, preferably from side streets or lanes. Such lots shall be small-sized (less than 25 parking spaces), where possible, and interconnected with commercial or public parking lots on adjacent properties. Cross-access easements, acceptable to the Township, for adjacent lots with interconnected parking lots shall be required. Common, shared parking facilities are encouraged, where possible.
3. Parking for all dwelling units shall be discouraged in front yard setback areas. Driveways are discouraged in any front yard area. Driveway access should be from lanes or alleys. Driveways shall be setback a minimum of three (3) feet from any side property line, unless such driveway is shared by buildings on two (2) adjacent lots. Parking for townhouses shall be provided in a common off-street parking area or in garages or parking spaces with access from a rear lane wherever possible. Private driveways for townhouses shall connect to lanes only and not a street. However, a common driveway serving a minimum of eight (8) units and not exceeding eighteen (18) feet in width may be permitted from a street. Parking for apartments may be located in common parking lots located on a lot other than that containing the apartment building, but within four hundred (400) feet of the apartment building entrances. If access to a garage is provided from a street, the front entrance of such a garage shall be setback fifteen feet further than the front wall of the dwelling unit. The location of a garage shall be setback a minimum of six (6) feet from side or rear property line.

4. Parking Lot Landscaping, Buffering, and Screening.
  - a. Lots for apartment and non-residential uses shall balance the functional requirements of parking with the provision of pedestrian needs. Transition areas between parking and civic, commercial, or residential uses should be designed with textured paving, landscaping, and street furniture.
  - b. Parking lot layout, landscaping, buffering, and screening shall prevent direct views of parked vehicles from streets and sidewalks, avoid spill-over light, glare, noise, or exhaust fumes onto adjacent properties, in particular residential properties, and provide the parking area with a reasonable measure of shade. In order to achieve these objectives, parking lots exposed to view shall be surrounded by a minimum of three (3) foot high, year-round visually impervious screen, hedge, or wall. The height of any required screen, hedge, or wall shall decrease where driveways approach sidewalks or walkways, in order to provide adequate visibility of pedestrians or bicyclists from motor vehicles, and shall not interfere with clear sight triangle requirements.
  - c. The interior of all parking lots shall be landscaped to provide shade and visual relief. This is best achieved by protected planting islands or peninsulas within the perimeter of the parking lot. Parking lots with ten or less spaces may not require interior landscaping if the Planning Commission determines that there is adequate perimeter landscaping. If this perimeter landscaping is found to be inadequate, and in parking lots with eleven (11) or more spaces, a minimum of one (1) deciduous shade tree, two and one-half (2 ½) inch caliper, shall be planted for every ten (10) parking spaces. Planting areas shall be as large as possible, but no smaller than 10 feet x 20 feet or an equivalent planter is required. Choice of plant materials, buffer width, type of screening, location, and frequency of tree planting shall be flexible, but shall ensure the above objectives are satisfied.
  - d. Parking lot layout shall take into consideration pedestrian circulation.
- I. Planned Developments may be designed in accordance with Section 5.16 with a minimum of twenty-five (25%) percent permanently preserved unbuilt open space required.

#### SECTION 5.12.4 PERFORMANCE STANDARDS

- A. All uses in this district shall be subject to Chapter 9, Development Site Plan Review.
- B. Any use allowed in this district shall be situated and operated in order that it shall not become a nuisance to its neighbors. Commercial uses shall be generally situated along major roads, in core areas or on major streets. The decision as to the appropriateness of the use and location shall be at the sole discretion of the Planning Commission.
- C. All commercial and industrial activities and operations shall be carried on within an enclosed structure unless specifically permitted to do otherwise by a Special Use Permit.
- D. Five foot wide sidewalks are required and trailways and bike paths may be required in accordance with adopted Township Plans.

- E. The following standards shall be used to measure Urban Mixed Use District Projects:
1. Sewerage - Adequate facilities to handle the total build-out proposed and not endanger area ground water quality. (Monitor wells may be required by the Planning Commission upon recommendation by the appropriate health authorities.)
  2. Water - Adequate facilities to handle total build-out proposed and not endanger area ground water quality.
  3. Fire - Proposed project will not lower the current response time.
  4. Police - Proposed project will not lower the current response time.
  5. Traffic - Proposed project will not cause the service at proposed entryways or nearby intersections to fall below level C or level D at peak times of the day in accordance with the Institute of Transportation Engineers standards of current adoption.
  6. Drainage - Storm drainage resulting from a project shall be handled on-site or in conformance with an approved area plan and with the county regulations governing storm drainage.
  7. Physical conditions and natural features - Local prominent features and attributes, such as streams, woodlots, ridges, shall be preserved or enhanced where appropriate.

#### SECTION 5.12.5 ACCESSORY STRUCTURE AND USES

Any use or structure incidental to a permitted principal use not otherwise regulated by this Ordinance shall be allowed as designated on an approved site plan. No temporary storage structures or trailers may be used in this district. Accessory structures shall not cover more than ten (10%) percent of the building envelope. *(Amended by Ordinance 36, March 2012)*

Home occupations as limited by this Ordinance are allowed in this district as an accessory use.

#### SECTION 5.12.6 MISCELLANEOUS REGULATIONS

The keeping of horses, ponies and other large farm animals is allowed on residential parcels of five (5) acres or larger. No more than three (3) large animals per the first five (5) acres and three (3) for each additional five (5) acres is allowed. *(Amended by Ordinance 36, March 2012)*

General Provisions as permitted in Chapter 4.

Parking as permitted in Chapter 6.

Signs as permitted in Chapter 7.



**SECTION 5.12.7 TABLE OF URBAN MIXED USE DIMENSIONAL REQUIREMENTS**

Type of Use		Minimum parcel size	Minimum frontage (feet)	Minimum front setback (feet)	Minimum side setback (feet)	Minimum rear setback (feet)	Maximum height (feet)
<b>Single-family w/ detached units</b>	<i>with sewer</i>	8,000 sq. ft.	75	25	10	25	35
	<i>without sewer</i>	15,000 sq. ft.	100	25	10	25	35
<b>Single-family w/ attached units</b>	<i>with sewer</i>	11,000 sq. ft. <sup>3</sup>	85	25	10	25	35
	<i>without sewer</i>	15,000 sq. ft. <sup>3</sup>	110	25	10	25	35
<b>Duplex Dwellings</b>	<i>with sewer</i>	15,000 sq. ft.	100	25	10	25	35
	<i>without sewer</i>	20,000 sq. ft.	100	25	10	25	35
<b>Townhouse Dwellings</b>	<i>with sewer</i>	8,000 sq. ft.	33	25	10	25	35
	<i>without sewer</i>	1 acre	33	25	10	25	35
<b>Apartment Dwellings</b>	<i>with sewer</i>	20,000 sq. ft. <sup>1</sup>	120	25	10	25	35
	<i>without sewer</i>	1 acre <sup>1</sup>	120	25	10	25	35
<b>Commercial &amp; Mixed Use Buildings</b>	<i>with sewer</i>	10,000 sq. ft.	75	10	10 <sup>2</sup>	25	35
	<i>without sewer</i>	30,000 sq. ft.	110	10	10 <sup>2</sup>	25	35
<b>Community Facilities, Institutional, &amp; Religious Buildings</b>	<i>with sewer</i>	20,000 sq. ft.	100	30	25	75	35
	<i>without sewer</i>	1 acre	100	30	25	75	35

<sup>1</sup>Minimum project lot size per building.

<sup>2</sup>or zero if proper access, building, and fire codes are met.

<sup>3</sup>Per dwelling unit / office commercial.

SECTION 5.13 BUSINESS ROUTE I 75 OVERLAY DISTRICT ( BR )

The purpose and intent of this overlay district is to provide for more intensive commercial activity along the Business Route I 75 corridor while still encouraging traditional small town, mixed use development in areas adjacent to the City of West Branch. All uses allowed in this Overlay District shall be special uses within the Urban Mixed Use district and are subject to Special Use Permit and Development Site Plan Review approval. Standards required for their establishment which follow are in addition to and supplement those of the Urban Mixed Use District (Section 5.12).

SECTION 5.13.1 CONDITIONAL USES

The following uses are permitted upon securing a Special Use Permit and upon Development Site Plan Review approval in accordance with Chapters 8 and 9. Also see Section 4.15 for Landscaping Standards. Changes of use in existing structures shall be reviewed by the Zoning Administrator. Upon review of application for reuse, if the Zoning Administrator determines there will be no significant effects to the existing site layout, such effects including off-street parking, landscaping, drainage or other conditions, the Zoning Administrator may require only a minor project site plan review in accordance with Chapter 9 to be approved by the Planning Commission without the necessity of a new Special Use Permit. *(Amended by Ordinance 37, July 2012)*

- Adult entertainment.
- Building supply yards, warehouses, and wholesale businesses.
- Commercial recreation.
- Contractors and builders establishments.
- Commercial day care facilities.
- Drive-through businesses.
- General retail and service businesses.
- Hotels and motels.
- Light manufacturing operations.
- Motor vehicle service operations.
- Motor vehicle sales and/or repair facilities. *(Amended by Ordinance 43, January 2017)*
- Outdoor Advertising Structures (see Section 7.3).
- Restaurants.
- Storage facilities.
- Theaters.
- Planned Developments.

SECTION 5.13.2 DEVELOPMENT STANDARDS

- A. The following dimensional requirements shall be met for any use in this district, unless otherwise provided. *(Amended by Ordinance 31, August 2009)*

Minimum parcel size	25,000 square feet
Minimum frontage	200 feet
Minimum setback from Interstate Highway	50 feet
Minimum front setback	50 feet
Minimum side setback	20 feet
Minimum rear setback	30 feet
Maximum height	45 feet

- B. Industrial Parks may be permitted within this district by designing a Planned Development in accordance with Section 5.16 of this Ordinance, following the densities above and a minimum of fifty (50%) percent permanently preserved unbuilt open space. Minimum project area two (2) acres.

#### SECTION 5.13.3 PERFORMANCE STANDARDS

- A. Provisions of adequate public services is necessary for all uses.
- B. Ingress and egress drives shall be kept to a minimum, and where appropriate, service drives shall connect businesses. Flare or turning lanes may be required at highway entries.
- C. Buffers and proper drainage devices shall be provided to ensure proper storm water management and protection of township creeks, streams, and other waterways.
- D. A street tree and landscape planting plan shall be followed.
- E. Where appropriate, minimum five (5) foot sidewalks shall be provided. *(Amended by Ordinance 29, July 2008)*
- F. All storage shall be within a structure or completely screened from public view.
- G. Business route businesses adjacent to residential areas shall provide an opaque screen (landscaping, fencing, or berms) at these property boundaries and carry on no activities including parking or storage within a rear or side yard setback adjacent to a residential district.
- H. All uses shall adhere to any district design or development standards created for the corridor by the planning commission or the downtown development authority.

#### SECTION 5.13.4 ACCESSORY STRUCTURES AND USES

Any use or structure incidental to a permitted principal use not otherwise regulated by this Ordinance is allowed by right but must be located on an approved site plan and must be located in a side or rear yard only. Accessory structures in this district must follow the same setbacks required for principal structures. No temporary storage structures or trailers may be used in this district.

#### SECTION 5.13.5 MISCELLANEOUS REGULATIONS

- General Provisions as permitted in Chapter 4.
- Parking as permitted in Chapter 6.
- Signs as permitted in Chapter 7.

## SECTION 5.14 AIRPORT SAFETY OVERLAY DISTRICT ( AP )

The purpose and intent of this overlay district is to provide safety zones adjacent to and in the vicinity of the West Branch Community Airport in order to prevent land uses that may cause or be the occasion of an aircraft accident in accordance with Sec. 203 (2) of the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, and the Airport Zoning Act, P.A. 23 of 1950, as amended. *(Amended by Ordinance 31, August 2009)*

### SECTION 5.14.1 CONDITIONAL USES

The Michigan Department of Transportation, Aeronautics Division has prepared and the Michigan Aeronautics Commission has approved an Airport Approach Plan prepared pursuant to Section 151 of the Michigan Aeronautics Code, P.A. 327 of 1945, as amended, for the West Branch Community Airport. The Airport Approach Plan is illustrated in Figure 5, "Airport Accident Safety Zone Diagram." In accordance with Figure 5, "Aircraft Accident Safety Zone Diagram" the areas adjacent to the West Branch Community Airport are classified into five zones as shown in Figure 5. The sections which follow outline the allowed or proscribed uses. Uses requested in the underlying zone(s) shall be reviewed to ensure their conformance to this Chapter and its regulations. *(Amended by Ordinance 31, August 2009)*

### SECTION 5.14.2 ZONE ONE ( 1 ) RUNWAY PROTECTION ZONE

Residential land uses are prohibited. All non-residential land uses and special function land uses are allowed subject to review and approval based upon the conditions set forth within this Section (5.14). Land uses which concentrate people indoors or outdoors shall be avoided and shall not exceed a density of zero to five (0-5) people per acre. Allowed land uses shall be relatively unoccupied by people (i.e., mini-storage, small parking lots). *(Amended by Ordinance 31, August 2009)*

### SECTION 5.14.3 ZONE TWO ( 2 ) INNER SAFETY ZONE

Residential land uses are prohibited. All non-residential land uses and special function land uses are allowed subject to review and approval based upon the conditions set forth within this Section (5.14). Land uses which concentrate people indoors or outdoors shall be avoided and shall not exceed a density of zero to five (0-5) people per acre. Allowed land uses shall be relatively unoccupied by people (i.e., mini-storage, small parking lots). *(Amended by Ordinance 31, August 2009)*

### SECTION 5.14.4 ZONE THREE ( 3 ) INNER TURNING ZONE

Residential land uses are prohibited. All non-residential land uses and special function land uses are allowed subject to review and approval based upon the conditions set forth within this Section (5.14). Land uses which concentrate people indoors or outdoors shall be avoided and shall not exceed a density of zero to five (0-5) people per acre. Allowed land uses shall be relatively unoccupied by people (i.e., mini-storage, small parking lots). In this Zone, low-density housing may develop according to development standards along runways that extend 4,000 or more feet. *(Amended by Ordinance 31, August 2009)*

#### SECTION 5.14.5 ZONE FOUR ( 4 ) OUTER SAFETY ZONE

Residential land uses shall limit population concentrations. All non-residential land uses and special function land uses are allowed subject to review and approval based upon the conditions set forth within this Section (5.14). Land uses which concentrate people indoors or outdoors shall be avoided and shall not exceed a density of less than forty (40) people per acre in buildings and less than seventy-five (75) people per acre outside buildings. Low-density housing may be developed according to district development standards along runways. Developments should be should be built away from the extended runway centerline and clustered to maintain density. *(Amended by Ordinance 31, August 2009)*

#### SECTION 5.14.6 ZONE FIVE ( 5 ) SIDELINE SAFETY ZONE

Residential land uses are prohibited. All non-residential land uses and special function land uses are allowed subject to review and approval based upon the conditions set forth within this Section (5.14). Land uses which concentrate people indoors or outdoors shall be avoided and shall not exceed a density of zero to five (0-5) people per acre. Allowed land uses shall be relatively unoccupied by people (i.e., mini-storage, small parking lots). *(Amended by Ordinance 31, August 2009)*

#### SECTION 5.14.7 DEVELOPMENT AND PERFORMANCE STANDARDS

- A. During the site development process, shift all structures away from the runway centerlines.
- B. Maximum height of structures shall be twenty-five (25) feet.
- C. High overhead outdoor lighting is prohibited.
- D. Downward shading of lighting is required to reduce glare.
- E. Overhead utilities and noise sensitive land uses are prohibited.
- F. Landscaping shall be only low-growing vegetation.
- G. Limit storage of large quantities of hazardous or flammable material. *(Amended by Ordinance 32, September 2009)*
- H. Ensure permitted uses will not create large areas of standing water or generate smoke, steam, or other gases that would obscure visibility.
- I. Schools, play fields, hospitals, nursing homes, day care facilities or churches are prohibited.
- J. Mobile home parks are prohibited.
- K. No easement that would permit the construction of any structure or a use that would hinder or obstruct aeronautical activities shall be allowed.

#### SECTION 5.14.7 MISCELLANEOUS REGULATIONS

General Provisions as permitted in Chapter 4.  
Parking as permitted in Chapter 6.  
Signs as permitted in Chapter 7.

Figure 4

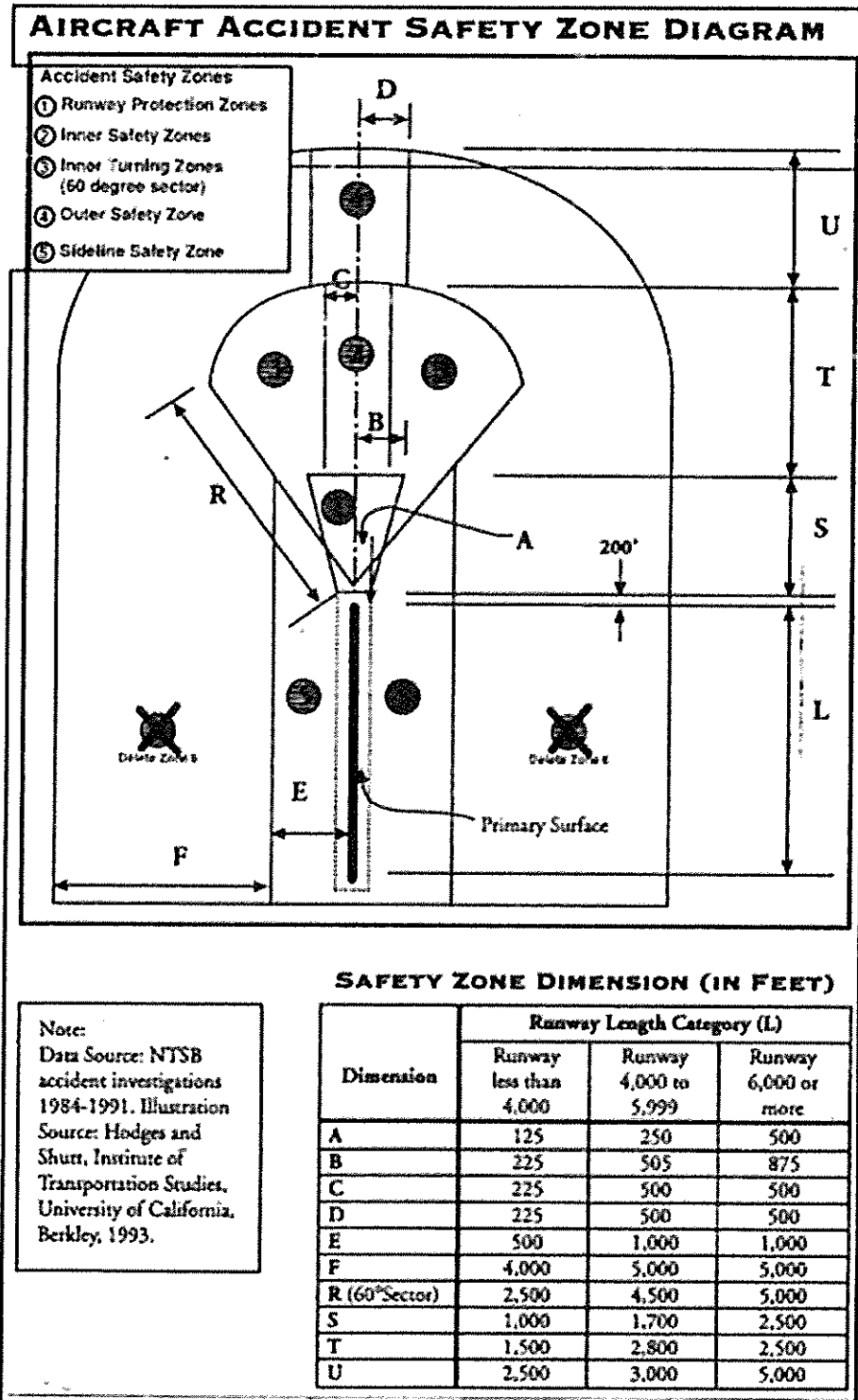
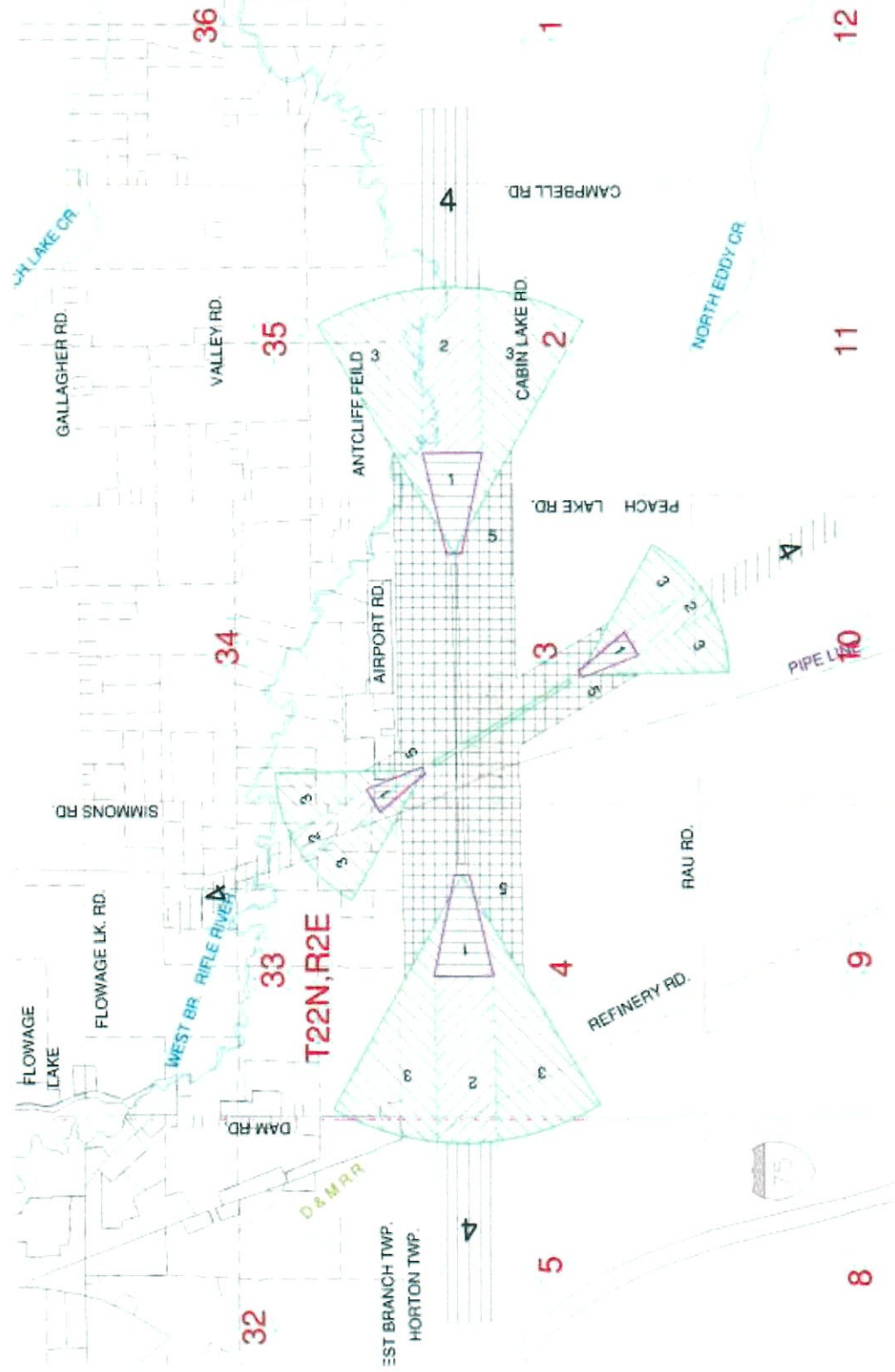


Figure 5 West Branch Township Airport Safety Zones Detail Map



**SECTION 5.15 TABLE OF DIMENSIONAL REQUIREMENTS**

<b>ZONING DISTRICT</b>		<b>MINIMUM LOT AREA<sup>1</sup></b>	<b>MINIMUM FRONTAGE REQUIREMENT (FEET)</b>	<b>MINIMUM FRONT YARD SETBACK<sup>6</sup> (FEET)</b>	<b>MINIMUM SIDE YARD SETBACK (FEET)</b>	<b>MINIMUM REAR YARD SETBACK (FEET)</b>	<b>MAXIMUM STRUCTURE HEIGHT<sup>2</sup> (FEET)</b>
<b>AG</b>	<b>FARM BUILDINGS</b>	2 acres	200	50	25	50	95
	<b>COMMERCIAL OR OTHER NON-FARM USES</b>	2 acres	200	50	25	50	40
	<b>METES-AND-BOUNDS OR PLATTED LOTS FOR RESIDENTIAL ON NON-PRODUCTIVE FARMLAND</b>	2 acres	200	50	25	50	35
<b>FR</b>	<b>METES-AND-BOUNDS OR PLATTED LOTS FOR RESIDENTIAL USE</b>	5 acres	330	50	50	50	2½ stories or 35 feet
<b>CE</b>		5 acres	330	50	50	50	2½ stories or 35 feet
<b>R-1</b>		2 acres	200	50	25	50	2½ stories or 35 feet
<b>R-2</b>	<b>WITH SEWER</b>	12,000 sq ft <sup>5</sup>	75	25	10	30	30
	<b>WITHOUT SEWER</b>	16,000 sq ft <sup>5</sup>	85	25	10	30	30
<b>C</b>	<b>WITH SEWER</b>	25,000 sq ft	200	50	10 <sup>4</sup>	25	35
	<b>WITHOUT SEWER</b>	1 acre	200	50	10 <sup>4</sup>	25	35
<b>I</b>	<b>WITH SEWER</b>	10,000 sq ft	75	25	10 <sup>3</sup>	30	50
	<b>WITHOUT SEWER</b>	1 acre	200	50	25 <sup>3</sup>	50	50
<b>UX</b>	See Section 5.12.7 Table of Urban Mixed Use Dimensional Requirements						
<b>BR</b>		25,000 sq ft	200	50	20	30	45

<sup>1</sup>Parcel size deviations may be granted under certain circumstances by Planning Commission as part of a Special Use Permit.

<sup>2</sup>Telecommunication tower and antenna heights are governed by Section 4.10.

<sup>3</sup>or 50 feet from another district.

<sup>4</sup>or zero if proper access, building, and fire codes are met.

<sup>5</sup>Duplex buildings lot area with sewer is 9,000 sq. ft.; without sewer lot area is one acre.

<sup>6</sup>Minimum setback from high water mark on waterfront lots in all districts shall be 50'.



SECTION 5.16 PLANNED DEVELOPMENTS ( PD )

SECTION 5.16.1 PURPOSE

Planned Development regulations furnish a beneficial and productive means to design site plans within areas designated in the Master Plan for housing, commercial, or special purpose developments. These regulations, while adhering to the underlying densities specified in the various districts of the zoning ordinance, provide for better design and planning of land uses by making the geography, the history and culture, and the ecology of the area the standards and determinants of that design rather than the singular enforcement of lot sizes and standard setbacks.

These regulations intend to promote the efficient and thoughtful use of the land, while encouraging a diversity of housing types, and mixed uses where appropriate, by maintaining the high degree of quality control necessary for the preservation of the natural and scenic elements that are integral to the rural character of the Township.

Projects approved hereunder shall be designated (PD) Planned Development.

SECTION 5.16.2 PERMITTED AND CONDITIONAL USES

A. Planned Developments within zones established by the Township Board.

All legal methods of land subdivision may be used in the design of a Planned Development. All pertinent regulations addressed elsewhere in the zoning ordinance or in separate ordinances of the Township shall be complied with. Condominium projects, mobile home parks, and land divisions shall be administered and reviewed under this Section.

B. Permitted and conditional uses of the property prior to PD zone designation as uses compatible with surrounding zoning districts.

SECTION 5.16.3 TABLE OF DISTRICT REGULATIONS FOR PLANNED DEVELOPMENTS

ZONING DISTRICT	MINIMUM PROJECT AREA	MINIMUM CONTINUOUS PROJECT FRONTAGE <sup>1</sup>	MAXIMUM DWELLING UNITS PER DEVELOPABLE ACREAGE	REQUIRED PERCENT OF PROJECT AS OPEN SPACE <sup>2</sup>	AREA, YARD AND OTHER REQUIREMENTS <sup>3</sup>
AGRICULTURAL	2 acres	200 feet	1 unit/ 1 acre	75%	see Section 5.15
FORESTED / RURAL RESIDENTIAL	20 acres	330 feet	1 unit/ 5 acres	75%	see Section 5.15
COUNTRY ESTATE	20 acres	330 feet	1 unit/ 5 acres	75%	see Section 5.15
LOW-DENSITY RESIDENTIAL	10 acres	200 feet	1 unit/ 1 acre	60%	see Section 5.15
MEDIUM-DENSITY RESIDENTIAL	5 acres	85 feet <sup>4</sup>	see Section 5.9.3	50%	see Section 5.15
COMMERCIAL (RESIDENTIAL)	5 acres <sup>5</sup>	200 feet	1 unit/ acre	50%	see Section 5.15
INDUSTRIAL	2 acres	200 feet <sup>4</sup>	see Section 5.11.3	50%	see Section 5.15
URBAN MIXED USE		See Section 5.12.7		25%	See Section 5.12.7
BUSINESS ROUTE I 75 OVERLAY	2 acres	200 feet	see Section 5.13.2	50%	see Section 5.15

<sup>1</sup>On a county or state highway.

<sup>2</sup>Public or private easements, rights-of-way, drives, streets or alleys, parking areas or required lots shall not be counted as part of required open space.

<sup>3</sup>Standards set forth in Section 5.15 shall be used as guides to development design; modifications shall be reviewed and approved based upon standards of this chapter.

<sup>4</sup>Dependent upon sewer availability

<sup>5</sup>Minimum Planned Commercial Development project area is one acre. (see Section 5.10.3 C.)

SECTION 5.16.4 DIMENSIONAL REQUIREMENTS

- A. See Section 5.16.3, above, and Section 5.15.
- B. "Open space" as used in this section shall be defined as land areas that are open and unbuilt and permanently preserved as such by conservation easement or other means suitable to the Township Board. It may include recreational facilities and structures.

SECTION 5.16.5 PERFORMANCE STANDARDS

The following development requirements shall apply to all Planned Developments:

- A. The Planned Development should be designed and developed in a manner compatible with and complementary to existing uses or development indicated by the current Master Plan for the immediate vicinity of the project site. Site planning on the property perimeter shall provide for the protection from adverse surrounding influences, as well as protection of the surrounding areas from potentially adverse influences from within the development.

- B. Open space may be left undeveloped or may be improved. If it is improved, provisions for its maintenance must be provided. If land is to remain undeveloped, measures may be required to mitigate construction, to improve natural habitat, and to prevent erosion and control drainage. Open space left in its natural state shall be kept free of litter. Open spaces shall link with those on adjoining properties to ensure maximum landscape cover and wildlife habitat.
- C. If development is to be done in stages, the development plan shall schedule the improvement of the open space, the construction of buildings, structures, and improvements in such open space, and the construction of dwelling units in order that each development stage achieves a proportionate share of the total open space and planned amenities of the total development.
- D. All or any part of designated open space may be reserved for use in common by the owners or residents of the Planned Development. Areas permanently preserved for common open space shall be reserved for the use and enjoyment of the owners and residents. The Township may, with the developer's consent, require that open space easements be conveyed to the Township or to another responsible entity. (*Amended by Ordinance No. 29, July 2008*)
- E. All public streets within or abutting the proposed Planned Development shall be improved to Township and County specifications for the particular classification of street. When the developer desires to retain any streets within the development as private streets, such streets shall be maintained for their intended purposes by the development's landowners association or other means acceptable to the Township and County. All roads and passageways must be designed to allow emergency vehicle access.
- F. Planned Developments shall be in harmony with the topography of the site, shall preserve water courses, drainage areas, wooded area, rough terrain, and similar natural features and areas.
- G. All utilities within a Planned Development shall be placed underground where feasible; otherwise, they shall be placed in the most unobtrusive manner possible. Sufficient easements shall be provided for all necessary utilities.
- H. The designation of building plots or building areas within which structures must be sited is required to ensure proper placement of homes in relation to the geography and ecology of the site as well as in relation to structures on surrounding properties.
- I. A property owners association shall be formed to hold title to and to manage any land, structures, or improvements to be held in common. Necessary stipulations of the Planned Development approval shall be conveyed by deed restrictions and covenants or within the condominium master plan, whichever is applicable.
- J. The development must meet all the standards and requirements of the various agencies that have jurisdiction over the development area. No Planned Development shall be granted final approval until all necessary approvals are obtained.
- K. A development schedule, including all contiguous or adjacent land owned or controlled by the applicant, shall be submitted indicating planned phases, including construction of roads, utilities, dwellings and amenities--all the major components of the project. An annual updated schedule shall be submitted to the Planning Commission until the entire development is completed. This annual report shall include, at minimum, the percentage complete to date and forecasted construction for the ensuing year of each component of the project. Approval of subsequent stages of a development shall be based upon adherence to the approved schedule or modifications agreed upon by the Planning Commission.

### SECTION 5.16.6 ACCESSORY STRUCTURES AND USES

Accessory uses and structures shall be located as specified on the development plans as approved by the Township.

### SECTION 5.16.7 MISCELLANEOUS REGULATIONS

General Provisions as permitted in Chapter 4.

Parking as permitted in Chapter 6.

Signage as permitted in Chapter 7.

### SECTION 5.16.8 CONCEPTUAL DEVELOPMENT PLAN; APPLICATION REQUIREMENTS

- A. Seven (7) copies of a conceptual development plan encompassing all phases of the proposed Planned Development, prepared at a scale not less than one (1) inch equals fifty (50) feet if the property is less than three (3) acres and one (1) inch equals one hundred (100) feet, if more, containing the following information:
1. Name of development, applicant name, preparer name, if different, date of preparations, written and graphic scale, north arrow, property lines and dimensions, size of property in acres.
  2. Zoning and use of all adjoining properties.
  3. Existing natural features of the site, including predominant vegetative cover, major tree stands, and existing drainage ways.
  4. Existing site improvements, including existing buildings or other structures, existing utilities with sizes shown, and any existing easements of record.
  5. Existing site elevation contours at a minimum of twenty (20) foot intervals.
  6. If applicable, identify existing shoreline, existing one-hundred (100) year flood hazard area boundary and existing wetlands.
  7. Existing rights-of-way lines, pavement edges and names of public streets; proposed layout of new public streets or private roads.
  8. Layout and typical dimensions of proposed lots, including building plots or pads. If the proposed Planned Development zone includes construction of buildings or other structures, identify proposed footprints and dimensions, proposed number of stories; identify uses proposed within the Planned Development and the acreage allotted to each use.
  9. Locations of proposed access driveways and parking areas.
  10. If multi-phase development is proposed, identify areas included in each proposed phase.
- B. A legal description of the land to be included in the Planned Development.
- C. A sketch of the vicinity of the subject property, locating the property in relation to properties, structures, streets and uses within five hundred (500) feet of the Planned Development.
- D. A narrative statement describing the overall objectives of the Planned Development.
- E. A complete application on a form supplied by the Township.
- F. Payment of the fee established, from time to time, by resolution of the Township Board to cover the cost of the Planned Development project review.

SECTION 5.16.9 PLANNING COMMISSION REVIEW OF CONCEPTUAL DEVELOPMENT PLAN

- A. The Planning Commission shall review the conceptual development plan at a public hearing. Recommendations made by the Planning Commission shall be based upon its consideration of the standards for approval of a Planned Development contained in this section, and based upon the intent of the Ordinance. The recommendation of the Planning Commission shall be transmitted in written form to the Township Board, the County Planning Commission, and a copy of the recommendations transmitted to the applicant.
- B. In the course of its review of a conceptual development plan for a Planned Development, the Planning Commission shall provide notification of its deliberations in accordance with Section 10.10 of this Ordinance.
- C. Review Procedure:
  - 1. The Planning Commission shall review the conceptual site plan to ensure that:
    - a. The uses, buildings, and structures shown on the conceptual site plan are not in conflict with the Master Plan of current adoption.
    - b. That the proposed uses, buildings, and structures are compatible with surrounding uses of land, or that measures to mitigate adequately non-compatible uses have been included on the conceptual site plan.
    - c. That the plan meets the applicable development and performance standards of this section and of the district in which it is proposed to be situated.
  - 2. Based on the findings of its review, the Planning Commission shall do one of the following:
    - a. Grant conceptual site plan approval.
    - b. Grant conceptual site plan approval subject to conditions and the submission of a revised site plan.
    - c. Reject the conceptual site plan, stating the specific reasons for the rejection.

SECTION 5.16.10 APPLICATIONS FOR REZONING

Once the Planning Commission has granted concept development plan approval subject to conditions, an application for Planned Development zoning may be filed and processed in accordance with Chapter 8 of this Ordinance. The approved conceptual site plan shall be made part of the application, and shall be considered as part of the rezoning request.

SECTION 5.16.11 SITE PLAN REVIEW REQUIRED

Either concurrent with the application for rezoning or upon rezoning approval, the applicant must apply for Development Site Plan approval in accordance with Chapter 9. Prior to any new construction, site plan approval must be obtained.

In addition to the information required for Development Site Plan approval, the applicant shall submit, where relevant, the following:

- A. Lot lines and building pads.
- B. Details of proposed project lighting.
- C. A copy of all of the following that are applicable: proposed deed restrictions, covenants, condominium or landowner association documents.

- D. Summary data schedules:
  - 1. Number and sizes of proposed units, including accessory or ancillary structures.
  - 2. Area and percentage of building site coverage.
  - 3. Area and percentage of impervious surface coverage.
  - 4. Area and percentage of open, undeveloped space.
  - 5. Parking space calculations, if applicable.

SECTION 5.16.12 CHANGES TO AN APPROVED PLANNED DEVELOPMENT

- A. No changes to an approved development plan for a Planned Development shall be made, except by mutual agreement between the applicant and the Township. Revisions to an approved final development plan or to any conditions imposed on an approval, with the exception of minor administrative changes, which do not alter the layout, number of units or other details of the plan by more than five (5%) percent, shall be processed in the same manner as an application for approval of a Development Site Plan, as specified in Chapter 9.
- B. Minor administrative changes may be made by the Planning Commission or the Commission may delegate this responsibility to the Zoning Administrator.

SECTION 5.16.13 TIME LIMIT FOR APPROVED PLANNED DEVELOPMENTS

- A. Construction of an approved Planned Development shall commence and shall proceed meaningfully toward completion within one (1) year from the date of the approval of the Planned Development by the Township Board.
- B. The owner or applicant of the Planned Development may apply to the Planning Commission for two (2) extensions of the original approval for an additional term of one (1) year each. The Planning Commission may, in its discretion, authorize this extension. In considering such authorization, the Planning Commission shall use the following standards:
  - 1. The Planned Development has encountered unforeseen difficulties beyond the reasonable control of the owner or applicant.
  - 2. The Planned Development is likely to commence and to be completed.
- C. If the Planned Development has not commenced and proceeded meaningfully towards completion at the end of the initial one (1) year time period, or the permitted extensions thereof, then the Planned Development approval shall automatically become invalid and the prior zoning of the property shall obtain.

SECTION 5.17 WATERFRONT RESIDENTIAL (WR)

The purpose and intent of this district is to provide for high-density single-family residential uses in lakefront areas of the Township on lakes over 80 acres with different development standards for areas with sewers and those without.

SECTION 5.17.1 PERMITTED PRINCIPAL USES

- Single-family dwellings.
- State licensed residential facilities.
- Planned developments (Section 5.16).
- Accessory Buildings and Uses (See Section 5.17.2).

SECTION 5.17.2 CONDITIONAL USES

- A. The following uses are permitted upon securing a Special Use Permit and upon Development Site Plan Review approval in accordance with Chapters 9.

- Bed and breakfast establishments.
- Family day care homes, child day care centers and related facilities providing care to seven (7) or more persons.
- Public buildings.
- Public or private non-profit recreation facilities or parks.
- Home Occupations

SECTION 5.17.3 DEVELOPMENT STANDARDS

<u>Single-family Dwellings</u>	<u>Without public sewer</u>	<u>With public sewer</u>
Minimum lot size:	16,000 sq. ft.	12,000 sq. ft.
Minimum frontage:	85 ft.	75 ft.
Minimum front setback:	25 ft. / 50 ft. Lakefront	25 ft. / 50 ft. Lakefront
Minimum side setback:	15% of lot width with 6 ft. minimum or 25ft. maximum.	15% of lot width with 6 ft. minimum or 25ft. maximum.
Minimum rear setback:	30 ft. /25 ft. lakefront lots	30 ft. /25 ft. lakefront lots
Maximum height:	30 ft.	30 ft.
Minimum parcel size for a Planned Development:	3 acres	

Conditions for other uses shall be judged according to the use's effects upon their neighbors and the surrounding area as approved under Development Site Plan Review (Chapter 9).

#### SECTION 5.17.4 PERFORMANCE STANDARDS

- A. Lots abutting a lake or canal shall provide minimum front and rear yards of at least twenty-five (25) feet (See Lot Line, Front).
- B. In designing home sites and developments, proper sanitary and storm sewer measures shall be taken to ensure protection of lakes, streams, and other water bodies.
- C. Trees and other vegetation shall be retained to the greatest extent possible and all lot areas shall be landscaped to control erosion and run-off into lakes, streams and tributaries. Measures to control bank erosion shall be required.
- D. Based upon site conditions, specific setbacks, buffers, and other requirements may be placed upon special uses to ensure safety and harmony between these special uses and other uses within the district.

#### SECTION 5.17.5 ACCESSORY STRUCTURES AND USES

Uses and structures incidental to a permitted principal use not otherwise regulated by this Ordinance are allowed by right. No accessory structure or detached garage may be higher or larger than the primary structure on a lot and accessory structures cannot be greater in square footage than the living area footprint of the primary dwelling. No more than two (2) accessory structures are allowed on a parcel or lot. No accessory structure shall be located in a front yard; and all accessory structures must be located a minimum of six (6) feet from any side or rear lot line except that when such accessory building is a garage and is entered at a right angle to a street or alley, it shall be located no nearer than twenty (20) feet to said rear lot line. No boat houses are permitted. (See Section 4.2 Accessory Buildings.)

#### SECTION 5.17.6 MISCELLANEOUS REGULATIONS

No fence shall be higher than 4 Feet in any front, side or rear yard.  
On Lakefront lots within 300 feet of lake, no fence shall be higher than 4 Feet in any yard.

General Provisions as permitted in Chapter 4.  
Parking as permitted in Chapter 6.  
Signs as permitted in Chapter 7.



## CHAPTER 6 PARKING

### SECTION 6.1 INTENT AND PURPOSE

It is the purpose of these regulations to ensure that adequate parking facilities are provided for and that they are adequately maintained.

### SECTION 6.2 ADEQUATE OFF-STREET PARKING

For all uses, adequate off-street parking shall be required. Off-street parking areas shall be designed with enough capacity to provide safe and sufficient parking for all vehicles during normal times of use. Direct access to off-street parking areas shall be provided from a county road or an approved private street, service drive, or alley. Parking on street rights-of-way shall not be construed as satisfying the requirements of this Chapter except as allowed by specific districts and uses in this Ordinance. Parking needs shall be reviewed as a part of Development Site Plan Review, Chapter 9.

### SECTION 6.3 TABLE OF OFF-STREET PARKING RECOMMENDATIONS

The following table provides a guide for surfaced parking areas. The total parking required is the sum of spaces for all land uses proposed on the site, plus employee parking, as outlined by the table. A parking space shall be at minimum 10 feet x 18 feet.

<u>Land Use</u>	<u># Spaces</u>	<u>Per Activity Unit</u>
Mobile Home Park	2	Dwelling Unit
Senior Citizen Housing	1	Dwelling Unit
Day Nursery	1	4 Children, per License
Doctor, Dentist, Veterinarian	2	Exam or Treatment Room
Retail, Office, Service, Financial	1	250 sq. ft. of Public Area
Vehicle Sales	1	800 sq. ft. of Public Area
Vehicle Service/Wash, Gas Station	3	Wash, Stall or Fuel Pump
Truck Stop	5*	Fuel Pump (12' x 70' / truck)
Barber Shop or Beauty Salon	2	Chair
Bar or Restaurant (Not Drive-In)	1	2 Seats
Drive-In or Drive-Thru Restaurant	1	200 sq. ft. Gross Floor Area
Hotel or Motel	1	Guest Room
Meeting Hall, Skating Rink, Community Center, Gymnasium, Auditorium	1	3 Persons Allowed in Bldg. based on Fire Code
Bowling Alley	4	Lane
Wholesale, Industrial	1	900 sq. ft. Gross Floor Area
Church, Theater, Arena,	1	2 Seats or 4 feet of Bench or Pew

<u>Land Use</u>	<u># Spaces</u>	<u>Per Activity Unit</u>
Grade School	1	10 Students
High School	1	5 Students
College, Technical School	1	3 Students
Hospital, Visitor Parking	1	3 Beds
Hospital, Doctors Parking	1	2 Medical Staff Members
Nursing Home	1	6 Beds
Library, Museum, Gallery, Post Office	1	800 sq. ft. Gross Floor Area
Private Club	1	2 Member Families
Any Employment Site	1	Employee at Peak Shift

\*Spaces should be sized as noted.

Where an applicant can substantiate a different parking need than those indicated above, upon submittal of convincing written evidence to the Planning Commission, a deviation may be allowed. Unpaved parking areas may be allowed to handle special events or high non-routine parking requirements. These areas, though, must have properly stabilized subsoil and meet regular landscape requirements.

#### SECTION 6.4 USES NOT LISTED

The Zoning Administrator shall determine the number of parking spaces required for all uses, including those not listed in the table above. If the use is not listed, the Zoning Administrator shall determine the number of required spaces based on a comparison of the proposed use and a similar use that is listed in the Table of Off-Street Parking Recommendations. In the event that there is a dispute over the number of spaces required, the matter shall be referred to the Zoning Board of Appeals for review and decision.

#### SECTION 6.5 BUILDING, STRUCTURE, OR USE EXPANSIONS OR ADDITIONS

Appropriate adjustments in parking shall be provided for any increase in floor area, change in use, addition, or expansion of a building or site.

#### SECTION 6.6 JOINT PARKING

The use and construction of shared parking is encouraged and allowed when it can be demonstrated that the parking requirements of this Chapter can be met.

#### SECTION 6.7 OFF-STREET PARKING AREA CONSTRUCTION REQUIREMENTS

- A. The off-street parking areas shall be surfaced with a durable material of Portland cement concrete or hot mix asphalt of adequate design strength for the anticipated traffic loading that shall be graded to drain and dispose of storm water on site.
- B. Storm water collection, drainage and retention structures meeting all requirements of the Ogemaw County Road Commission and the Ogemaw County Drain Commissioner shall be installed for all off-street parking areas.

- C. Driveways and aisles for any off-street parking area shall be clearly defined meeting the following requirements:
  - 1. Each driveway lane shall be a minimum of ten (10) feet in width per direction. Lanes for entering and exiting traffic shall be defined.
  - 2. A driveway should intersect the abutting street at a ninety (90°) degree angle.
  - 3. Aisles shall be at least twenty-five (25) feet wide for two-way traffic; sixteen (16) feet for one-way traffic.
- D. Each parcel shall have no more than one (1) driveway entrance and exit opening to an abutting public thoroughfare for each three hundred fifty (350) feet of frontage, or fraction thereof. Where more than one (1) driveway is allowed because of an existing driveway, it will be as far as possible from the nearest driveway(s). No parking lot driveway, other than joint driveways, shall be located closer than ten (10) feet from a neighboring property line.
- E. All lighting of a required off-street parking area shall be arranged in such a manner and shall be of such height that the illumination is directed toward the ground and is not directed toward a public thoroughfare or adjacent properties.
- F. Parking and loading areas in general shall be located beside or behind structures, but in no case closer than twenty-five (25) feet from any road right-of-way and shall not be located any closer than ten (10) feet from any lot line.
- G. Any parking area larger than ten (10) spaces shall have a visual screen not less than eight (8) feet high between the parking area and adjacent property zoned for residential uses.
- H. A zoning permit shall be required for construction of any parking lot.

## CHAPTER 7 SIGNS

### SECTION 7.1 INTENT AND PURPOSE

The intent of this Chapter is to regulate the type, number, physical dimensions, erection and placement of signs in West Branch Township. The purpose of these regulations is to:

- Promote the public health, safety, and welfare of residents and visitors
- Reduce hazardous distractions to motorists and pedestrians
- Protect commercial districts from visual clutter and ugliness
- Protect property values
- Protect the rural character and natural beauty of the Township.

### SECTION 7.2 DEFINITIONS

**Sign** - A sign is the use of any words, numerals, figures, devices, designs, or trademarks which constitute name, identification, description, display, or illustration which is affixed or applied to or represented directly or indirectly upon a building, structure, or lot, and which directs attention to an object, project, service, activity, person, institution, organization, or business.

**Sign Area** - The area of a sign shall be computed as the entire area circumscribed by a parallelogram, triangle, circle, or semi-circle, or any combination of these figures, which includes all of the display area of the sign, including frames surrounding display areas. For signs which consist of individual letters attached or painted on the wall of a building, with only the wall as background and no added decoration or border, the sign area shall be the geometrical shape formed by an imaginary line along the exterior perimeter of the word, or words, as a whole. For purposes of computing sign area, only one side of a sign shall be used.

**Building Sign** - A sign attached to a building as either a wall sign, projecting sign, awning sign, window or canopy sign. No sign shall be placed above the roof line (refer to Figure 5).

**Directional Sign** - A sign directing vehicular or pedestrian traffic or parking but bearing no advertising matter except for the logo and/or name of the business for which the directional signs are associated.

**Freestanding Pole Sign** - A sign supported by one or more uprights, braces or pylons located in or on the ground or a ground mounted sign. Freestanding signs are sometimes referred to as "pole" signs.

**Illuminated Sign** - Any sign designed to give forth artificial light or designed to reflect any such light given from any source which is intended to cause such light or reflection. No flashing lights are allowed on any illuminated sign. No sign shall be lighted in such a manner as to distract or obscure the vision of motor vehicle drivers.

**Outdoor Advertising Structure** - A sign or billboard that may be erected for the purpose of advertising a business or other activity and is not on the same parcel as the business or activity advertised.

**Portable Sign** - Portable signs shall include “trailer” signs, flags (not American, state or county flags), banner poles, banners, and other nonpermanent means or media of advertising products and services. *(Amended by Ordinance 36, March 2012)*

### SECTION 7.3 SIGN REGULATIONS

The following regulations shall apply to on-premises signs:

- A. Unless a sign is exempt from permit requirements as specified in Section 7.3 B, a Zoning Permit must be obtained from the Township Zoning Administrator prior to the construction or placement of any sign. Outdoor advertising structures require a Special Use Permit in accordance with Chapter 8.
- B. Subject to the standards as noted and other applicable ordinance requirements, the following signs and related activities are permitted by right and are exempt from the permit requirements of this Ordinance:
  - 1. One (1) temporary construction sign shall be permitted for a construction project, not to exceed thirty-two (32) square feet in area per sign. Such signs may be erected no more than thirty (30) days prior to commencement of construction and must be removed no longer than thirty (30) days after completion of construction.
  - 2. On-premises directional signs, not to exceed four (4) square feet in area per sign, shall be permitted as a means of directing traffic to parking, loading, customer service, and related areas.
  - 3. Public signs or notices of West Branch Township, Ogemaw County, the State of Michigan, or the United States Government may be erected as deemed necessary and appropriate by the unit of government.
  - 4. Real estate signs not exceeding four (4) square feet of display area per side shall be permitted. These signs must be removed within thirty (30) days of the sale of the property upon which they are placed.
  - 5. One (1) nameplate sign per premises not to exceed two (2) square feet shall be permitted.
  - 6. Garage or yard sale signs may be installed one week in advance of sale and shall be removed within twenty-four (24) hours after the sale.
  - 7. Election signs not exceeding eight (8) square feet may be placed thirty (30) days before an election and must be removed within ten (10) working days afterward. *(Amended by Ordinance 38, November 2012)*
  - 5. American flags, state and local flags, and flags such as those representing branches of the Armed Forces or persons Missing In Action shall be allowed under this section. *(Amended by Ordinance 36, March 2012)*
- C. Outdoor advertising structures are permitted only in the Business Route I 75 Overlay District in accordance with the following conditions:
  - 1. Special use requirements shall be followed (see Chapter 8).
  - 2. Minimum setback from any highway—400 feet from road right-of-way or in line

- with existing outdoor advertising structures.
3. Minimum spacing between advertising structures—2,640 feet measured along a line parallel to the right-of-way on either side of the highway upon which the structure may be located.
  4. Maximum sign size—300 square feet in surface display area per side.
  5. Maximum sign height—35 feet from road level.
- D. Any sign not specifically permitted is prohibited. The Zoning Board of Appeals shall have the authority to classify other signs.
- E. General Sign Standards:
1. Illumination, if permitted, shall be by a non-flashing light. Said source of illumination shall be shielded from direct view of adjacent residential properties and vehicles passing on adjacent highways. The source of any illumination shall not be visible beyond the property lines of the parcel upon which the advertising structure is located. Home occupation signs shall not be illuminated.
  2. All signs shall be subject to the Building and Safety Codes of Ogemaw County.
  3. All signs shall be set back a minimum of ten (10) feet from all lot lines, except where regulated otherwise by this Ordinance.
  4. No sign shall exceed the height limitation of the district in which it is located or as otherwise regulated by this Ordinance, provided however, ground mounted signs shall not exceed eight (8) feet in height. (see fig. 5)
  5. Freestanding pole signs shall have a minimum clearance of eight (8) feet between the ground surface and lowest point of the sign.
  6. No signs shall be placed in required clear vision areas at driveways or intersections.
  7. New signs in areas that have many existing signs may be placed in line with existing signs while adhering to required setbacks as closely as possible.
  8. All signs shall be adequately maintained; if not, written notice shall be issued by the Zoning Administrator to the owner of the structure. If disrepair is not corrected within thirty (30) days, said structure shall be removed at the owner's expense.
- F. Sign Size and Height:
1. On-premises freestanding signs shall not exceed forty-eight (48) square feet total face size.
  2. On-premises freestanding signs shall not exceed fourteen (14) feet total in height from road level except in Business Route I 75 Overlay District where height shall be thirty-five (35) feet.
  3. Commercial establishments are allowed one freestanding sign.
  4. Commercial establishments are allowed building signage, including wall, awning, window and canopy signage, for identification and advertisement of goods sold on premises not to exceed ten percent (10%) of any face of the building fronting on a road of access to the building. Additional signage on the other faces of the building may allowed upon review and approval by the Planning Commission not to exceed 10% of any face. (*Amended by Ordinance 37, July 2012*)
  5. Signs for home occupations shall not exceed six (6) square feet, except agricultural businesses or uses which shall use the commercial standards above and shall not be

illuminated.

6. See Section 7.3 H through J, below, for specific sign standards.

G. Temporary signs, a maximum of thirty-two (32) square feet, shall be allowed for special events, subject to Zoning Administrator approval, for a maximum of thirty (30) days per event, ninety (90) days per calendar year, with a minimum of a thirty (30) day interim between events. *(Amended by Ordinance 29, July 2008)*

H. Signs Permitted in the Single-family Residential Zones. Development and Performance Standards shall be met in all cases: *(Amended by Ordinance 37, July 2012)*

CLASS	SIGN TYPE	MAXIMUM NUMBER	MAXIMUM SIGN AREA	MAXIMUM HEIGHT	PERFORMANCE STANDARDS
1. Institutional signs for schools, churches and other similar special uses	Wall	One (1) per street frontage.	20 sq. ft.	Below eaves of the roofline	a. Name and address of institution only. b. Can incorporate electric or nonelectric changeable copy for events and time of events.
	Freestanding	One (1)	24 sq. ft. for identification, 36 sq. ft. with changeable copy—ground mounted only	8 ft. from finished grade	
2. Neighborhood Identification	Wall	One (1) per development entrance.	36 sq. ft.	Below eaves of the roofline	Copy shall be limited to the name and address of the development or neighborhood.
	Freestanding	One (1)	48 sq. ft.	8 ft. for freestanding—ground mounted only	
3. Multi-family	Wall	One (1) per street frontage with a max. of two (2) per development	12 sq. ft. for 12 units or less. 24 sq. ft. for more than 12 units	A wall sign shall not project above the roofline and in no case shall exceed twenty (20) ft.	a. Signs shall be in harmony with the scale and design of the development. b. Street address shall be incorporated into the face or structure of the sign.
	Freestanding	One (1) at each road access to building or complex	48 sq. ft.	A freestanding sign shall not exceed eight (8) ft. in height—ground mounted only	
4. Forest/Rural Businesses	Wall	one (1)	10% of face of building facing main road of access	Wall signs to be located below roofline	Identifying only the products produced on the premises or the specific goods allowed by a Special Use Permit.
	Freestanding	one (1)	48 sq. ft.	Freestanding signs to be no higher than eight (8) ft.—ground mounted only	

I. Signs Permitted in the Commercial Zones and Urban Mixed Use District. Development and Performance Standards shall be met in all cases. *(Amended by Ordinance 37, July 2012)*

CLASS	SIGN TYPE	MAXIMUM NUMBER	MAXIMUM SIGN AREA	MAXIMUM HEIGHT	PERFORMANCE STANDARDS
1. Business (stand alone buildings)	Wall  Freestanding	One (1)	10% of the building face  48 sq. ft.	Not to project above the eaves of the roofline and in no case higher than 20 ft.  14 ft.	a. Wall signs are limited to identification of business, use, service and/or identifying logo. b. A combination of freestanding and wall signs may be used, however, a max. of three (3) signs are allowed. c. Wall signs and freestanding signs shall be architecturally designed to be compatible with the development. d. Freestanding signs shall be placed on the subject property and shall not project into another private or public property. e. Street addresses shall be incorporated into the face or structure of the freestanding sign.
2. Centers and businesses within centers (A center is a development in which businesses and structures are designed as an architecturally integrated and interrelated development. Such design is independent of the number of structures, lots, or parcels making up the center.)	Wall  Freestanding	One (1) per business  One (1) per street frontage	10% of the building face  150 sq. ft. except in Business Route I-75 Overlay District where maximum is 300 sq. ft.	Not to project above the eaves of the roofline  14 ft. or the eaves of the roofline whichever is less or 35 ft. in Business Route I-75 Overlay District.	a. Wall signs are limited to identification of business, use, service provided and/or identifying logo. b. The freestanding sign shall contain the theme name of the center as the predominant feature of the sign. c. Shopping centers should develop a comprehensive sign program for all tenants and uses. d. Street addresses shall be incorporated into the face or structure of the freestanding sign.



I. (cont). Signs Permitted in the Commercial Zones and Urban Mixed Use District. Development and Performance Standards shall be met in all cases. (Amended by Ordinance 37, July 2012)

CLASS	SIGN TYPE	MAXIMUM NUMBER	MAXIMUM SIGN AREA	MAXIMUM HEIGHT	PERFORMANCE STANDARDS
3. Business Offices (multiple professional tenants or office uses.)	Wall		10% of the face of the structure where sign is to be placed	Not to project above the eaves of the roofline.	<p>a. Freestanding signs shall be limited to identifying the name of the professional complex.</p> <p>b. Directory signs shall be placed on the wall at main entrances or be freestanding and shall be limited to listing the tenants name and suite number.</p> <p>c. All office projects with multiple tenants or uses should develop a comprehensive sign program.</p> <p>d. Street addresses shall be incorporated into the face or structure of the freestanding sign.</p>
	Freestanding	One (1) per street frontage	32 sq. ft.	14 ft.	
	Directory (Wall or freestanding)	Three (3) per building	20 sq. ft.	8 ft.	
4. Service Station	Wall	One (1) per street frontage	10% of face of the structure where sign is to be placed	14 ft. or the eaves of roofline whichever is less	Special service signs shall be limited to such items as self-service, full-serve, air, water, cashier, and shall be non-illuminated.
	Freestanding	One (1) per street frontage	48 sq. ft.	14 ft.	
	Special Service Signs (Wall or Freestanding signs)	Three (3) for each pump island	4 sq. ft.	8 ft.	
5. Motion picture or playhouse theater signs	Wall	One (1) per street frontage	10% of the building face	Not to project above the eaves of roofline	<p>a. Wall signs may include electric or nonelectric reader board or changeable copy signs.</p> <p>b. Current and coming attraction signs shall be attached to a wall.</p>
	Freestanding	One (1) per street frontage	48 sq. ft.	14 ft.	

J. Signs Permitted in the Industrial Zones. Development and Performance Standards shall be met in all cases. *(Amended by Ordinance 37, July 2012)*

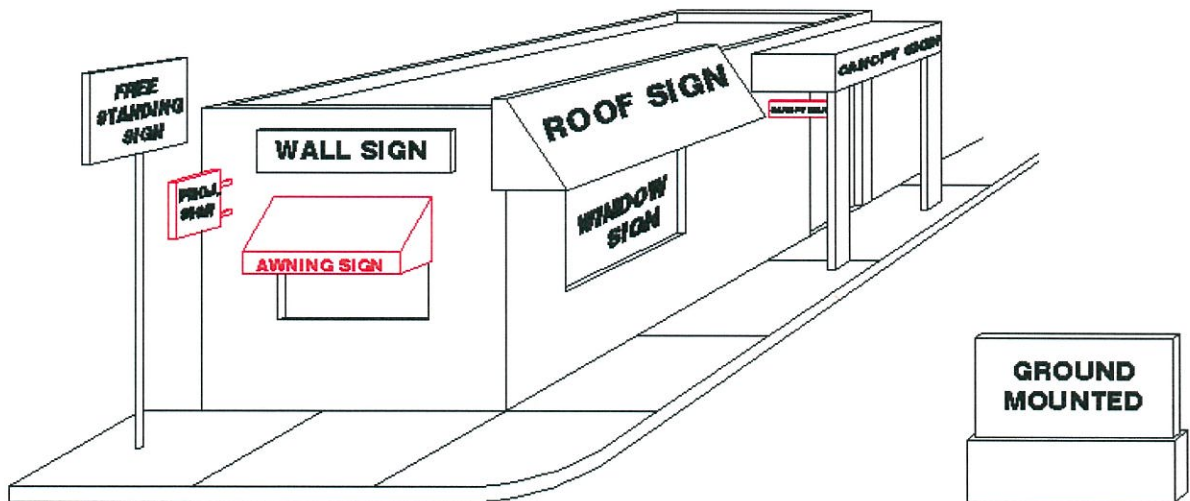
CLASS	SIGN TYPE	MAXIMUM NUMBER	MAXIMUM SIGN AREA	MAXIMUM HEIGHT	PERFORMANCE STANDARDS
1. Businesses (single tenant, single parcel)	Wall		10% of the building face	Not to project above the eaves of the roofline	<p>a. Wall signs shall be limited to identification of business, use, service provided and/or identifying logo.</p> <p>b. Street addresses shall be incorporated into the face or structure of the freestanding sign.</p>
	Freestanding	One (1) per street frontage not to exceed two (2) per business	48 sq. ft.	14 ft. or the roofline whichever is less or 35 ft. in Business Route I-75 Overlay District.	
2. Businesses (multiple tenants or uses)	Wall		10% of the building face	Not to project above the eaves of the roofline	<p>a. Wall signs shall identify the individual business, use, service provided and/or identifying logo and be located at the main pedestrian entrance or parking area.</p> <p>b. The business directory freestanding sign shall list only the addresses and names of the on-site activities.</p> <p>c. The business directory freestanding sign should be located either adjacent to the parking area or the main entrance to the development.</p> <p>d. A freestanding sign may be permitted in lieu of sign to identify the development.</p> <p>e. All industrial projects with multiple tenants or uses shall develop a comprehensive sign program.</p> <p>f. Street addresses shall be incorporated into the face or structure of the freestanding sign.</p>
	Business Directory (Freestanding)	One (1) per street frontage or two (2) per development	32 sq. ft.	8 ft.	
	Freestanding	One (1) per street frontage	48 sq. ft.	14 ft. or the eaves of the roofline whichever is less or 35 ft. in Business Route I-75 Overlay District.	

## SECTION 7.4 NON-CONFORMING SIGNS

A non-conforming sign or sign structure existing and in place as of the date of the enactment of this Chapter may continue to have the copy or message on the sign changed and may also have normal maintenance performed. However, a non-conforming sign existing on the day of enactment of this Chapter SHALL NOT:

- A. Be changed to another non-conforming sign;
- B. Be structurally altered so as to prolong the life of the sign or to change the shape, size, location, type, or design of the sign;
- C. Be re-established after the activity, business, or use to which it relates has been discontinued for ninety (90) days or longer;
- D. Be re-established after damage by any means if the damage is in excess of the State Equalized Value (SEV) of the sign, as determined from its most recent assessed valuation. (see Section 7.3 E 8.)

Figure 5



- F. Will be in general compliance with the land use policies outlined in the Township Master Plan, the principles of sound planning, and will not jeopardize the economic welfare of the Township.
- G. Will not directly or indirectly have an adverse effect upon the natural resources of the Township, including, but not limited to, prime or unique agricultural lands, water recharge areas, lakes, rivers, streams, forests, wetlands, wildlife areas.
- H. Structures, landscaping, or other land uses, will not disrupt water drainage systems necessary for agricultural uses and will be in compliance with Ogemaw County Drain Commissioner requirements.
- I. Phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, drainage or erosion control.
- J. Be in compliance with the requirements of the district in which it is proposed and all other standards in this Ordinance, as well as with the requirements of any other applicable township, county, state and federal statutes.

#### SECTION 8.8 CONDITIONS AND SAFEGUARDS

Additional conditions and safeguards may be imposed by the Commission if reasonable and necessary to protect the natural environment or to conserve natural resources or energy, to ensure compatibility with adjacent uses of land, to promote the use of the land in a socially and economically desirable manner, and to ensure that public services and facilities affected by the proposed use or activity will be capable of accommodating the proposed activity. Any conditions so imposed shall meet the following requirements:

- A. To ensure that public services and facilities affected by a proposed use or activity will be capable of accommodating increased service and facility loads caused by the land use of activity;
- B. To protect the natural environment and conserve natural resources and energy;
- C. To ensure compatibility with adjacent uses of land;
- D. To promote the use of land in a socially and economically desirable manner;
- E. To protect the health, safety, welfare, social and economic well-being of those who will be using the proposed special land use or activity under consideration;
- F. To protect the health, safety, welfare, social and economic well-being of Township residents, and lot owners adjoining the proposed special land use or activity, including, but not limited to, requirements such as screening, or the erection of natural or artificial barriers, or limitations on the time of day during which operations may occur or during which special land use activities may be carried on;
- G. Be necessary to meet the intent and purposes of this Ordinance, and be related to the standards established for the land use activity under consideration, and be necessary to ensure compliance with those standards;
- H. Be necessary to ensure compliance with any part of the application received and approved by the Planning Commission; and
- I. Be recorded as part of the Special Use Permit.

When requiring conditions for a Special Use Permit, the following findings shall be made and documented as part of the special use review:

1. That such requirements and conditions will mitigate negative effects of noise, dust,

- lighting, vehicular or pedestrian traffic, loading or unloading, parking or other harmful effects upon adjoining parcels; and
2. That absent such conditions, the development would adversely affect the reasonable use, enjoyment and value of adjoining lands in light of similar benefits enjoyed by other properties in the area.

#### SECTION 8.9 VARIANCES

Where a Special Use Permit is granted conditionally, based upon the necessity for the applicant to obtain a variance, or variances, from the Zoning Board of Appeals, the permit shall not be valid unless and until such variances are obtained.

#### SECTION 8.10 GRANT OR DENIAL OF THE SPECIAL USE PERMIT

The Planning Commission may approve, deny, or approve with conditions, a request for a Special Use Permit. The decision on a Special Use Permit under consideration shall be incorporated in a statement containing the conclusions which form the basis of the decision and any conditions and safeguards imposed. One (1) copy shall be distributed to each of the following: Zoning Administrator, Township Clerk, and the Commission Secretary. Only upon approval by the Planning Commission may a Special Use Permit be issued by the Zoning Administrator.

#### SECTION 8.11 PERMIT EXPIRATION

A Special Use Permit issued pursuant to the requirements of the Ordinance shall be valid for a period of one (1) year from the date of issuance of said permit. If the use or construction on the project has not commenced and proceeded meaningfully toward completion by the end of this period, the Special Use Permit shall expire. Upon request, a Special Use Permit may be renewed for a period of time not to exceed one (1) year by the Planning Commission upon a finding that the project will proceed and come to completion.

#### SECTION 8.12 BINDING EFFECT

Any Special Use Permit approved by the Planning Commission pursuant to the provisions of this Ordinance shall be binding between the parties, and said use shall not be modified, altered, expanded, or otherwise changed, unless the Special Use Permit holder obtains a new or amended Special Land Use Permit in accordance with the procedures of this Chapter. Further, such conditions shall run with the land, and shall be binding on the landowner, his successors, heirs and assigns. If at any time during the existence of a permitted special land use the land, lot, or structures are used contrary to the conditions and provisions of the permit, said use shall be deemed a violation of the Special Use Permit and the permit may be revoked and previously permitted special use activities cease.

#### SECTION 8.13 INSPECTIONS

The Zoning Administrator shall be responsible for the inspection of all conditions imposed by the Special Use Permit and for all improvements required by the approved final site plan. All subgrade improvements, such as utilities, sub base and base installations for streets, drives, and parking lots, and similar improvements shall be inspected by the Zoning Administrator or other appropriate

official or qualified technical consultant and approved before covering. It is the responsibility of the applicant to request such necessary inspections at the appropriate times. The Zoning Administrator shall report periodically to the Commission on the progress of each Special Use Permit. He shall notify the Township Board and Commission in writing of any failure on the part of the applicant to meet the requirements of the Site Plan and Special Use Permit, and report on steps being taken to ensure compliance. Should the permit holder not comply with the requirements of the Special Use Permit, the permit shall be revoked. The fees established by the Township Board may include an amount to cover such inspections.

#### SECTION 8.14 FINANCIAL GUARANTEES

In the interest of ensuring compliance with the provisions of this Ordinance, protecting the natural resources and the health, safety and welfare of the residents of the Township and future users or inhabitants of an area for which a proposed Special Use Permit has been submitted, the Planning Commission may require the applicant to:

- A. Deposit a performance guarantee as set forth herein. The purpose of the performance guarantee is to ensure completion of improvements connected with the proposed use as required by this Ordinance, including, but not limited to: roadways, lighting, utilities, sidewalks, drainage, fences, berms, screens, walls, landscaping, reclamation, and landscaping.
  1. Performance guarantee as used herein shall mean a cash deposit, certified check, or irrevocable bank letter of credit in the amount of the estimated cost of any improvements to be made as determined by the applicant and verified by the Township Board.
  2. The performance guarantee shall be deposited with the Township Board at the time of the issuance of the permit authorizing the activity or project. No Special Use Permit may be issued before the receipt of all required performance guarantees by the Township Board.
  3. An approved Special Use Permit shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of issuance of the permit.
  4. In the event the performance guarantee deposited is a cash deposit or certified check and the improvement for which the guarantee is provided will be done over an extended period of time, the Township Board shall rebate to the applicant fifty (50%) percent of the deposited funds when sixty (60%) percent of the required improvements are completed as confirmed by the Township Board, and the remaining fifty (50%) percent of the deposited funds when one hundred (100%) percent of the required improvements are completed as confirmed by the Township Board. If a request is made by the applicant for a temporary certificate of occupancy without completion of the required improvements, the performance guarantee may be applied by the applicant to assure compliance with the standards of this Ordinance and the specifications of the approved site plan.
  5. Upon the satisfactory completion of the improvements for which the performance guarantee was required, the Township Board shall return to the applicant the performance guarantee deposited and any interest earned thereon.
  6. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period as agreed to in the site

plan, the Township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. Should the Township use the performance guarantee or a portion thereof to complete the required improvements, any amounts remaining after said completion shall be applied first to Township administrative costs in completing the improvements, with any balance remaining being refunded to the applicant. If the performance guarantee is not sufficient to allow the Township to complete the improvements for which it was posted, the applicant shall be required to pay the Township the amounts by which the costs of completing the improvement exceeds the amount of the performance guarantee deposited. The costs shall be billed to the permit holder and a lien placed against the subject property. If unpaid, the costs shall be collected in the same manner as delinquent taxes or as allowed by law.

#### SECTION 8.15 OTHER SPECIAL USES

Land and structural uses that are not specified in any other section of this Ordinance, but, upon being applied for under the provisions of Chapter 8, may be considered by the Planning Commission and Township Board as long as they meet all the conditions and requirements of this Chapter and the spirit and intent of the Ordinance.

#### SECTION 8.16 APPEAL OF PLANNING COMMISSION SPECIAL USE PERMIT DECISION

All decisions of the Planning Commission regarding the granting of special use permits are final; appeals must be filed with a court of competent jurisdiction.

#### SECTION 8.17 SPECIAL USE REQUIREMENTS *(Amended by Ordinance 36, March 2012)*

##### Wind Energy Conversion Systems

##### 1. Definitions

**Mechanical Shadow** is the envelope that is occupied by the sweep of the blade or other exposed moving component of a wind energy conversion system.

**Shadow Flicker** is the visible effect when rotating blades cast shadows on the ground and on nearby structures causing the repeating pattern of light and shadow.

**Wind Energy Conversion System (WECS)** means an electric generating system, consisting of one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities. Such systems are designed for large-scale energy generation, typically for electrical utilities, or to supplement other electricity sources as an accessory use for residential, commercial, waterfront, office, and industrial buildings or facilities, wherein the power generated is used primarily for onsite consumption.

**Wind Turbine** means a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, blades, guy wires and pad transformer.

**Project Boundary** is the outside perimeter of a parcel or a combination of parcels for which a developer of a WECS project has acquired either ownership of or a written agreement and lease to encumber real property for the purpose of constructing a WECS.

2. On-site Small Scale Wind Energy Conversion Systems and Anemometer Towers up to sixty six (66) feet in total height:
  - a. On-Site OW ECS up to sixty six (66) feet in total height shall be approved by the Planning Commission through the site plan review process. In addition to the applicable information required by Chapter 9 the application shall include:
    - (i) Location of overhead electrical transmission or distribution lines.
    - (ii) Location and height of all buildings, structures, towers, security fencing and other above ground structures associated with the WECS.
    - (iii) Location and height of all buildings, structures, and above ground utilities located within three hundred (300) feet of the proposed WECS. Specific distances to the other on-site buildings, structures, and utilities shall also be provided.
    - (iv) Existing and proposed setbacks of all structures located on the property.
    - (v) Access road to the WECS with detail on dimensions, composition, and maintenance.
    - (vi) Planned security measures to prevent unauthorized trespassing and accessing.
  - b. On-site OW ECS shall be setback from all property lines one and one-half (1.5) foot for every one (1) foot of the total height.
  - c. On-site WECS shall not be located within the distance equal to the height of the mechanical shadow to an above ground utility line.
  - d. The minimum vertical blade tip clearance from grade shall be twenty (20) feet for an WECS employing a horizontal axis rotor.
  - e. On-site WECS shall comply with all applicable county, state and federal permit requirements.



- f. On-site WECS shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding.
  - g. On-site WECS shall not have affixed or attached any lights, reflectors, flashers or any other illumination, except for illumination devices required by Federal regulations. All required lighting shall be shielded to the extent possible to reduce glare and visibility from the ground.
  - h. Noise emanating from the WECS shall not exceed 40 dB(A) at the property line closest to the WECS at any given time. Noise averaging shall not be allowed.
  - i. The WECS shall be located and designed such that shadow flicker will not fall on, or in, any existing adjacent residential structures.
  - j. Color and surface treatment of the on-site WECS and supporting structures shall minimize disruption of the natural characteristics of the site.
3. Design and Development Standards for large scale Wind Energy Conversion Systems (WECS)
- a. General Standards. All structural, electrical and mechanical components of the wind energy conversion system shall conform to relevant and applicable local, state and national codes and all applicable industry standards.
  - b. Utilities. No on-grid wind energy conversion system shall be installed until electrical utility company that will receive the generated electricity of the system has approved the applicant's plan to install an interconnected customer-owned generator.
  - c. Exterior Finish.
    - (i) Tower and pedestal-mounted wind energy conversion systems shall typically maintain a neutral, non-reflective exterior color, or a galvanized steel finish, unless Federal Aviation Administration (FAA) or another applicable authority requires otherwise. In addition, the township may require that such wind energy conversion systems be painted in such a way as to reduce visual obtrusiveness, with the surrounding environment and/or architecture.
    - (ii) Roof-mounted wind energy conversion systems and associated wires and equipment shall be painted so as to be architecturally compatible with the building to which they are attached.
  - d. Lighting. Wind energy conversion systems may not be artificially lighted unless otherwise required by the FAA or other applicable authority.

- e. Signs. Wind energy conversion systems may include small signs, emblems, or decals, no larger than two feet by two feet at or near ground level, to identify the following:
  - (i) The name or logo of the manufacturer and/or installer.
  - (ii) The make, serial number, and other pertinent information about the wind energy conversion system.
  - (iii) Emergency contact info shall be posted in a prominent way on or near the structure.
- f. Minimum clearances.
  - (i) The minimum distance between the ground and mechanical shadow shall be twenty (20) feet.
  - (ii) The minimum distance between the mechanical shadow and structures shall be ten (10) feet, excluding roof-mounted wind energy conversion systems.
- g. Provisions for safety.
  - (i) Towers that are not roof-mounted shall be enclosed with a eight (8) foot tall fence and the base of the tower shall not be climbable for a distance of twelve (12) feet above the ground.
  - (ii) When roof-mounted wind energy conversion systems can be accessed by the public, such systems shall provide adequate guards and warnings to ensure safety.
  - (iii) When towers are supported by guy wires, the wires shall be clearly visible to a height of at least eight feet above the guy wire anchors.
  - (iv) Wind energy conversion systems shall have automatic braking, governing and a feathering system to prevent uncontrolled rotation or over speeding.
- h. Noise. Noise emanating from the WECS shall not exceed 40 dB(A) at the property line closest to the WECS at any given time. Noise averaging shall not be allowed.
- i. Unsafe or inoperative systems.
  - (i) Any wind energy conversion system found to be unsafe by the township shall be repaired by the owner to meet code requirements, or shall be removed within sixty (60) days.

- (ii) If any wind energy conversion system is not used for a period of 6 months, the owner shall be notified by certified mail to set forth reasons for the non-operation and provide a reasonable timetable for corrective action. If this is not provided to the satisfaction of the township, the landowner shall remove the wind energy conversion system within sixty (60) days of receipt of the notice to remove.
- j. Signal Interference. WECS shall not interfere with communication systems, such as, but not limited to, radio, telephone, television, satellite, or emergency communication.
- k. Setback requirements. WECS shall meet the following setback requirements:
  - (i) General rules for location on a lot or parcel.
    - a. Wind energy conversion systems may not encroach into setback requirements for uses for the zoning district in which they are to be located and shall be set back a distance equal to six (6) times the total height of the structure from all project boundaries.
    - b. Wind energy conversion systems on towers. Wind energy conversion systems shall be set back a distance equal to six (6) times the total height of the structure from all adjacent occupied structures not within the project boundary.

#### 4. Application Requirements for Large Scale LWECS

In addition to the requirements of Chapters 8 & 9 of this ordinance, the following are required to apply for a WECS special use permit.

- a. Affidavit certifying the notification of all property owners within one mile of proposed any wind energy turbine or accessing structure associates with the WECS.
- b. A site plan at an appropriate scale showing the proposed location of the wind energy facility (including access roads) as it relates to the project boundaries, adjacent ownerships and existing residences or other structures to a distance of 2,000 feet, any federal, state, county or local parks, recognized historic or heritage sites, state-identified wetlands or important bird areas as identified in federal, state, county, local or Michigan Audubon GIS databases or other generally-available documentation.
- c. Standard drawings of the wind turbine structure, including the tower, base, and footings, drawings of access roads, and including a signed and sealed engineering analysis and certification of the tower, showing compliance with the applicable building code.

- d. Data pertaining to the tower's safety and stability, including safety results from test facilities.
- e. Landscaping and screening plans.
- f. A project visibility map, based on a digital elevation model, showing the topography of the project from other locations to a radius of three miles from the center of the project. The scale used shall depict the three mile radius as no smaller than 2.7 inches, and the base map used shall be a published topographic map showing natural and man-made features, such as roads and buildings. Within the three-mile radius from the site, computer simulated views or enhanced photos as they would appear from surrounding locations of the towers, buildings and other structures.
- g. An environmental assessment and/or a project needs assessment if required by the Planning Commission.
- h. All work shall comply with all local, state and federal permits.

5. Approval Standards for Large Scale WECS

The following are standards that the Planning Commission shall use in assessing a WECS application and determining whether to approve a special use permit and the conditions of which may be necessary to assure compatibility of the use of minimal or no adverse effects on neighboring properties and the surrounding area.

- a. Safety
  - (i) The minimum distance between the ground and any part of the rotor blade system shall be twenty (20) feet.
  - (ii) To limited climbing access, a fence eight (8) feet high with a locking portal shall be place around the facility's tower base or the tower climbing apparatus shall be limited to no lower than twelve (12) feet from the ground, or the facility's tower may be mounted on a roof top.
  - (iii) Appropriate warning signage, no larger than 1 foot by 1 foot, shall be placed on wind turbine towers, electrical equipment and wind energy facility entrances.
  - (iv) Wind energy facilities shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
  - (v) All wind turbines shall have an automatic braking, governing and feathering system to prevent uncontrolled rotation, over speeding and

excessive pressure on the tower structure, rotor blades and turbine components.

- (vi) Prior to issuance of a building permit, the applicant shall provide the township proof of a level of insurance to be determined by the Township Planning Commission in consultation with the Township's insurer, to cover damage or injury that might result from the failure of a tower or towers or any other part or parts of the generation and transmission facility.

b. Siting and Installation

- (i) Use existing roads to provide access to the facility site, or if new roads are needed, minimize the amount of land used for new roads and locate them so as to minimize adverse environmental impacts.
- (ii) Combine transmission lines and points of connection to local distribution lines.
- (iii) Connect the facility to existing substations, or if new substations are needed, minimize the number of new substations.
- (iv) Electrical controls and control wiring and power lines shall be wireless or underground except where wind farm collector wiring is brought together for connection to the transmission or distribution network, adjacent to that network.

c. Setbacks

- (i) Wind energy conversion systems may not encroach into setback requirements for uses for the zoning district in which they are to be located and shall be set back a distance equal to six (6) times the total height of the structure from all (project) property boundaries.
- (ii) Wind energy conversion systems on towers. Wind energy conversion systems shall be set back a distance equal to six (6) times the total height of the structure from all adjacent occupied structures not within the project boundary.
- (iii) Each wind turbine shall be set back from any residence no less than two (2) times its total height.
- (iv) The minimum setback distance between each wind turbine tower and all surrounding overhead utility or transmission lines, other wind turbine towers, electrical substations, meteorological towers, and public road rights-of-way shall be equal to no less than 1.5 times the sum of proposed structure height plus the rotor radius.

- (v) Each wind turbine shall be set back from the nearest school, hospital, church or public library a distance no less than the greater of six (6) times its total height.

d. Nuisance

- (i) Individual wind turbine towers shall be located so that noise emanating from the WECS shall not exceed 40 dB(A) at the property line closest to the WECS at any given time. Noise averaging shall not be allowed.
- (ii) The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any wind energy facility.
- (iii) No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.
- (iv) No individual tower facility shall be installed in any location where its proximity with fixed broadcast, retransmission or reception antenna for radio, television or wireless phone or other personal communications systems would produce electromagnetic interference with signal transmission or reception.
- (v) No wind turbine shall be installed such that the shadow flicker produced will be a nuisance to a residence or other occupied building.

e. Environmental and Visual

- (i) Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.
- (ii) Wind turbines shall be painted a non-reflective, non-obtrusive color.
- (iii) Appropriate landscaping shall be provided to screen accessory structures from roads and adjacent residences.
- (iv) Where wind characteristics permit, wind towers shall be set back from the tops of visually prominent ridgelines to minimize disturbing valuable aesthetic public views.
- (v) Wind turbines shall be set back at least 2,500 feet from Important Bird Areas as identified by the Michigan Audubon Society. These distances may be adjusted to be greater or lesser at the discretion of the Planning Commission, based on topography, land cover, land uses

and other factors that influence the flight patterns of resident and migratory birds.

6. Enforcement

If any provision of a WECS special use permit is violated, the Zoning Administration shall immediately initiate actions in accordance with Section 8.13 of this Ordinance. The owners and operators of the system shall be notified and the system shall be shut down immediately until the violation is corrected. Failure to correct a violation will cause a fine to be levied in accordance with the Township Civil Infraction Ordinance.

7. Decommissioning

In order to ensure that a structure that is no longer operational will be decommissioned and/or removed, the township shall require a Performance, Labor and Material Bond or other financial instrument for such decommissioning and or removal in accordance with Section 8.14 of this ordinance. The terms of said bond or financial instrument shall take into consideration the possible increasing costs to perform any necessary work and shall be adjusted in its face amount every three years to reflect any increase in the estimated cost of decommissioning.

8. Recommended Project Organization

West Branch Township recommends that a developer of a large WECS organize his project such that non-participating landowners located near the project be a part of the project and receive payments in some proportion of those hosting wind turbines and appurtenant structures and facilities.

## **CHAPTER 9 DEVELOPMENT SITE PLAN REVIEW**

### **SECTION 9.1 INTENT AND PURPOSE**

Land development affects the character of the community and its public health, safety, and general welfare. This Chapter provides that all the land uses and changes in land uses shall be subject to Development Site Plan review except single-family or duplex dwellings located on a single lot and agricultural uses not subject to a Special Use Permit or as otherwise indicated in this Ordinance.

### **SECTION 9.2 SCOPE**

All land developments, excluding those addressed in Section 9.1 above, including structures to be erected, moved, externally altered, added to, or to have any change in use which would affect their approved off-street parking, landscaping, site drainage, or any other requirements, shall be reviewed under this Chapter. All Wind Energy Conversion Systems (WECS) shall be reviewed under this Chapter. Land divisions for any purpose other than Planned Developments shall be reviewed under this Chapter. No building or zoning permit shall be issued except in accordance with a plan approved under this Chapter. *(Amended by Ordinance 36, March 2012)*

No person shall undertake any activity or use, including any grading, clearing, cutting and filling, excavating, or tree removal associated therewith, for which Development Site Plan approval is required by this Ordinance without first obtaining such approval, nor shall such activity proceed prior to obtaining necessary soil erosion and sedimentation control permits, wetlands permits, or flood plain permits.

### **SECTION 9.3 APPLICATION AND FEE**

An application for site plan review shall be made by filing the application form, required information, and the required fee with the Township Zoning Administrator.

The application fee shall be set by resolution of the Township Board. Once accepted by the Zoning Administrator, no portion of the fee shall be returned to the applicant, unless authorized by an action of the Township Board.

The Township may hire a qualified expert or experts to aid in reviewing site plans, the expense of which shall be borne by the applicant.

### **SECTION 9.4 REVIEWING AUTHORITY**

The Planning Commission, or its qualified designee, shall review development site applications in accordance with the standards presented in this Chapter and Ordinance. The Planning Commission shall review the site plan application and its designee's report, and shall thereafter approve, approve with conditions, or deny the request for Development Site Plan approval.



## SECTION 9.5 MAJOR AND MINOR DEVELOPMENT PROJECTS DEFINED

A minor project, for the purposes of this Chapter, is defined as follows:

- A. The remodeling, alterations, or additions to commercial and industrial buildings of less than twenty-five (25%) percent of the square footage of the existing structure.
- B. Improvements to, erection of, or reconstruction of accessory buildings and structures, parking areas, and similar facilities.
- C. Site changes that do not exceed twenty-five (25%) percent of the existing developed site area.

Major projects are all projects not listed above, including, but not limited to, site condominium projects, multi-family apartment project developments, commercial and industrial buildings and additions, alterations or redevelopment of buildings and sites greater than listed above.

## SECTION 9.6 CONCEPTUAL DEVELOPMENT SITE PLAN REVIEW

The applicant is encouraged to submit a conceptual plan for review by the Planning Commission in order that errors, miscalculations or misconceptions are not incorporated into preliminary plans. This procedure is intended to be informational only and shall not necessarily bear directly upon later reviews. Submissions for this review may consist of all those items listed in Section 9.7 that shall present an adequate overview of the intended project.

## SECTION 9.7 SITE PLAN REVIEW; REQUIRED INFORMATION

For major projects, Development Site Plan Review shall entail the examination of all the items in Section 9.7 B. For minor projects, the abbreviated review indicated in Section 9.7 A is allowed.

### A. Required Submittals - Minor Projects

All project applicants shall submit to the Zoning Administrator, the Development Site Plan application provided by the Township and seven (7) copies of the detailed site plan. The detailed site plan shall consist of the following items for review:

1. A site plan, drawn to scale with a north arrow indicated showing the property boundaries, the proposed location of structures and other improvements including, where appropriate, roads, driveways, pedestrian walks, off-street parking areas, landscaped areas, fences and walls.
2. A landscape plan, including required buffers, existing vegetation, water courses, and other significant site features, and proposed new plantings.
3. Accurate scale drawings of all signs indicating their size, material, color and illumination, if any, and the method of installation of any free-standing sign.
4. Conceptual grading and drainage plans with existing and proposed elevations.
5. Such other data as may be required by the Planning Commission to ensure that the purposes of this Chapter are satisfied. The Commission shall state for the record its reasons for asking for additional information.

6. The Planning Commission may waive a requirement or requirements listed above if deemed unnecessary for a thorough review. The Commission shall state for the record its reasons for taking such action.

B. Required Submittals - Major Project

The following are among the items to be included on the detailed plan for major projects. Development Site Plans should be accurately drawn at the scale of at least one (1) inch equals one hundred (100) feet showing the site and all land and structure within five hundred (500) feet of the site. The Planning Commission may require details to be provided in a scale as great as one (1) inch equals twenty (20) feet. If multiple sheets are used, each must be labeled, dated, and the preparer identified.

1. The location of proposed or existing property lines, dimensions, legal descriptions, tax parcel numbers, setback lines, and monument locations.
2. A vicinity map drawn at a scale of a minimum of one (1) inch equals two thousand (2,000) feet with a north arrow indicated.
3. Existing topographic elevations at two-foot intervals, proposed grades and directions of drainage flows.
4. The location and type of existing soils on the site and any certifications of borings.
5. Boundaries and elevations of existing and proposed water courses and water bodies, including county drains and man-made surface drainage ways, flood plains and wetlands within five hundred (500) feet of the project site and proposed erosion control measures.
6. Location of existing and proposed buildings and intended uses thereof.
7. Proposed location of accessory structures, buildings and other appurtenances, including, but not limited to, all flag poles, light poles, bulkheads, decks, storage sheds, transformers, air conditioners, generators, and similar equipment, and the method and details of screening, where applicable.
8. Location of existing public roads and streets, that abut or cross the site, plus rights-of-way and private easements of record.
9. Location and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes or tapers (if any) serving the development. Details of entryway and entryway sign locations should be separately depicted with elevation views.
10. Location, design, and dimensions of existing and proposed curbing, barrier-free access, carports, parking areas (including indication of all spaces, method of surfacing and striping), fire lanes and all lighting and signage thereof.
11. Location, size and characteristics of all loading and unloading areas.
12. Location and design of all trails, walkways, bicycle paths, and other areas for public use.
13. Location of water supply lines and/or wells, including fire hydrants and shut-off valves, and the location and design of storm sewers, retention or detention ponds, waste water lines, clean-out locations, connection points and treatment systems, including septic systems, if applicable.
14. Location and routing of all other utilities on the site, including, but not limited to, natural gas, electric, and data and telecommunication transmissions.

15. Proposed location, dimensions, and details of common open spaces and common facilities, such as community buildings, or swimming pools, if applicable.
16. Exterior lighting locations with areas of illumination illustrated, as well as the type of fixtures and shielding to be used.
17. Location and specifications for all fences, walls, and other screening features with cross sections.
18. General location and type of significant existing vegetation, including the location and size of all existing trees with a trunk of six (6) inches or more in diameter, four and one-half (4 ½) feet above the ground, if not located in a forest. Forests or large areas of vegetation to be preserved shall be demarcated and designated as such.
19. Locations and specifications for all proposed perimeter and internal landscaping and other buffering features.
20. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
21. Location and specifications for any existing, proposed, or required above or below ground storage facilities for any chemicals, salts, flammable or hazardous materials, as well as any containment structures or clear zones required by government regulations and a Pollution Incident Prevention Plan as required by the Act 245 Program.
22. Identification of any significant or unique site features.
23. Indication of any significant views onto or from the site.
24. The zoning classifications of the site and adjacent properties.
25. North arrow, scale and date of original submittal and all revisions.
26. Such other data as may be required by the Planning Commission to ensure that the purposes of this Chapter are satisfied. The Commission shall state for the record its reasons for requiring such data.
27. The Planning Commission may waive a requirement or requirements listed above if deemed unnecessary for a thorough review. The Commission shall state for the record its reasons for taking such actions.

#### SECTION 9.8 SITE PLAN REVIEW PROCEDURE

- A. When all necessary information as provided by this Chapter is submitted to the Zoning Administrator, the Zoning Administrator shall notify the Planning Commission Chairman.
- B. The Chairman shall place the Site Plan Review on the next available meeting agenda for discussion by the Commission and shall notify the applicants of this action.
- C. Within a reasonable time and based upon the standards in Section 9.9, the Planning Commission shall act either to approve or to deny the request for Development Site Plan approval or to provide information to the applicants by which they may amend their plans to conform to certain stipulated requirements to obtain approval. Upon re-submittal, the Planning Commission shall, within sixty (60) days, inform the applicants of the acceptance or rejection of their plans.
- D. If plans are denied at any time, the Planning Commission shall submit in writing to the applicants the reasons for the action.

## SECTION 9.9 DEVELOPMENT SITE PLAN REVIEW STANDARDS

The following standards shall be utilized in reviewing all Development Site Plans. These standards are intended to provide guidance for the applicant in the production of plans as well as a method for the review of site plans by Township Officials.

### A. Elements of Development Site Plan Review

#### 1. Neighborhood and Community Elements:

- a. *Historical Preservation.* Owners of existing structures of historical significance are encouraged to preserve these structures and to renovate them in a manner which preserves that significance and places them appropriately among other like structures. Variances may be granted by the Zoning Board of Appeals when necessary to accomplish this purpose.
- b. *Relation of Proposed Buildings to Environment.* Proposed structures shall be related harmoniously to the terrain, the size and shape of a lot, the character of adjoining properties, and the existing buildings in the vicinity that have a visual and functional relationship to the proposed buildings. Such a relationship may include the enclosure of a space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain or other buildings. In all cases, open spaces should be created that are usable.  
Other concerns which shall be addressed include microclimate effects created by structure placement, solar exposure and shadow effects, wind and canyon effects, including snow build-up and drifting, and effects upon wetlands, drainage, and habitat systems.  
Views and privacy, while dealing with the siting of buildings on individual parcels, shall be provided for on a larger scale by buffering and screening to preserve or create unintrusive site lines wherever possible.
- c. *Landscape Preservation.* Except in urbanized areas, the landscape shall be preserved in as natural a state as possible by minimizing tree and soil removal. Areas such as steep slopes, wetlands, and littoral areas, as well as resource areas such as forests, wooded lots and farmlands shall be preserved wherever possible. Any grading changes shall be in keeping with the lay of neighboring lands. Golf courses in particular shall be designed to retain as much of the native terrain and herbage as possible and shall provide wide screening buffers between fairways and the public roadways and other non-compatible uses.
- d. *Business Districts.* Design standards may be developed by particular business districts, and if promulgated, will be used to design the elements of structures and site improvements proposed within these districts. These improvements may include service drives, joint accesses, trails, pathways and other site design elements.
- e. *Trafficways and Gateways.* Site plans shall address the effects of new structures or uses upon traffic at or near their sites. A major use may require a traffic study to determine potential effects and possible necessary mitigating actions. Proposed uses at entryways to the community shall provide appropriate design features to welcome travelers to the community.

- f. *Security, Fire and Emergency Access.* Setbacks, access paths with adequate lane widths and sufficient areas for fire and emergency vehicle turnarounds, and fire hydrant locations (where applicable) shall be provided per existing statutes and ordinances and in accordance with requirements of the appropriate reviewing authorities. All buildings or groups of buildings shall be arranged to permit emergency vehicle access by some practical means to all sides. Where applicable, security shall also be considered integral to the design. Sufficient illumination and ease of surveillance shall be addressed where appropriate.
2. Engineering Elements:
- a. *Drives, Parking and Circulation.* Parking spaces sufficient only for the intended use shall be allowed. Calculations and justification for spaces provided shall be noted on the plans. With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, attention shall be given to the location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, and arrangement of parking areas that are safe and convenient and do not detract from the design of proposed buildings and structures and neighboring properties. Parking areas shall be screened from roadways and from other adjacent uses by landscaped areas or by walls. Sufficient distance between drives and property lines shall be provided.
  - b. *Surface Water Drainage.* Attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Storm water shall be removed from all roofs, canopies and paved areas, and carried away in such a manner that it will not obstruct the flow of vehicular or pedestrian traffic, and will not puddle or freeze in paved areas. Run-off waters shall be detained or retained to remove sediments and to prevent erosion.
  - c. *Utility Service.* New utility service distribution lines shall be underground wherever feasible. Any existing utility installations remaining above ground shall be placed out of sight as much as possible and situated harmoniously in relation to neighboring properties and the site. The proposed method of sanitary sewage disposal from all buildings shall be indicated. All utility installations shall be carried out in accordance with the current standards, rules and regulations of those entities having jurisdiction. No project shall be granted final approval without permits or authorization from all appropriate governing agencies.

B. General and Necessary Conditions

All other standards and requirements of this Ordinance and other applicable ordinances, regulations and statutes must be met by development plans presented for review under the provisions of this Chapter. It is specifically intended that a use allowed in the Township will not be or become a nuisance within its neighborhood or to the Township as a whole. The Planning Commission may confer or consult with qualified experts, at the applicant's expense, to aid it in evaluating a difficult or complex project.

## SECTION 9.10 FINAL DEVELOPMENT SITE PLAN APPROVALS

- A. Complete drawings, plus all certified final drawings and plans which are subject to Development Site Plan review and contain all necessary modifications or additions required, shall be submitted before final Development Site Plan approval is granted.
- B. Conditions of Final Approval. Development Site Plans may be approved subject to the performance of certain conditions, including the provision of required improvements as the Commission shall deem to be reasonable and necessary, or advisable under the circumstances, so that the objectives of the Zoning Ordinance, the Master Plan, and any other Township policies and regulations shall be achieved. A Development Site Plan may be approved conditionally upon necessary or required approvals by other local, county, state, or federal agencies.
1. Performance Guarantee for Required Conditions: Security may be required to ensure performance of required conditions. The applicant may be required to furnish security in the form of a bond, certified check, or an irrevocable bank letter of credit, acceptable to the Township, in the amount fixed by the Planning Commission. If security is required, the Zoning Administrator shall not issue a zoning permit until the required performance guarantee is received and verified by the Township Clerk.
  2. Provisions of Required Improvements: Whenever a Development Site Plan approval is granted or modified subject to the conditions that specified improvements be provided by the applicant, such improvements shall be installed by the applicant and approved and accepted by the Zoning Administrator.
  3. Non-performance of Required Conditions: In the event the applicant defaults in making the improvements for which the performance guarantee was required, the Township Board shall have the right to enforce a letter of credit or to use the monies being held as security to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to cover the costs incurred by the Township to complete the improvements, including attorney's fees and court costs, if any, the applicant shall be required to pay the Township the amount by which the costs of completing the improvements exceeded the amount of the performance guarantee. These costs shall be collected in the same manner as delinquent taxes or as allowed by law.
  4. Condition Declared Void: Whenever there becomes final any judgment of a court of competent jurisdiction declaring one or more of conditions of a development review approval to be void or ineffective, or enjoining or otherwise prohibiting the enforcement or operation of one or more of such conditions, said Development Site Plan approval shall cease to be valid and all rights or privileges granted thereby shall end.
  5. Violation of Required Condition or Conditions: Whenever a Development Site Plan is approved or modified by the Planning Commission subject to a condition or conditions, the use or enjoyment of the Development Site Plan in violation of, or without observance of, any such condition shall constitute a violation of the Zoning Ordinance, and Development Site Plan approval may be revoked.

## SECTION 9.11 SPECIAL USES AND CONCURRENT APPROVALS

The Planning Commission may choose to review Special Use Permit and site plan review submittals concurrently. In the event of concurrent review, the Planning Commission shall ensure that both the site plan and special use submittals satisfy all requirements of this Ordinance.

## SECTION 9.12 AMENDMENTS TO APPROVED DEVELOPMENT PLANS

- A. Amendments to an approved Development Site Plan may be made by the Planning Commission upon written request by the landowner. Minor changes to an approved Development Site Plan may be approved by the Zoning Administrator after construction has begun, provided no such change results in any of the following:
1. A significant change in use or character of the development.
  2. An increase in overall coverage of structures.
  3. An increase in the intensity of use.
  4. A reduction in the required open space.
  5. A change that may increase the storm water run-off to adjacent properties.
  6. A reduction in required off-street parking and loading.
  7. A reduction in required pavement widths or utility sizes.
  8. A significant increase in traffic on public streets or an increase in the burden on public utilities or services.
- B. If the Zoning Administrator finds that a proposed amendment to an approved Development Site Plan does not qualify as a minor change, he shall notify the landowner that he must apply for a modification of the Development Site Plan in accordance with the procedures of Section 9.7; or if the developer or landowner has already effected the changes in question, the Zoning Administrator shall immediately notify the permit holder in writing that Development Site Plan approval has been suspended pending approval by the Planning Commission of the proposed amendment. The permit holder's notice shall be delivered personally or by certified mail. The permit holder shall then apply for a modification of the Development Site Plan in accordance with the procedures in Section 9.7 hereof.

## SECTION 9.13 TIME LIMIT FOR APPROVED SITE PLANS

- A. A site plan approval granted pursuant to this Chapter shall be valid for one (1) year from the date of approval. If construction has not commenced by the end of this period, and if a written request for extension of the approval has not been submitted by the applicant, the site plan approval shall expire.
- B. The Planning Commission may grant one (1) extension of the site plan approval for a one (1) year period upon submittal in writing by the applicant of a request for an extension. The Planning Commission shall grant such an extension only upon presentation of written evidence indicating that construction of the project has been delayed by factors beyond the reasonable control of the applicant and that construction on the project is likely to proceed within one (1) year.

## **CHAPTER 10 ADMINISTRATION AND ENFORCEMENT**

### **SECTION 10.1 ZONING ADMINISTRATOR**

Unless otherwise designated under a specific provision of this Ordinance, the Zoning Administrator shall be responsible for the administration of this Ordinance. The Zoning Administrator shall be a qualified individual appointed by the Township Board. The terms, conditions, and rate of compensation shall be determined by the Board. All authority delegated to the Zoning Administrator is granted by the Township Board.

### **SECTION 10.2 ZONING PERMIT REQUIRED**

Except as otherwise provided, no building or structure of any kind, including signs, shall be erected or any restricted use undertaken until a permit has been issued by the Zoning Administrator. Once it has been determined by the Zoning Administrator that the proposed building, structure, or use is in conformance with all the provisions of this Ordinance and appropriate fees are paid, a Zoning Permit may be issued. The Zoning Permit shall be non-transferable and shall remain valid for one (1) year from the date of issuance. A Zoning Permit must be obtained prior to the application for a building permit.

### **SECTION 10.3 APPLICATION FOR ZONING PERMIT**

All applications for Zoning Permits shall be made to the Zoning Administrator with the required fee. The permit fees shall be set by the Township Board. The application shall include the following:

- A. A site plan drawn to scale showing the location and size of the proposed building, structure, or use as it relates to roads and rights-of-way, lot lines, other buildings on the site, existing or proposed sewage disposal facilities, existing or proposed water wells or the location of the Township water supply line, and lakes, streams, or wetlands, and any other items required by this Ordinance to illustrate the intended use and its site; or the site plan approved by the Planning Commission or Zoning Board of Appeals. The Zoning Administrator may require an applicant to provide a survey of the subject lot or parcel and the use, if in his or her judgment, it is necessary to clarify any indefinite or disputed issue(s).
- B. A statement by the applicant outlining the intended use and purpose for the proposed building, structure, or land in question.

### **SECTION 10.4 ISSUANCE OF ZONING PERMIT**

Within ten (10) days of the receipt of the application for Zoning Permit, the Zoning Administrator shall issue a Zoning Permit if it is found that the application is complete and that the proposed building, structure, and/or use is in conformance with the requirements of this Ordinance and all required fees are paid. The Zoning Administrator shall keep a record of all permits issued and report these monthly to the Planning Commission and the Township Board.



#### SECTION 10.5 FAILURE TO OBTAIN PERMIT

The permit fee shall be doubled upon failure to obtain a required permit from the Zoning Administrator before beginning a regulated use or construction for such use.

#### SECTION 10.6 DENIAL OF ZONING PERMIT

Within ten (10) days of the receipt of the application for Zoning Permit, the Zoning Administrator shall deny a Zoning Permit if it is found that the application is not complete or that the proposed building, structure, or use cannot be located in conformance with the requirements of this Ordinance, or the required fees are not paid. The Zoning Administrator shall inform the applicant in writing of the reasons for the denial of the permit. The Zoning Administrator shall keep a record of all permits denied and report these monthly to the Planning Commission and the Township Board.

#### SECTION 10.7 REVOCATION OF ZONING PERMIT

The Zoning Administrator shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with any provision of this Ordinance or any false statement or misrepresentation made in the application. The revocation or cancellation of the Zoning Permit shall be made in writing and all construction, uses, or other activities allowed by the permit shall cease.

#### SECTION 10.8 APPEALS OF THE DECISION OF THE ZONING ADMINISTRATOR

Any decision of the Zoning Administrator concerning the enforcement or interpretation of this Ordinance may be appealed to the Zoning Board of Appeals. The appeal, along with the appropriate fee, shall be filed with the Township Clerk within ten (10) days of the decision of the Zoning Administrator. The Zoning Board of Appeals shall review the available evidence and make a decision to uphold or reverse the decision of the Zoning Administrator.

#### SECTION 10.9 ENFORCEMENT

- A. Any building or structure moved, erected, razed, converted, or used and any use of land or premises which is carried on in violation of this Ordinance is declared to be a nuisance per se. All buildings, structures, and land uses considered to be violations of this Ordinance shall be reported to the Zoning Administrator.
- B. The Zoning Administrator shall inspect all alleged violations of this Ordinance. In the event that a violation is found, the Zoning Administrator shall issue within seven (7) days from the date of inspection, a written order to correct the violation and to otherwise comply with the provisions of this Ordinance.
- C. After the order to correct has been issued, the violation shall be corrected within thirty (30) days. If the violation cannot be corrected within 30 days, an application to extend the correction period may be made to the Township Board. Only one such extension shall be granted. Any violation not corrected shall be reported to the Township Board. The Township Board may then initiate legal procedures against the violator.

- D. Any person, firm, or organization that violates or refuses to comply with any provision of this Ordinance or lawful order of the Zoning Administrator, Zoning Board of Appeals, or Township Board issued pursuant to this Ordinance shall be guilty of a misdemeanor. Upon conviction thereof, one shall be punishable by a fine not to exceed five hundred (\$500.00) dollars or by imprisonment for not more than ninety (90) days, or both. Each day during which a violation continues shall be deemed a separate offense. The Township Board reserves the right to pursue civil remedies (the collection of fees, injunctive relief, and corrective measures) for certain provisions of this Ordinance in accordance with applicable state statutes.
- E. The Zoning Administrator, the Township Board, and the Zoning Board of Appeals, or any interested party may bring a suit for an injunction, mandamus, abatement or any other appropriate method to prevent, enjoin, abate, or remove any violations of this Ordinance. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

#### SECTION 10.10 PUBLIC NOTICE

All applications requiring a public hearing shall comply with the following provisions:

- A. When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator or the Clerk shall prepare the content of the notice and have it published in a newspaper of general circulation in the Township of West Branch and mailed or delivered as provided in this Section.
- B. All mail, personal and newspaper notices for public hearing shall:
  - 1. Describe the nature of the request: Identify whether the request is for rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.
  - 2. Identify the location: Indicate the property or (properties) that is the subject of the request. The notice shall include a listing of all existing street addresses of the subject property. Street addresses need not be created and listed if no such addresses currently exist for the property. Other means of identification may be used such as a tax parcel identification number, identifying the nearest cross streets, or by including a map showing the location of the property or properties if the subject of the hearing is for less than eleven (11) adjacent properties or when the request is for an ordinance interpretation not involving a specific property.
  - 3. Indicate the date, time and place of the public hearing(s).
  - 4. Include a statement describing when and where written comments will be received concerning the request and where written text, maps or other materials pertinent to the hearing may be viewed or obtained.
- C. When the provisions of this Ordinance or state law require that a personal or mailed notice be given:
  - 1. Notice shall be provided:
    - a. To the owner of property for which approval is being considered, and the applicant, if different than the owner of the property.
    - b. Except for rezoning requests involving eleven (11) or more adjacent properties or an ordinance interpretation request that does not involve a specific property, to all

persons to whom real property is assessed and to the occupants of all structures within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or the occupant is located within the boundaries of the Township of West Branch. In structures containing four (4) or fewer dwelling units, one occupant of each unit must be given notice. In structures containing more than four (4) dwelling units, a single notice may be given to the owner or the manager to be posted at the primary entrance to the structure. If the name of the occupant of the property is not known, the term "occupant" may be used in making notification. (*Amended by Ordinance 29, July 2008*)

- c. To all neighborhood organizations, public utility companies, railroads, the manager of each airport and other persons or organizations which have requested to receive notice pursuant to Section 10.11, Registration to Receive Notice by Mail, that are within the zone or district affected by the subject request.
  2. Notice Affidavit: Notice as described in this section shall be considered when personally delivered or when deposited during normal business hours for delivery with the United States Postal Service or other public or private delivery service. The secretary of the planning commission, the zoning administrator or the clerk shall prepare a list of property owners, registrants, and others to whom the notice was given and shall provide an affidavit thereof. (*Amended by Ordinance 29, July 2008*)
- D. The above notices shall be given not less than 15 days before the date the application will be considered for approval.

#### SECTION 10.11 REGISTRATION TO RECEIVE NOTICE BY MAIL

- A. Any neighborhood organization, public utility company, railroad or any other person or organization may register with the Zoning Administrator or the Clerk to receive written notice of hearing of applications for approval pursuant to Section 10.10.C.c. Fees may be assessed for the provision of this notice.
- B. All registered entities or persons must re-register bi-annually to continue to receive notification pursuant to this Section.

## CHAPTER 11 ZONING BOARD OF APPEALS

### SECTION 11.1 AUTHORIZATION

There is hereby established a Zoning Board of Appeals, which shall derive its authority from Public Act 110 of 2006, The Michigan Zoning Enabling Act, as amended. The Board of Appeals shall ensure that the spirit and intent of this Ordinance is upheld, that the public health, safety, and welfare is advanced, and that substantial justice is done.

### SECTION 11.2 MEMBERSHIP AND PROCEDURES

- A. The Township Zoning Board of Appeals shall consist of five (5) members. The first member of the Board of Appeals shall be a member of the Township Planning Commission, one (1) member may be a member of the Township Board, the remaining member(s) shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the Township. An elected officer of the Township may not serve as chairman of the Zoning Board of Appeals. An employee or contractor of the Township Board may not serve as a member or employee of the Zoning Board of Appeals. Members of the Board of Appeals shall be removable by the Township Board for non-performance of duty or misconduct in office upon written charges and after a public hearing.
- B. The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. One alternate may be a township board member if no regular member of the ZBA is a board member. (*Amended by Ordinance 29, July 2008*)
- C. Terms of Zoning Board of Appeals members shall be for three (3) years, except for members of the Planning Commission or Township Board, whose terms shall be limited to the time they are members of said bodies and the period stated in the resolution appointing them. A successor shall be appointed not more than one (1) month after the term for the preceding member has ended. All vacancies for unexpired terms shall be filled for the remainder of the term.
- D. The total amount allowed such Board of Appeals in one (1) year as per diem or as expenses actually incurred in the discharge of their duties shall not exceed a reasonable sum, which sum shall be appropriated annually by the Township Board.
- E. The Board of Appeals shall adopt rules of procedure as may be necessary to conduct its meetings and carry out its functions. The Board shall choose a chairperson, and in the chairperson's absence, an acting chair.
- F. Meetings shall be held at the call of the chairman and at such other times as the Board in its rules of procedure may specify. A simple majority of the membership of the Board of Appeals shall constitute a quorum and may conduct any items of business brought before the Board. All meetings of the Board shall be open to the public.
- G. Minutes shall be recorded of all proceedings which shall contain evidence and dates relevant to every case considered together with the votes of the members of the final disposition of each case. Such minutes shall be filed in the office of the Township Clerk and become public records.
- H. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any decision of the Zoning Administrator, or to grant a variance from the terms or conditions of this Ordinance.
- I. The Zoning Board of Appeals shall return a decision upon each case within a reasonable

amount of time. The Zoning Board of Appeals shall state the ground for each determination. All decisions of the Board of Appeals are final, and appeals must be filed with a court of competent jurisdiction.

- J. A member of the Zoning Board of Appeals shall disqualify oneself from a vote in which the member has a conflict of interest. Failure of a member to disqualify oneself from a vote in which the member has a conflict of interest shall constitute misconduct.  
A member of the zoning board of appeals who is also a member of the Planning Commission or the Township Board shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission or the Township Board. However, the member may consider and vote on other unrelated matters involving the same property. (*Amended by Ordinance 29, July 2008*)
- K. The Township Zoning Board of Appeals shall have the power to act on those matters where this Ordinance provides for an administrative review, interpretation, or variance as defined in this Chapter; it shall fix reasonable times for hearings, give due notice to the parties, and decide the appeals within a reasonable time.
- L. The Zoning Administrator shall keep a record of all decisions made by the Zoning Board of Appeals and make such record available to the Township Board, Planning Commission and the public.

### SECTION 11.3 VARIANCES

The Zoning Board of Appeals is authorized to grant, upon application, variances to such requirements as lot area and width regulations, yard and depth regulations, and off-street parking and loading space requirements. The Board may attach any conditions it deems necessary to a variance to ensure that the spirit and intent of this Ordinance is carried out.

- A. The Board of Appeals shall ensure that all variances comply with the following:
  - 1. Will not be contrary to the public interest or to the intent and purpose of this Ordinance.
  - 2. Will not permit the establishment of a use within a district where it is prohibited.
  - 3. Will not adversely affect property values in the immediate vicinity or in the Township as a whole.
  - 4. Will relate only to the property for which the application has been submitted.
  - 5. Is not a request that occurs regularly that could be addressed through an amendment to this Ordinance.
- B. The Board of Appeals shall not grant a variance unless at least one (1) of the following is demonstrated:
  - 1. There are exceptional or extraordinary circumstances to the intended use or physical conditions such as narrowness, shallowness, shape, or topography of the property involved that generally do not apply to other properties or uses in the same district. Such circumstances or conditions shall not be considered grounds for a variance if they have been caused by the applicant or previous owner after the effective date of this Ordinance.
  - 2. Where there are practical difficulties which prevent the carrying out of the strict letter of this Ordinance. Generally economic difficulty on its face is not a qualifying difficulty. Difficulties should be evaluated in terms of the use of the parcel or property.

3. Where the lot or parcel was lawfully recorded prior to the effective date of this Ordinance or any amendment thereto, and the dimensional provisions of this Ordinance prohibit the use of the lot or parcel in accordance with the district regulations.
  4. Where such variance is necessary for the preservation of a substantial property right possessed by other properties in the same district.
- C. Any variance that is denied wholly or in part shall not be resubmitted for review for a period of one (1) year from the date that the Board took action on the request unless substantive new evidence is to be presented or new circumstances arise.
- D. No use variances may be granted by the Zoning Board of Appeals. (see A.2, above.)

#### SECTION 11.4 ADMINISTRATIVE REVIEW

The Zoning Board of Appeals is authorized to review all decisions made in the administration of this Ordinance. The Board may uphold, reverse, or modify any order, decision or determination made by the Zoning Administrator, Planning Commission, or any other entity except as otherwise noted in this Ordinance. The appeal or request for review shall be submitted to the Township Clerk with the required fee.

The filing of an appeal or request for review shall stay all proceedings in furtherance of the action being reviewed. If the Zoning Administrator certifies in writing to the Zoning Board of Appeals that a stay would cause imminent peril to life or property, the proceedings shall not be stayed unless a restraining order is issued by the Zoning Board of Appeals or by court action.

#### SECTION 11.5 INTERPRETATION AND CLASSIFICATION OF USES

Upon application or petition and the filing of the appropriate fees, the Zoning Board of Appeals shall be authorized to interpret and clarify any ambiguous or unclear language of this Ordinance. The following are among the actions the Board may take:

- A. The Board may determine the precise location of the boundary lines between zoning districts when there is a question about the exact location.
- B. The Board may interpret any provision of this Ordinance when the Zoning Administrator is unable to clearly determine its meaning, intent, and purpose.
- C. The Board may classify any activity which is not specifically mentioned in the district regulations as a Permitted Use or a Conditional Use. The basis for such classification shall be that the activity is consistent and similar to the uses already allowed in the district.
- D. The Board may determine the off-street parking and loading space requirements for any use or activity which cannot be determined under the provisions of this Ordinance.

#### SECTION 11.6 HEARING NOTICES

All Zoning Board of Appeals hearings shall meet the public notice requirements of Section 10.10 of this Ordinance.

## CHAPTER 12 AMENDMENTS AND REZONING

### SECTION 12.1 AUTHORIZATION

Amendments to this Ordinance may be made as is deemed necessary, and shall be in accordance with Public Act 184 of 1943, as amended.

### SECTION 12.2 REZONING

For the purposes of this Chapter and other applicable Sections of this Ordinance, the term “rezoning” shall be considered an amendment to the Zoning District Map. The procedure for rezoning shall follow the procedure set forth in this Chapter for Amendments.

### SECTION 12.3 INITIATION OF AMENDMENTS

Proposals for amendments may be initiated by the Township Board, Planning Commission, or any person or persons having an interest.

### SECTION 12.4 PROCEDURE

- A. Each petition by one (1) or more owners or their agents, to amend the text or map (rezoning) of this Ordinance shall be submitted upon an application of standard form to the Zoning Administrator. A fee as established by the Township Board shall be paid at the time of application. The Zoning Administrator shall transmit the application and other information to the Planning Commission for its consideration and recommendations.
- B. The Planning Commission shall consider each proposed amendment in terms of the likely effect of such proposal upon the development plans for the community as set forth in the Township Master Plan, as well as in terms of the merits of the individual proposal. The Planning Commission may recommend any additions or modifications to the amendment petition. Following the notice and hearing requirements of this Section, the Planning Commission shall forward a recommendation on the proposed amendment along with a copy of the public hearing minutes to the Township Board and the County Planning Commission.
- C. Before making a recommendation on any proposed amendment to this Ordinance, the Planning Commission shall conduct a public hearing, with notice being given by the Township as specified in Section 10.10 of this Ordinance.
- D. Upon receipt of the County Planning Commission’s recommendation or expiration of thirty (30) days, the Township Board shall review both the County’s and the Planning Commission’s recommendations. The Township Board shall adopt or reject the proposed amendment unless one (1) or more of the following occurs:
  1. The Township Board shall grant a hearing on the proposed amendment to an interested property owner who requests a hearing by certified mail in a timely manner, addressed to the clerk of the Board. Notice of the hearing shall be given to the interested property owner as prescribed in Section 10.10; no other notices are required. *(Amended by Ordinance 29, July 2008)*
  2. If the Township Board deems advisable any changes or additions to the amendment recommended by the Planning Commission, it shall refer the changes or additions back to the Planning Commission for a report thereon within thirty (30) days. After

receiving the report, the Township Board shall grant a hearing on the proposed amendment to any interested property owner who requests a hearing. The request for hearing shall be addressed to the Township Clerk and delivered by certified mail. The Township Board shall request the Planning Commission, or its designated representative, to attend the hearing.

- E. Following a hearing or review of the Planning Commission's report, the Township Board by majority vote of its membership may adopt or reject the proposed amendment with or without changes.
- F. The amendment shall be filed with the Township Clerk and one (1) notice of adoption shall be published in a newspaper of general circulation within fifteen (15) days of adoption. The notice shall contain:
  - 1. Either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment;
  - 2. The effective date of the amendment; and
  - 3. The time and place where a copy of the amendment may be purchased or inspected.
- G. The amendment will take effect on the eighth (8<sup>th</sup>) day following publication.
- H. An amendment for the purpose of conforming a provision of the Zoning Ordinance to the decree of a court of competent jurisdiction as to any specific land may be adopted by the Township Board and the notice of the adopted amendment published without a hearing or referring the amendment to any other board or agency provided for in this Ordinance.

#### SECTION 12.5 CONDITIONAL REZONING

- A. An owner of land may voluntarily offer in writing, and the township may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.
  - B. In approving the conditions under subsection (A), the township may establish a time period during which the conditions apply to the land. Except for an extension under subsection (D), if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.
  - C. The township shall not add to or alter the conditions approved under subsection (A) during the time period specified under subsection (B).
  - D. The time period specified under subsection (B) may be extended upon the application of the landowner and approval of the township.
  - E. A township shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under subsection (A) shall not otherwise affect landowner's rights under this act, the ordinances of the township, or any other laws of this state.
  - F. An application for conditional rezoning shall follow the procedures of this Chapter. F
- rezoning is approved, the landowner shall then follow all the applicable procedures and regulations of this ordinance in pursuance of intended use or uses.
- G. Upon approval of a proposed project, the land owner shall provide to the township an Agreement of Conditions, in a recordable contractual form, stating the terms, conditions and obligations of the rezoning.



## AMENDMENTS

<u>SECTION NUMBER</u>	<u>DESCRIPTION</u>	<u>DATE</u>
<b><u>Ordinance 29:</u></b>		
5.10.4.F	Sidewalks to 5' wide	July 2008
5.13.3.E	Sidewalks to 5' wide	July 2008
5.16.5.D	Open space may be common	July 2008
5.12	Rename Urban Mixed Use	July 2008
7.2	Portable signs are temporary signs	July 2008
7.3.G	Change minimum to maximum	July 2008
4.2	Garages and accessory buildings	July 2008
10.10.C.1.b	Notification for rezoning	July 2008
10.10.C.2	Affidavit for notification	July 2008
12.4.D.1	Hearing for amendments	July 2008
11.2.B	Alternates to ZBA	July 2008
11.2.J	Membership to ZBA	July 2008
<b><u>Ordinance 30:</u></b>		
	Zoning District Map	March 2009
<b><u>Ordinance 31:</u></b>		
2.2	Spelling correction	August 2009
4.16	Deleted text	August 2009
5.5.1	Deleted text	August 2009
5.5.2	Deleted text	August 2009

<u>SECTION NUMBER</u>	<u>DESCRIPTION</u>	<u>DATE</u>
5.5.3	Changed parcel size to 2 acres Changed frontage to 200 ft Changed side setback to 25 ft Changed unit density one dwelling unit per acre Changed project area to 10 acres Changed Minimum lot width to 200 ft	August 2009
5.13.2	Changed side setback to 20 ft.	August 2009
5.14 – 5.14.6	Text changes to comply with the Michigan Zoning Enabling Act, P.A. 110 of 2006, as Amended, and the Airport Zoning Act, P.A. 23 of 1950, as amended.	August 2009
<b><u>Ordinance 32:</u></b>		
5.14.7 2009	Changed text for clarification.	September
<b><u>Ordinance 33:</u></b>		
5.5.5, 5.6.5, 5.7.5 and 5.8.5	Added accessory structures for home occupations at Planning Commission discretion.	December 2010
<b><u>Ordinance 36:</u></b>		
2.2	Building envelope defined	March 2012
5.5.1, 5.5.2, 5.6.1, 5.7.1, 5.7.2, 5.8.1, 5.8.2, 5.9.1, 5.9.2, 5.10.1, 5.10.2, 5.11.1, 5.11.2, 5.12.1, and 5.12.2	Added Permitted and Conditional uses for Wind Energy Conversion Systems.	March 2012
5.5.5, 5.6.5, 5.7.5, 5.8.5, 5.9.5, and 5.12.5.	Changes to Accessory Structures and Uses.	March 2012
5.5.6, 5.6.6, 5.7.6, 5.8.6, 5.9.6 and 5.12.6.	Changes to Miscellaneous Regulations	March 2012

<u>SECTION NUMBER</u>	<u>DESCRIPTION</u>	<u>DATE</u>
7.2	Changed Portable sign definition	March 2012
7.3	Changes relating to Sign Regulations	March 2012
8.17	Special Use requirements for Wind Energy Conversion Systems	March 2012
9.2	Changed first paragraph	March 2012
<b><u>Ordinance 37:</u></b>		
5.13.1	Changed Conditional Uses	July 2012
7.3	Changes for Sign Regulations	July 2012
<b><u>Ordinance 38:</u></b>		
7.3 B	Changed Election sign size and removal time frame	November 2012
2012	Amended Zoning Map	November
<b><u>Ordinance 39:</u></b>		
Zoning Map	Change to include Waterfront District (WF)	September 2013
<b><u>Ordinance 43:</u></b>		
5.11	Changed district purpose	January 2017
5.11.1	Changed Permitted Uses	January 2017
5.11.2	Changed Conditional Uses	January 2017
5.13.1	Added a Conditional Use	January 2017

